

Oral History of

JUSTICE KATHRYN MICKLE WERDEGAR

Conducted in 12 sessions from October 2014 to December 2015 by Laura McCreery, Oral History Project Director, Institute for the Study of Societal Issues, UC Berkeley.¹

INTERVIEW 1 (OCTOBER 21, 2014)

MCCREERY: This is Laura McCreery speaking. I'm in the chambers of Justice Kathryn M. Werdegar at the California Supreme Court. We're embarking on the first in our planned series of oral history interviews. Justice Werdegar, good afternoon and thank you for having me here today.

WERDEGAR: Good afternoon, Laura. It's very nice to have you here. Thank you.

¹ The original transcript of Justice Werdegar's oral history, titled, "Finding a Path: Reflections on a Half Century in the Legal Profession and Two Decades of Jurisprudence as Associate Justice of the California Supreme Court," is in the archival collection of the Bancroft Library at UC Berkeley. © 2017 by The Regents of the University of California. It is published here by permission of the Bancroft Library with minor edits for clarity and style and with the addition of case and article citations and other notes. Except for the official court portrait, all photos were made available by Justice Werdegar.

MCCREERY: As you know, I like to start with a bit of personal background, and it can be as short or long as you prefer. Would you be kind enough to start us off by stating your date of birth and then talking about where you were born?

WERDEGAR: All right. I was born April 5th, 1936 in San Francisco. I already had an older brother who was two-and-a-half years old. At that time we lived, I believe, on Scott Street in San Francisco. We later moved to Pacific Avenue, which is the home that I remember.

MCCREERY: How long had your family been in San Francisco?

WERDEGAR: Before me I'm not sure. My parents were born in California. My dad was born in Centerville. My mother was born in Fresno but she and her mother and siblings and father came to San Francisco in the early 1900s. When my dad came over to San Francisco I don't know. I would say we'd been there a long time.

MCCREERY: Where was his family from originally?

WERDEGAR: My dad's family? It depends how far you go back. They came from Kentucky, his grandparents. I think his grandfather [B. C. Mickle] was a surgeon in the Civil War. They came out to Fresno in the Central Valley.

My mother's family came from Alsace-Lorraine. Her grandparents met in, I believe, Virginia City and came to San Francisco. My grandmother and her husband were in the 1906 earthquake and fire, and my grandmother was pregnant at the time — a young woman. They had to move to Golden Gate Park and live in a tent. That's a bit of family lore that I wish I had asked my grandmother more about. That was my background in San Francisco.

MCCREERY: How well did you know that grandmother?

WERDEGAR: That grandmother was the one grandparent that I did know. She was my mother's mother. After my mother died she took care of us, so I knew her well.

MCCREERY: I learned ahead of time that your mother did die when you were quite young. Do you mind telling me the circumstances of that?

WERDEGAR: It was unfortunate. It was in 1941, and I guess it was near the start of World War II. She died of a post-operative infection, which was treated with sulpha drugs. Penicillin had been developed, but it was not available to civilians. It was available only on the battlefield.

MCCREERY: How did your father proceed in raising you and your brother himself?

WERDEGAR: Looking back, my heart goes out to him. What a shock it had to be. She was thirty years old, and he was left with two children, four-and-a-half and seven years old. It was just toward the start of World War II, and he didn't really know where to turn.

At first, my grandmother whom I referenced moved in with us. After a year other plans were made because that wasn't working out entirely well. My brother and I had been sent to summer camp up in Healdsburg with a family called the Nalleys, a family that had been referred to my father by some good family friends.

We went up to Healdsburg and spent the summer at the Nalley camp, and the Nalleys agreed to keep my brother and myself — I think it was about for two years. We lived outside of Healdsburg on their farm and walked the proverbial — I mean it! — one mile to school, which was a one-room school with eight grades and one teacher. That's a bit of California history.

That's when I had my first academic achievement because in those days if it was a one-room school with eight grades, some of the grades had no students and some grades had one student or five students. I think I must have been the only student in the first grade. I do remember the teacher asking me to recite my multiplication tables, which I did successfully, and I was skipped to the second grade. So for the rest of my academic career I was always a year younger than my classmates.

After those two years, my father decided that the thing to do was to send us to boarding school. My brother was sent initially down to Southern



KATHRYN JOCELYN
MICKLE AT AGE 5.

California, where we had relatives. My father's sister was married down there. Their son went as a day student to a school called Chadwick, which was a progressive school of its day. There was none other like it in the country in that it was a boarding school, coeducational, for kindergarten through senior in high school on a working ranch in Palos Verdes. It's all built up now, but at that time I think Chadwick sat on a hill of hundreds of open-space acres. So my brother was sent down there.

My father had me attend Hamlin's. It was then Miss Sarah Dix Hamlin's School for Girls. It's now called Hamlin School. At that time Hamlin's went from kindergarten through senior in high school. It now stops at the eighth grade. It was only girls. The high school students could board. But my father got special permission from the headmistress, Mrs. Stanwood — after whom Stanwood Hall is now named on Broadway in San Francisco — to board me. I boarded there in the third and fourth grades.

After that it was decided that perhaps I should go down and join my brother at the Chadwick School, so I went to Chadwick, this coeducational boarding school in Southern California, for four years through the eighth grade. My brother stayed until he graduated from high school.

It was a marvelous school. The interesting thing about Chadwick is that so many of the students that boarded there — their families lived thirty minutes away. Why was that? In that era, in the mid-forties, they were children of Hollywood. This meant nothing to me as a young child coming from San Francisco, but looking back it was a really phenomenal time.

I'll name some of the families whose children were there. One name everybody will recognize is Ronald Reagan and Jane Wyman's daughter, Maureen. She was there with me in what was called the cottage, which is where the little girls stayed. Jack Benny's daughter was there. Hoagy Carmichael's son. Edward G. Robinson's son.

Benny Goodman's daughter, who was a friend of mine. I spent a weekend at Benny Goodman's house. I hardly knew who he was, but I do remember him playing the clarinet. It's not that I was star-struck. I wasn't at all. It wasn't of my milieu, and I was too young to fully appreciate it all.

Chadwick still exists. It's not a boarding school anymore, and as I say the area around it has all been built up.

After the eighth grade in Chadwick, my aunt — my mother's sister — offered to take me to come live with her, and so I did. She was married and

had three daughters of her own. They had just moved from Brentwood, where the family had a farm — it was a family farm. My grandmother, who had died when I was twelve years old, had left the finances to invest in this farm. It was apricots, peaches, almonds, walnuts. My uncle, my aunt's husband, managed the ranch for the family.

At the time that I was invited to come live with them they had moved from Brentwood, which was then a very rural part of the state, to Lafayette. I started my high school career at Acalanes High School in Lafayette. Acalanes was a fairly new high school at that time. The area has grown up quite a bit, but at that time Acalanes took students from Walnut Creek, Orinda, and Lafayette. There was a Walnut Creek high school as well, but we had Walnut Creek students. Since then I think there's a total of maybe five high schools.

I think I was fortunate in the education I got. Chadwick was a superb education. Acalanes was a fine education. After I graduated from Acalanes I chose to go to UC Berkeley.

MCCREERY: I do want to hear about that. May I ask you to back up and talk more about your father's side of the family in the Central Valley and how you interacted with them during your growing up?

WERDEGAR: I didn't know them. I don't think any of my father's family lived there when I was growing up. His only relatives that I knew were a sister in Berkeley and a sister and a brother in Southern California. I do have some family history, which I'm not prepared at this moment to recite without notes. But as I say his grandfather was a surgeon in the Civil War and came out to the Central Valley. That surgeon had a brother, Porter Mickle — a very unusual name. Through Porter's name I've been able to do some family research and it seems that Porter had a butcher shop in Hanford, down that way.

I knew my father's mother, but she was an invalid. The entire time I knew her she was bedridden with a stroke, and my father's sister was caring for her, as you would in those days — I mean, for years.

Then down in Los Angeles my father's sister Eileen. I knew her and her family. My brother and I would spend weekends there sometimes from the boarding school. But the rest of my father's family I didn't know.

As I mentioned my mother was born in Fresno. Again, there weren't a lot of conversations in my life about my family history, but what I'm told

is that my mother's father had, through a business arrangement, acquired some property in Fresno and had gone down there to attend to it or manage it. My mother was born there.

The family lore is that they considered naming her Raisina.² When I gave a speech in Fresno I made reference to that and said, "Since I'm named after my mother, I would be Justice Raisina Werdegard. But they decided to name her Kathryn."

I am named after her. If you'd like to hear about how that happened, I'll tell you.

MCCREERY: Please.

WERDEGAR: I was not named after her at birth. I was named Jocelyn Marie Mickle. When my mother died — I had a fortitude — I don't know where it came from. I asked if I could be named after her. To my great surprise, my father said yes, I could. So I became Kathryn Jocelyn Marie Clark — which is my mother's maiden name — Clark.

MCCREERY: How did you think to ask for that? Do you recall?

WERDEGAR: As I speak to you, and as I think back on it, I have no idea. For a four-and-a-half-year-old child that was extraordinary. How soon after her death I asked I'm not sure, but I know I was very young. I remember being about knee high and looking up at my father and another person that I think was present and saying, "I want to be called Kay."

What does surprise me is that — it must have been painful for him — it was agreed to. As I say, I became Kathryn Jocelyn Marie Mickle, and I think we stuck Clark in there at some point.

MCCREERY: Say more about your father and how you remember him during this time.

WERDEGAR: I remember him before my mother died and after. He had a great sense of humor. He was a jokester, in a nice way. During World War II, when I was very little, he was an air-raid warden on our block. For those of you who are not familiar with what that might have been, he would have to go out at night with his hard hat and his whistle and his binoculars and search the skies for any possible enemy planes.

² Raisina ["Ray-ZEEN-uh"] was a reference to the raisin, a principal food crop of the Fresno area.

Our home had blackout curtains so that our lights would not be visible. When we had exercises for avoiding bombs or anything, we would duck under the dining table. I remember that. My brother and I at that time in San Francisco had to wear dog tags around our necks, metal dog tags with our name and telephone number on them. This was all in case of chaos after an enemy attack, which happily never happened.

I remember that there were victory gardens on our block, and these would either be vegetables and fruits grown to self-sustain a family or they would be flowers in the form of a “V.” Those are my memories of San Francisco at that time.

Also, when I was at Hamlin’s — I’d have to step back and think what years those were, but you’ll know when I tell you — President Roosevelt died. The United Nations was meeting in San Francisco at the War Memorial. I was just, again, probably eight years old. But the reason it was particularly memorable is that also boarding at Hamlin’s was President Roosevelt’s granddaughter. So Hamlin School had a particularly personal response to this tragic event in the life of our nation.

After my brother and I went to boarding school, my dad for the rest of his life basically lived alone in San Francisco, although my brother would stay with him during school vacations. He practiced law. He was a sole practitioner.

MCCREERY: Where did he take his education?

WERDEGAR: He started at Santa Clara University. He might have gotten his undergraduate degree there. I’m not sure. He took his law degree at Hastings. He was president of his high school class. I found that through some papers.

This is an understatement: My dad was not one to expand about his life or family history or the impact of the events that had to be horrible for him, left with two small children and really no family to help him out. His sister Mary was a teacher in Berkeley, but she was caring for the disabled mother.

He lived in San Francisco until his death at age eighty-four and had an apartment on Pine Street. He used to like to walk. He was very energetic, high-energy.

MCCREERY: How much did he talk with you and your brother about his work?

WERDEGAR: Not at all. People will sometimes say to me, “Oh, your father was a lawyer. That’s why you are.” He never talked about his work.

After I went to law school, my brother, who ultimately became a psychiatrist, said to me, “Dad told me, ‘Don’t ever go into law.’”

I rejoined, “He didn’t think to tell me.” [Laughter]

My dad was quite surprised when I applied to and went to law school and, I think, very proud of me. I’m sorry he didn’t live to see that I became a judge.

Interestingly, when I was clerking — I’m getting ahead of myself here — when I was clerking for the Supreme Court, Justice Panelli, my dad told me that he had clerked for the Supreme Court. I asked him the name of the judge, and he told me. I can’t remember the name, except that it was short, and that’s a great sorrow. The comment I remember — and this is typical of my father — was, “He wasn’t a very distinguished judge, dear.” So I’m looking for a short name in about that era that “wasn’t a very distinguished judge.” [Laughter] I’ve been unsuccessful in my search.

MCCREERY: I wonder what you remember about your mother?

WERDEGAR: My mother was renowned in her time. She evidently was brilliant. She graduated from high school at fourteen, and they wouldn’t give her — it was Miss Burke’s School — they wouldn’t give her a certificate because they felt she was too young to go on to college. I think in a year or two they did allow her to go to what was then called Normal School. I think it’s now San Francisco State [University], but in those days normal schools were where people trained to be teachers. That didn’t come to pass because at age eighteen she married my father, who was thirty.

My mother was a gifted pianist. She played a recital or concert at the Palace Hotel when she was about fifteen years old. All who knew her said that she was lovely and very sweet.

MCCREERY: I understand you took some study of the piano yourself?

WERDEGAR: When I was little, our entire family was taking piano lessons. We lived in a flat on Pacific Avenue — it was rented — right next to what used to be Grant public school, on Pacific Avenue between Broderick and maybe the other street is Baker. As I mentioned, my mother was a gifted pianist, and in the front room we had a huge baby grand. But in the

back room we had a Steinway upright. My dad was even taking piano. My brother and I were started out very young.

One of my memories of childhood is my brother, who of course, two-and-a-half years older, dominated and was a big tease — I have a memory that he paid me to practice for him. So I'd be in the back room and the piano would be going, but he wouldn't be at the keyboard. [Laughter]

MCCREERY: Who was your piano teacher?

WERDEGAR: I can't remember. I had one through high school whose name I remember, and then I stopped at the end of high school. I'm taking again now.

MCCREERY: How well did you take to music?

WERDEGAR: I loved it. When I quit at the end of high school I was playing at a very advanced level, but in retrospect I think I didn't really have the talent. But the pleasure of it is with me even now when I can't even do what I used to do in high school.

My brother also loved it, so I guess it was a family trait but never at my mother's level.

MCCREERY: You mentioned earlier that you were close to your maternal grandmother and that she was in business in San Francisco. Tell me about that.

WERDEGAR: Yes. She was widowed. In those days, when she married — and I can't tell you the year — most men didn't marry until they were "established." James Clark, who became her husband, might have been thirty-five when she was twenty. I didn't know him. I knew neither grandfather. This grandmother that I'm talking about, whose name was Kathryn May Clark, I knew intimately and well and loved her dearly. She did step in when my mother died. And think of how hard it was for her, too.

What was the question? [Laughter]

MCCREERY: Just a bit more about her and her business in San Francisco.

WERDEGAR: Her history, which again I'm piecing together — I don't have firsthand knowledge — she was widowed young and left with three children. She had a good business head, and they lived up by what is now UC San Francisco, UC Hospital. I'm told she would take the streetcar downtown and "go to business." [Laughter]

What was that? I don't know. I think there were some investments to be made. In any case, she had a head for figures and a good business sense and was able to support and raise her three children and, when she passed on, to leave a sufficient amount for my brother and myself to be educated in private schools. I think what she left behind was what enabled us to go to Chadwick boarding school and to Hamlin's for me.

She was a wonderful person. My brother and I loved her very much. She died when I was twelve.

MCCREERY: Do you know the cause?

WERDEGAR: She had an embolism or a heart attack, and she was in her sixties.

MCCREERY: Something sudden at a young age?

WERDEGAR: For that time it didn't seem young, but certainly from today's perspective. But those were very different times.

MCCREERY: What do you remember about living here in the city with your brother in the early years?

WERDEGAR: After we were sent off to boarding school and my grandmother stopped living with us in the Pacific Avenue flat, my father — this was just immediately after World War II, and housing in San Francisco was extremely tight. Whether it was for financial reasons or shortage of housing I don't know, but my father for a short while took a room with another family in the Sunset District. When we would come home from school my brother would stay with him there, and I would stay at an apartment on Franklin Street with a woman friend and secretary of my father's. She was a family friend.

They would go to work. My brother and I would run loose in San Francisco. Today it just wouldn't be done but we, you might say, "ran wild." We weren't wild, but we were free. We'd take the streetcar to Playland at the Beach and just hang out. I think as we got a little older we had to show up for tennis lessons or something. We were not living together at that time, but we would be together during the day somehow.

San Francisco was an entirely different city, of course, a smaller town. I do remember Playland at the Beach. I remember a flagpole sitter on Van Ness Avenue, which was a big sensation at that time. I don't know why he

was sitting on the flagpole, but Van Ness Avenue was all auto-dealer showrooms and for some reason there was this flagpole sitter. [Laughter] I guess the idea was to stay up there as long as he possibly could.

MCCREERY: You mentioned a few of the effects of the war going on. I wonder how that conflict affected your own family, if at all?

WERDEGAR: It didn't, actually, except — no, it didn't. My dad was too old, and of course with a family he wouldn't have been called into the service. I don't think we had any relatives who were. The shortages, of course. Gas rationing. I remember that. My dad, I guess as a warden, had access to more gasoline coupons than perhaps others did.

The Depression was hard. My dad's law practice was sketchy. People would pay him sometimes in goods, not in cash. I have a diamond ring I think someone paid him with. Sometimes it would be food or goods. I don't know when the Depression is thought to have ended officially — maybe in the early forties. Law practice was tough for him, but I think he was good at it.

MCCREERY: You talked about some of the various places you were sent to live. Could I ask you to touch a little more, for example, on your experiences up in Healdsburg, what you remember and what it was like then?

WERDEGAR: All right. Of course, at the time I realized nothing about what my life was, you just did what you were told and went where you were sent. But looking back this was very interesting. As I say, a one-room school with one teacher and eight grades. There were probably not too many then, and I think none exist now.

I went back to Healdsburg and searched down where Sotoyome — that was the name of the school — used to be. It's gone. I think there's a winery now. I do recall staying with the Nalley family in the summer. I would have been seven. We picked prunes. Don't ask me now how you pick prunes, if you pick them from off the ground or off the tree. [Laughter] But it was a nickel a lug, and a lug was this box.

And we picked hops, and hops are these sticky little buds on vines. I remember we had to wear white gloves because they were sticky. Speaking to my brother recently about how it could be that we were doing that, he said — first of all, I don't think it was considered child labor — but he said there were so few workers around then, it being the tail-end of the war.

That may be one reason, or maybe they thought busy hands keep trouble away. [Laughter] I don't know.

I do have that memory, and I have vague memories of what the town of Healdsburg looked like at the time. Of course, that has changed so dramatically.

MCCREERY: How was it to live with the Nalley family?

WERDEGAR: I really don't remember. Going fast forward, the California Supreme Court at one time — we have adopted in recent years this outreach procedure, and we go to different communities. A few years back we went to Sonoma and met with students there. When we do meet with students, each justice is assigned randomly a question that students have submitted.

Randomly I was assigned the question, "What education do you need to become a Supreme Court justice?"

It tickled me to be able to say, "In my case, I started out in a one-room school, one teacher and eight grades, in Healdsburg." Then I continued, "But that's not required." [Laughter]

After that a piece appeared in the local Sonoma County paper where a columnist reported something to the effect that, "Barclay Nalley, hearing about Justice Kathryn Werdegar being educated at Sotoyome School, exclaimed, 'That's Kay Mickle! I remember her well. She lived with us. She had blonde braids.'"

The column concluded by saying, "They are due for a reunion. He hasn't seen her for sixty-five years," or something like that.

After that — I was thrilled to think that there was a Nalley around — I did get in touch with him and learned a little bit about him. He ended up — he was the older son in this Nalley family that we lived with — he ended up himself being a teacher, I think, in that one-room school. But he also described a few things about my brother and myself that were good to hear, and my grandmother. So that was a very nice reunion and a funny coincidence.

MCCREERY: You talked about how you came to live with your mother's sister at the time the family was moving to Lafayette from Brentwood. Could you talk more about that aunt and that family?

WERDEGAR: That aunt came later — a lovely person and very generous and good to take me in.

MCCREERY: Did she have a family of her own at this time?

WERDEGAR: She had three daughters, so she didn't need another girl. But as devoted to my mother as she had been, and just the good-hearted person she was, I became part of her family. I'm still close to her daughters, my cousins, who were considerably younger than I was. But that was my home for four years. It was a good high school experience. I made some good friends at Acalanes. And as I say, I had a good education.

MCCREERY: That must have been a big change for that family, coming in from the farm setting in Brentwood.

WERDEGAR: Yes. [Laughter]

MCCREERY: How did that turn out for them?

WERDEGAR: They had started out living in the city. When my grandmother had purchased this farm — or ranch, as we used to call it — I think they made a life choice to go up there — that was the interesting part — to go up there and live on the ranch and see if it could be financially successful.

In the summers that I would stay up there, I do remember that they would have a roadside stand selling peaches, and I'd be there selling peaches. So these experiences that I've mentioned, picking prunes and selling peaches and living in Healdsburg and Brentwood on the ranch, were really very interesting.

MCCREERY: You mentioned that you found you were a good student from a very early age.

WERDEGAR: Very early.

MCCREERY: When you got to Acalanes High School, what were you interested in?

WERDEGAR: What was I interested in? I took an academic program. I knew I was going to go to college, but there was nothing that spoke to me particularly or that I was aspiring to do or looking toward. I thought about journalism.

MCCREERY: What was the social scene there?

WERDEGAR: It was a nice public high school. It was a good social scene. You know, the all-American idea of Rally Committee and football and

Girls' League. These were good times in a nice area that hadn't — it's still very nice I'm sure — but it hadn't developed much.

MCCREERY: Do you particularly remember teachers who were influential to you at that level?

WERDEGAR: Yes, I do. I had a world history teacher who was a wonderful teacher, and I had a French teacher who was amusing. I liked algebra and geometry *very* much, which is strange. I would go home and do my geometry right away. I just enjoyed it so much.

But that was just something I did. It wasn't the focus. I would go home after school and practice the piano, which wasn't unusual, by the way. In those times it was not unusual for a young person to be taking an instrument. I think that hasn't persisted so much now, just the general idea that that's part of what you do.

MCCREERY: You said a little while ago that you did go on to college at Berkeley. What process did you follow to think about where you would go and to apply? What was it like then?

WERDEGAR: You're influenced by your environment, right? I applied to Cal and Stanford. I was accepted at both, and I chose Cal. Stanford at that time had still very few women.

I went off to Cal, like all my friends did. I went through rush and then joined a sorority, like all my friends did.

MCCREERY: Which one?

WERDEGAR: Pi Beta Phi.

After my first year at Cal, I was somewhat dissatisfied. I felt that I wasn't getting what I thought I wanted out of college. I wanted something more that I couldn't quite articulate.

My brother had gone to Dartmouth. In those days, a Californian would go east, first of all, very rarely. Secondly, there was no college campus visit. No college trips to go see your campus. You just applied. Chadwick had suggested to my brother that Dartmouth would be a good fit. He applied. He was accepted. Those were very different times.

I was somewhat dissatisfied with my experiences at Cal, and my brother said, "Come east."

I applied to Wellesley and to Smith and was accepted by both. I chose Wellesley. I was one of two transfer students in the United States that were accepted that year, and my roommate was the other transfer student. That was very congenial. We got along beautifully.

MCCREERY: You were still quite young when you went east.

WERDEGAR: Oh, probably — whatever — sixteen, seventeen. For me at that time, a California person in the early fifties, going east was like going abroad. It was exotic. I can feel the excitement now as I talk about it. I was really excited. Except for my brother I had never known anybody who had gone east. People didn't.

I had, actually, a wonderful year. But I will say I was working harder than I'd ever worked in my academic life.

At the end of the year I decided I would go back to Cal. These decisions were not easily made, but why did I make that decision? One, I was working harder than I ever had. Two, Wellesley had orals for seniors graduating. I was living, as a transfer student, on a senior floor in a dormitory, and I would see these senior girls just stressed out as they prepared for their orals.

Also, my roommate — one of my closest Wellesley friends — left to get married. My brother was graduating from Dartmouth. A couple of other connections that I had were also disappearing from the scene, so I thought, "I'll go back to Berkeley." Which I did, and I finished at Berkeley.

MCCREERY: Before we leave Wellesley, may I ask what your financial circumstance was there?

WERDEGAR: Somebody paid the tuition, and my brother and I — the circumstances being what they were — my father never talked about this — we assume that the money that my grandmother had left by way of my mother came to us sufficient to pay tuition.

MCCREERY: As you say, it's a very different environment in almost every way. How did you like being there, aside from the academic cautions?

WERDEGAR: I loved it. Wellesley is a beautiful campus. The classes were — it was the best educational year I've had in my life — stimulating, exciting. And I think one thing that was different for me, unlike the milieu I was in at Berkeley — which was not the entirety of Berkeley, but it was the

milieu I was in — people were really engaged in their classes. You talked about your courses after you left class. It was very, very stimulating.

The social situation was so different as well. At that time the male colleges such as Dartmouth and Harvard and Yale and Princeton were not coed, and the women's colleges, of course, weren't. So your social life would tend to be you'd go for a weekend to another campus — although Harvard was nearby. It was just a different situation. Coming as I did from California, and the East being exotic for me, altogether it was a fabulous experience.

MCCREERY: Where were most of the other students from?

WERDEGAR: The East Coast.

MCCREERY: How much did you have in common with them, or how little?

WERDEGAR: Well, my roommate was from New York, very wealthy. Her father was in shipping or something. They had servants when I would go to her house. But so did my Chadwick friends have servants. That wasn't the point. It was a meeting of the minds and congenial. It was great.

MCCREERY: You say it was a hard decision, though, to leave?

WERDEGAR: It was a hard decision because Wellesley had taken us, the two of us, and the two of us after a year left. I felt that was not a good thing to have done.

MCCREERY: You mentioned your roommate decided to marry and leave school altogether.

WERDEGAR: She got married, yes. At the time Wellesley — if you were married I don't think they would welcome you as a student, actually. I'm not positive about that. Maybe if you were married and pregnant they wouldn't. I know, going back so far, there were certain issues about that. But she may just simply not have wanted to complete her education. I can't be sure.

MCCREERY: Certainly, there were expectations of young women in that generation, even those in college, that might have had a bearing on various classmates?

WERDEGAR: At Wellesley my friends — I don't know what their aspirations were. I don't recall that. At Berkeley in that era, the few — not few,

many young women were training to be teachers, grammar school teachers. That was about the extent of career aspirations that I was aware of, for those who had career aspirations.

You have to remember at that time it was not at all common for married women in the middle class and the upper middle class to work at all. A number of them did become primary school teachers and then, perhaps, when they had children stopped out or maybe stopped altogether.

MCCREERY: How was it to return to Berkeley, having been away a year?

WERDEGAR: I was a little different, but it was a smooth return.

MCCREERY: How were you different? Can you reflect on that?

WERDEGAR: I'd seen another path. Perhaps if I hadn't joined a sorority, my experience at Berkeley would have been different. There are many ways to go through Berkeley, but I just continued taking classes and having a very nice social life and then I graduated.

What was different is I didn't get — you were supposed to at that time get your bachelor's degree and your "M.R.S.," and I sort of flunked that. So then I went to work on the campus, actually, in the president's files, which was very interesting.

MCCREERY: Before we leave Berkeley, how did you choose your major of liberal studies?

WERDEGAR: I was a generalist. At Berkeley I had a major that not too long after they eliminated called "general curric" — general curriculum. That allowed me to have a triple major — it was really a liberal arts education — history, philosophy, and English — a wonderful way to go through school, wonderful. But I guess the Academic Senate or whatever later decided it wasn't sufficiently concentrated. I got a good sprinkling of philosophy, history, and English, and I loved it.

MCCREERY: How many other students were taking a similar path? Do you recall?

WERDEGAR: I really don't know. I do know that, having transferred to Wellesley — they did not transfer my grades. In fact, I was set back in some way. My academic record was compromised a little bit at Wellesley.

Certainly, my French language skills were lacking. I had always gotten A's in French. But when I entered my class in French as a sophomore

at Wellesley, the shock was they expected me to speak it, which of course I couldn't. [Laughter] The entire class was conducted in French, seriously. So I had my little *Petit Larousse*, which is not petite at all. It's huge.

Nowadays, of course, languages are taught so they are supposed to speak them. But thus far for me — I knew paper French very well, but I couldn't speak it. That was wonderful but, of course, traumatizing.

The summer following that, my brother and I went on a student group bicycle trip to Europe. I may not have been a graceful French speaker but I could certainly speak French and have no trouble doing it.

But that was a bit of a shock. My grades at Wellesley were not the straight A's I was accustomed to. I was working harder than I ever had. So when I came back to Berkeley I didn't become Phi Beta Kappa, which I otherwise was on track for doing because I got mostly A's at Berkeley. But that sophomore year was a bit of a setback. But it's interesting. The grades may not have been as good, but the educational input was terrific.

MCCREERY: The bicycling trip sounds delightful. Had you had much chance to travel before that?

WERDEGAR: Again, you have to think back to the era. Nobody traveled. This was only — what? — ten years or twelve years after World War II. My brother and I were signed up for this student bicycle trip. We took a Holland America Line ship called the *Groote Beer*. Seven hundred students — it was an all-student ship — seven hundred students on their first trip to Europe. [Laughter] That was a lot of fun.

Practicing for the bicycle trip at Wellesley, I had a bicycle. A lot of people did. It was a three-speed. This was a change — a three-speed. So I practiced on my three-speed. We bicycled through Europe on three-speeds. Those of you who are cyclists and have your ten-speeds — and I don't know how many gears it is now — it's just a joke.

We would stay in youth hostels every night. You had to bicycle in or walk in. You couldn't arrive in anything motorized. At the youth hostel you were expected to do your share of the chores. You'd bring your own tin cup and plate, and you'd be assigned a chore.

During the day, those of us on the trip — there might have been twenty — my brother was on it, I was on it, and one of my very best friends from Wellesley was on it — you could be on your own. So my friend Paula and I

would be cycling on our own, and you'd meet at the youth hostel. That was quite an experience.

Europe was very different then. As I say, it wasn't so long after World War II, and as young Americans we didn't really understand the deprivations and the hardship and the poverty that we saw.

I know one thing we noticed. The women shopping at the grocery store and different stores would have these string bags they would carry from store to store. Guess what? We're back there now. [Laughter] They may not be string, but if you're paying attention you always have your cloth bag now, especially since California has eliminated plastic bags. But also, even if it's paper you bring your cloth bags. We're going back to conservation and frugality, which I think is a very good thing. But after the war in Europe it wasn't a choice. It was what they had to do.

MCCREERY: The nice thing about a bicycle trip is you see so much of the countryside and the smaller places. What impressions did you have?

WERDEGAR: Oh, you do. You'd stop and have lunch in some little village or pleasant field. The other thing is there was none of this high-tech sport gear, none of these easy-care fabrics. I had a gym bag, literally. We didn't have backpacks and whatever apparatus you would strap on your bike now. In it was what I was going to wear for those couple of months bicycling through Europe — one dress and a change of underclothes, I guess, and some shorts. I think we probably had to wear a dress if we went to certain restaurants or museums or whatever.

At the end of the trip — this dress was just cotton fabric. It wasn't drip dry or easy care or non-wrinkle. [Laughter] But I do remember it was green and kind of attractive, with stripes. At the end of the trip we were in Paris, and my friend and I went to a bridge over the Seine. I took my dress out and threw it into the Seine and watched it float down the river. [Laughter] Farewell!

MCCREERY: That's a lovely image. [Laughter] How do you think that trip changed you, if at all?

WERDEGAR: I don't know about changed me.

Backing up to Wellesley, one of the famous aspects of a Wellesley education is mandatory sophomore year — which is the year I was there — art class. It's mandatory. You have the big lectures with the slides, you

have the small sections where you discuss the paintings, and you have a lab where you do what you've been studying. You do the sculptures. You do the oil painting. So it's hands-on. As I say, the school is famous for it. I had just finished that art class. Before that I didn't know anything about European art.

I had just finished my French immersion class. [Laughter] As a consequence it was a perfect time to go. I was young, and life was exciting. And we were free. Now you'd never, I don't think, let your sixteen-year-old daughter go off bicycling by herself. We let truck drivers pick us up, and we're here to tell the tale.

MCCREERY: Yes. Different times. I do enjoy hearing about your time at Berkeley. How do you evaluate that education and its effect on you?

WERDEGAR: I enjoyed my education at Berkeley, but it didn't have the impact on me that this year at Wellesley did. Nor was I particularly directed to be getting anything out of it. As I say, I didn't anticipate I was going to go to graduate school at all.

I'm very loyal to Berkeley, and I think I had a good education. But the impact on me I can't say in the same terms that I've described that one year at Wellesley, which back then was very exotic for me.

MCCREERY: What considerations did you have for what to do next, after you finished your bachelor's degree?

WERDEGAR: I thought I'd better get a job, which I did. As I mentioned, I was living in Berkeley and enjoying it. I went to the president's files. I'm not sure if that even exists today, but our task then was — there was a group of us — to research and answer inquiries of the president's office. A lot of the inquiries had to do with the loyalty oath times. I can't remember other inquiries.

There were no computers then, and I forget how we actually conducted our research. But I know that I enjoyed it; it was very interesting. First of all, it was sort of academic. Secondly, the questions were interesting and the research was interesting.

But I then decided to move to San Francisco, and I transferred within the university system. I took a private job for a short time, but that did not work out. I transferred to UC San Francisco, UC Hospital, where I became what they called a ward clerk or ward secretary.

What that position entails is you stand at the nurses' station, behind the counter, and you're the only civilian on the floor. The floor was the tenth floor, which was what they called a medical floor. You put together patients' charts. You answer the phone. You take messages for the physicians. You send the patients off to x-rays or tests that they have to have. You're sort of central headquarters, surrounded by nurses and doctors. I found that very interesting.

MCCREERY: What do you remember about who hired you and your co-workers?

WERDEGAR: I don't remember who hired me. My co-workers were nurses and doctors. I do remember that at that time I became acquainted with two women physicians who were training as residents. Or one was a professor, and the other was a resident. Truly, I think they changed my life because I had no idea that women could be doctors. It really was a revelation.

I also met my husband there. He was a resident, and we began dating.

MCCREERY: How exactly did you meet?

WERDEGAR: He had been away for a year doing a fellowship in New York. He had earlier been an intern — I don't think they call people interns anymore — but an intern at UC, had gone back to New York, where he was from, to do a fellowship year — to be with his mother, actually, at that time, who was recently widowed — and then come back as a resident.

He came back to the tenth floor, the medical floor. He came to the desk and said to me, asking after my predecessor, "Where's Gay?"

I said, "Gay is gone, but I'm Kay."

While he was on the medical floor we would chat. When he left the medical floor he asked me out. He reports that he didn't think it would be appropriate to ask me out when he was working on the same floor that I was. So we started going out. That's how I met him.

MCCREERY: Say a little about his background, if you would, and his undergraduate and medical training.

WERDEGAR: David was a New Yorker, and he went to the Bronx High School of Science, which at that time didn't allow women. It does now. His father was a dentist, and they lived in an apartment in Manhattan. At age sixteen he graduated from high school and accepted a scholarship,

all expenses paid, at a little school outside of Bishop in the Eastern Sierras called Deep Springs.

Deep Springs is very renowned, for those who know about it. It was founded by an educational visionary named L. L. Nunn maybe a hundred years ago, and it was comprised of a student body of about eighteen to twenty boys. It was a two-year school, and then after that you could transfer. The academic situation and reputation of Deep Springs was such that students could transfer to any school in the country, and they did.

However, L. L. Nunn also started a living unit at Cornell called Telluride House. I think he made his fortune in Telluride, Colorado. David, after Deep Springs, chose to go to Cornell and Telluride House. That's where he finished his education.

We have together visited Deep Springs many times, and it's a phenomenal educational institution. It's a working ranch. The students would study the courses taught by the professors who were available to be there that year, and they were all highly intelligent students. It was a working ranch, and they would milk the cows and skin the pigs and cook the dinner and plough the fields. They did it all, and that was the visionary part of the education.

Deep Springs is now undergoing some controversy and effort to become coeducational. Right now that's in litigation.³ For its first, perhaps, hundred years it was all male and a very small student body, as I say. David, coming from New York, a Manhattan apartment, on a train across the United States — [Laughter] — this was a real change for him. He's been on the board of trustees, and he's very devoted, as are most Deep Springs graduates.

Then he went to Cornell, and then he went to New York Medical College and then found his way to California.

MCCREERY: What specialty did he have in medicine?

WERDEGAR: He became an internist. He never went into private practice. He went into academic medicine. Although an internist, he started

³ Deep Springs College will become coeducational with the entering class of 2018: *Hitz v. Hoekstra* (Cal. App. E058293, April 13, 2017) (affirming trial court decision to permit coeducation); *review denied* (Cal. S241885, June 28, 2017; Werdegard and Cuéllar, JJ., recused) (Justice Werdegard's husband being an alumnus, class of 1947; and Justice Cuéllar being an alumnus, class of 1989).

the family practice department at UC — a great believer in treating the whole patient. This was in the seventies when the idea of family practice was new, but also it was welcomed by the students. For a while the family practice department was the one where the best and the brightest went.

MCCREERY: He was making his career, then, there at UCSF at the time you met. You described how influenced you were by a couple of women physicians you were getting to know.

WERDEGAR: Yes. David thought it would be a good idea if I would get a graduate degree, and I was open to that idea. As I've said in other contexts, I knew medicine wasn't for me and everybody should be grateful for that. [Laughter] So I sort of arbitrarily went over to Berkeley wondering, what would I do? I thought about librarianship and a master's in English, law. Then I thought, "Law really is best. It's a finite program. It seems more solid than an ephemeral master's in English."

So I enrolled in law school. I applied to Hastings. I applied to Berkeley.

MCCREERY: I'm interested in this process of choosing law. What other advice did you get — or did you seek any — from David or from others?

WERDEGAR: No. This is the theme of my life. No advice. David didn't advise me on that. It was just my choice. I must have talked to him about it, but it seemed like a very good idea — and it still does.

I think what's different about my background and upbringing is I didn't have a lot of — clearly, no deep parental involvement. I was on my own. But nobody said I *couldn't* do anything. Nobody pushed me to do anything. I was on my own, and so I chose this path. But no limits were put on me. Nobody said, "You can't do that." I was sort of naïve, actually.

MCCREERY: How so?

WERDEGAR: I had no idea — I hadn't thought about — that being a woman would be an issue. To me it was a more exciting school, and I'd come out of it with a solid education, I hoped, and a degree that would take me I didn't know where, but someplace.

MCCREERY: What did your father say about this, if I may ask?

WERDEGAR: I think he said, "Oh, that's fine." He had no input into it. I don't think he said this wouldn't be appropriate, although I earlier told you [in our preparatory discussions] that, earlier in life as he was trying

to guide my brother he told him, “Don’t be a lawyer.” Because I think my dad’s experience as a lawyer had not been a happy one.

I think my dad, in his heart, really wanted to be a mining engineer. But the Depression was such that that seemed problematic. I’m only supposing, but I think that’s part of it. Law seemed a more solid path.

What he thought when I went to law school? I don’t know.

MCCREERY: In making this decision, though, you were relying on yourself?

WERDEGAR: Oh, absolutely.

MCCREERY: Maybe that’s a good stopping point for today, and we can take up law school next time.

WERDEGAR: All right.

MCCREERY: Justice Werdegar, thank you so much.

WERDEGAR: Thank you.

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