

ORAL HISTORY

JUDGE
DOROTHY W. NELSON

NINTH CIRCUIT COURT OF APPEALS

Oral History of
JUDGE DOROTHY W. NELSON

EDITOR'S NOTE

In 1988 — the year before the California Supreme Court Historical Society was founded — I had the privilege of conducting an oral history interview of Judge Dorothy W. Nelson of the Ninth Circuit Court of Appeals. This was done on behalf of the Ninth Judicial Circuit Historical Society at the request of their executive director, Chet Orloff. An excerpt pertaining specifically to Dorothy Nelson's experience of becoming a judge was published by the NJCHS at that time.¹ Now, by permission of Judge Nelson and also of the NJCHS, given by current Executive Director Robyn Lipsky, the complete interview appears below. As of 2019, Judge Nelson has continued to serve on the Ninth Circuit Court of Appeals, assuming senior status in 1995.²

— SELMA MOIDEL SMITH

¹ Dorothy W. Nelson, "Reflections on Becoming a Judge," *Western Legal History* 2, No. 1 (Winter/Spring 1989): 107–13.

² See also the interview by the ABA Women Trailblazers Oral History Project, which gives particular attention to aspects of her life as a woman law student, professor, dean, and judge, available at <https://abawtp.law.stanford.edu/exhibits/show/dorothy-w-nelson>.



JUDGE DOROTHY W. NELSON,
NINTH CIRCUIT COURT OF APPEALS

SMITH: This is an interview of Judge Dorothy W. Nelson of the United States Court of Appeals for the Ninth Circuit. Judge Nelson is also a past dean of the Law Center of the University of Southern California. The interview is being conducted on June 16 and 21, 1988, in Judge Nelson's chambers in Pasadena, California. The interviewer is Selma Moidel Smith, past president of the Women Lawyers Association of Los Angeles, on behalf of the Ninth Judicial Circuit Historical Society.

Dorothy Nelson, what were some of your recollections of your early childhood?

NELSON: I have wonderful recollections of my early childhood. I was born in San Pedro on September 30, 1928. I was the middle of three girls, my older sister two years older, my younger sister two years younger; and early in my life we moved to Los Angeles, California. My mother was a school teacher and a psychologist, and my father was a building contractor, but our home was always very active and very dynamic.

My parents were very involved in the community, particularly my mother. My father loved animals, so we grew up with cocker spaniels and a lovely garden that I remember especially — at all of our homes; and in Los Angeles I had one experience at the University Elementary School at UCLA because my father's sister was a teacher at Columbia University at the very progressive Lincoln School, and I can remember that experience at UCLA where we pretended to be Communists for four weeks and then we pretended to be Capitalists for four weeks and the school was investigated, and I, at that early age, was sort of conscious of the fact that there were certain people that didn't want other people to learn about certain things, particularly young children. But my Aunt Lou, as she was called, had a great influence on my life, as did my parents.

And then I went to Wilton Place Grammar School, where I was in the Opportunity Room from the second grade through the fifth grade; and I remember that teacher in particular, Miss Henry, who had a remarkable influence on my life in the sense of her valuing human values, encouraging everyone in the class to perform at the best of his or her ability. We were all allowed to work at our own speed, and when we finished with our work we were permitted to go and write poetry, paint pictures, make puppets; and so my experience in grammar school was just a marvelous one. In fact, in the fifth grade, when Miss Henry had to go have a tooth pulled,

I got to be teacher for the day; and I thought at that time — the principal popped in about every hour to see how we were all doing — I thought that teaching was really the greatest profession of all; and with my mother being a teacher and my aunt being a teacher, I sort of thought at that age that that’s what I’d like to be. So I remember a family life where my mother, although she was a teacher, was always at home when we came home from school because she got out the same time we did, always having a house full of people of all backgrounds. I, later as a mother, look back upon that time and realize why everything was always at our house. My sisters and I sometimes would say, “Why can’t the Scouts meet someplace else?” “Why can’t the parties be someplace else?” because we were involved in clean-



DOROTHY W. NELSON AT THE AGE OF NINE (CENTER) WITH SISTERS NANCY (LEFT), AGE SEVEN, AND ELIZABETH, AGE ELEVEN, POSING WITH THEIR DOGS.

ing the yard or polishing the floor because we were having company. But then as a parent I realized that my parents always knew where we were, who we were with, were able to help along our environment, but always having us very much involved in things that were going around. So we were part of the Girl Reserves and the Girl Scouts and then the Mariner Scouts. My older

sister was particularly close to me in the early years because she sort of paved the way. She first became the Girl Reserve and took me on my first camping trip to Catalina Island, and then she went into Scouts and then I went into Scouts, and then she went into Mariner Scouts and I went into Mariner Scouts. I always admired her a lot. She was the academic of the family, the real reader.

I was more athletically inclined and indeed recall that before I was tested for the Opportunity Room my parents encouraged me athletically because they really felt I wasn’t going to do too well academically; and, in fact, when I was given my first IQ test and they asked me my mother’s maiden name and I said “Lorna Amy” because her maiden name *was* Lorna

Amy, where it later became Lorna Amy Wright. They said, “No, dear, we want her full maiden name.” I said, “Her name is Lorna Amy.” And the tester responded, “That’s all right,” and sent me home with a note that I wouldn’t cooperate on the IQ test. Someone else gave it to me, and I think they were a little surprised and put me in the Opportunity Room, which began my happy career at Wilton Place Grammar School.

SMITH: Well, it is interesting to hear that you were first so interested in the field of teaching as a career. I wonder, what was it that determined later for you that you were going into the law?

NELSON: Teaching was always an option with me, and with the encouragement of my family, my sisters and I became very active — really it was in high school — with the YMCA. It was during the time of World War II, a shortage of men, and they needed some women to be counselors, basically for underprivileged children in the Culver City area; and I had a Boys’ Club with eighteen little eight-year-olds and my husband-to-be had a Boys’ Club of eighteen little eight-year-old boys. His were the Cherokees and mine were the Gorillas. They got to choose their own names. And I found that many of them had problems in the community. They had problems with schools. They had problems with housing. They had problems with health care. And yet the answers, when I would go around and inquire about getting help for them, were, “The law says this, the judge said that,” and I came home and said to my mother, “Well, certainly social workers have no power in the community. I think maybe I ought to be a lawyer if I want to do something about these matters.” And so I had it sort of in the back of my mind.

And then when I was doing Girls’ Week at L.A. High School, I got to be a judge for a day. I remember Judge Georgia Bullock was then the Juvenile Court judge, and then on Girls’ Day at the big banquet that evening I gave the speech for the high school students. And a number of women lawyers invited me down to their chambers and encouraged me to think about going into the law. I liked the judge part of it. I didn’t think I would like the adversarial system at all.

And I became a general major when I first started college. I was still sort of uncertain about what I would do.

SMITH: Where did you go to college?

NELSON: I went to college at UCLA. I first went to Mt. Vernon Junior High School, where I also had a very happy time, but I was the only one from my grammar school who went to Mt. Vernon Junior High School. And when I went to the junior high school, I felt quite excluded because most who attended formed social clubs and all of these kinds of things, and it was my first sort of experience of being on the outside. And at that time, in talking it over with my parents, they said, “Whenever you feel on the outside, you ought to go out of your way to find someone else who is feeling similarly on the outside and form the friendships that you can with other people who feel as you do.” And it was a wonderful tool because I never felt on the outside again. But that junior high school experience — the seventh and the eighth grades — were very good for me. And when I finally reached the last semester of the eighth grade I felt very much one of the group, but not just of the “social group,” but I had formed friendships with a very broad and diverse range of people, which helped me in the next step going on to L.A. High School, where a lot of my grammar school friends then rejoined me. And yet I never felt that I wanted to be a member of any exclusive group. I always wanted to be a member of groups that included all people, having once felt that terrible feeling of being on the outside.

And then after L.A. High School I went to UCLA. I thought of going to Mills College, where I was offered a scholarship, but my father had gone to Caltech and felt that colleges that had only a single sex really missed a dimension and that he hadn’t really started living until about four or five years after he graduated from Caltech, which, when he started, was Throop Academy and later became Caltech. So he had a very strong preference toward all of us going to a coeducational school. And since my sister Elizabeth had already started at UCLA, again she sort of paved the way and I decided to go to UCLA.

SMITH: And then you went from UCLA to which law school?

NELSON: I went to the UCLA Law School. I was in the second class at the UCLA Law School, and part of my going to UCLA had to do with my husband-to-be. My husband-to-be I had met way back in the eleventh grade through the Culver–Palms YMCA. And he’d started out at Stanford, but the summer after he started at Stanford we both came back to a YMCA camp during the summer together. He was the camp director, and I was

the swimming director. And from that time on we went together. He transferred from Stanford down to UCLA, and we both graduated from UCLA.

He was going to go to medical school, and he went and took the medical school admission test, and then on a lark decided to take the law school admission test with me. The law school admission test at that time was the first four hours (it was an eight-hour test), and the first four hours were the same as the medical exam, and that was when I decided, "Never take an exam next to my husband again," because he flipped through it very quickly as I was trying to decipher the questions. Well, he got his acceptance at Stanford Medical School but he was also asked to deposit \$1,800 for his first microscope and for the first fees. At that point we had decided that we would probably be getting married, and so he changed his mind and decided to go to law school first and then let me put him through medical school. He looked for a law school where he could go during the day and also work part time. And although we both could have gone to UCLA, UCLA required you to attend six days a week — it followed the Harvard method — whereas Loyola Law School permitted you to go to school from 8:00 until 12:00; and Jim got a job with a law firm downtown and went to school from 8:00 until 12:00, and then worked for the firm from 1:00 until 6:00 every day. How he did it I'll never know.

We were going to get married after law school, but after we started, I was either spending time at his home or he at mine; and we did a very silly thing, now that I look back on it.

We got married December 27, 1950, just before my first finals at UCLA, just after his finals. And we got married out at St. Alban's at UCLA, which is another story in and of itself because I was an Episcopalian and Jim was a Presbyterian.

But growing up as a small child, I grew up in St. James' Episcopal Church and always asked questions about, "What about the Jews?" "What about the Hindus?" "What about the Buddhists?" "What about the Zoroastrians?" "Why are we the ones to be saved?" And I was told that I would understand when I grew up. But Jim was very active in the Beverly Vista Presbyterian Church. In fact, one of the first times I saw him was delivering the sermon to the children's classes at 9:30 at the Beverly Vista Presbyterian Church. When we decided to get married, he was so fond of his minister, Dr. Stewart, and I was so fond of mine, Dr. Miller, that we decided



**DOROTHY W. NELSON WITH HER
HUSBAND, JUDGE JAMES NELSON.**

to have them both marry us. And since we had such close ties to UCLA, we decided to get married on campus at St. Alban's. And the first thing that happened to us when we planned our wedding — a woman was in charge of weddings at St. Alban's, and when I introduced her to Dr. Stewart from the Beverly Vista Presbyterian Church, she said, "But, of course, Dr. Stewart cannot come behind

the altar rail." Whereupon Dr. Miller, my Episcopalian minister, said to Dr. Stewart, "Please join me behind the altar rail." And then she said, "Oh, but he can't read the marriage vows." Whereupon Dr. Stewart, the Presbyterian, said, "I'd be so pleased if you would read the marriage vows." And Jim and I thought to ourselves, "How silly this is! We both believe in God and yet there is this separation because of denomination." I tell you this because later on both of us changed our religious affiliations.

At any rate, I started at UCLA and then went on to UCLA Law School while Jim went to Loyola Law School. We got married the middle of my first year before my finals, and we went down to Mexico on our honeymoon for one week. And as I put my law books in the trunk, my husband said, "Oh, you must be kidding." I said, "But I have finals when I come home."

At any rate, it turned out to be a wonderful move on both our parts, although when I started to study for the bar exam, what I remembered from my first semester in law school on Contracts and Torts and Property, I must say, was very, very little; and I was very happy that I took a review course and finally learned what creation, interpretation, breach, and discharge, and damage were. But it was very nice to have that kind of emotional support in law school. I did not do well my first semester, and, indeed, when I got my first semester's grades, which were just practice exams (days of old Common Law Actions and Contracts), I walked down the hall to resign

from law school, thinking, “I’m going to take a year off and I probably will come back. Maybe I’ll go into teaching for a while.”

I was met in the hall by the wonderful Roscoe Pound, who had left the Harvard Law School to come out and be associated with the UCLA Law School for a few years, and I had taken his Common Law Actions exam. And as I walked down the hall, he held up my paper in Common Law Actions and said, “Brilliant, Mrs. Nelson, brilliant!” And it was the one grade that hadn’t come in. My Contracts grade was terrible, my Torts grade was terrible, my Property grade was terrible. I had been used to getting very good grades, and it was the first time in my life where I really felt depressed over grades.

But that one little statement in front of my classmates who knew my terrible grades, sort of caused me to pause and say, “Well, maybe I’ll go in and talk to Dean Pound.” He was not the real dean but was dean emeritus. He was given this title. And I sat down to talk to him about my exams. Now his exam had been a short answer exam, the sort of exams I had been used to in undergraduate school. The other exams he looked at for me, and he read a couple of my answers, and he said, “Mrs. Nelson, you didn’t answer the question. You told them everything you knew, but you didn’t answer the question.” And that was one of the most startling revelations to me in my first year of law school. It caused me to remain in law school, and once I caught on to the system, I was all right.

But later, when I became a law professor and then dean, I always had law faculty — or was one of the faculty — to counsel freshman students. And one of the first things I told them about exams, and I would always give my counselees practice exams because I don’t care how bright you are in law school if you don’t understand what they’re asking for, you can end up not doing as well as you would otherwise be able to do, and telling them to answer the question was a very important part of all of that.

SMITH: During your years at USC as a dean you must have found many influences that you were able to communicate as well to these freshmen — things you had learned in the course of your, shall I say, interesting . . .

NELSON: Struggle is a good word for it.

SMITH: Well, I’m afraid struggle is the word, isn’t it? But I think perhaps, don’t we find that that produces some of the best results?

NELSON: I really think so because when I first got my grades back from that first semester, I had, for the first time in my life, begun to suffer headaches, and I had never had headaches. I had always been extremely healthy all of my life. And when I went to see our family doctor he said, "You know what's causing those, don't you? It's emotional stress. You are bringing them on yourself." That's all he had to say because the next time I felt one of those headaches coming on, I immediately took a candy bar to get the blood flowing away from my head and would just sit and relax for about five minutes. I never had another headache. I've never had one in my entire life.

But when I became dean of the law school and would find students coming in saying, "I am really struggling. I'm beginning to get these stress headaches." I could say, "I know exactly what's happening. Let me give you my advice." And it was just as if everything had descended upon me.

SMITH: Well, will you describe how it was that you who attended UCLA both as an undergraduate and in law school, how you came to be a faculty member at the USC Law School?

NELSON: Well, this is an interesting story from some perspectives because that goes back to the famed Roscoe Pound once again because (I think he was about eighty-two years old) we became fast friends, and I took all of his courses. And in law school he had what he called his Tenth Legion. You all wanted to become members of his Tenth Legion. If you gave a good answer in class he might say, "Well, you're a member of my Tenth Legion," and that meant when he had very difficult questions he would say, "I am now going to turn to the Tenth Legion," and I was thrilled to become a member of his Tenth Legion.

There were only two women in my class, and when it came time to graduate we had no placement office; none of us knew where we were going to go for a job.

SMITH: What year was this?

NELSON: This was 1953. And Dean Pound called me into his office and said, "I have just recommended you for a research project at that other school." I said, "You mean USC?" And he said, "Yes. The American Bar Association is going to conduct a project to investigate the court system in the county, and they are looking for two research assistants, and they are offering a Master's degree to go with it. Now you may or may not be

interested in it, but I wanted you to know that I had recommended you for this position.”

I went over and was interviewed at USC by a wonderful professor, James Holbrook, a former president of the Illinois Bar Association who had come to USC to — he had always wanted to teach. He was a master on Evidence but always had an interest in Judicial Administration. And he interviewed me and told me later that he nearly didn’t hire me because when he asked why I was interested in the system as a system, I first told him that Roscoe Pound had said in one of his courses that it didn’t matter what the substantive law was, if the procedures were not good the whole system would fail. And so I had always been interested in improving the system, but I was primarily interested in the Juvenile Court because I saw what terrible things it had done to some of my former club members from the Gorillas. And he thought maybe I had a cause to fight; and he was a little uncertain that I was going to take this job, if I took it, to fight that cause. And I think he later realized that I was just expressing my strong feelings about the juvenile system.

Happily, I was selected, and although I was offered a job in downtown Los Angeles, and I went down to look at this very big law firm, one of the few firms at that time offering jobs to recent graduates who were women. I was told that I could spend six months in this office and I would be promoted to the next floor where I would spend six months in another office. And the firm offered me \$100 more a month, that is to say, \$350 a month, whereas USC offered me \$250 a month to start but said that I would have a scholarship for my Master’s degree and that I would be given credit for the book I was writing, toward the writing credit, and that I would end up then, I would get a \$50 raise the second year and another \$50 raise the third year but I’d end up with a Master’s degree. Having always had academics and teachers in my family, it appeared to be a good opportunity to get to learn more about the court system, to give me more time to decide what I really wanted to do. I was going to interview all the lawyers in the county. I was going to interview 200 of the most outstanding lawyers as well as the judges, and I thought this might be a wonderful learning experience to add to my law school experience. And I also was interested in ultimately starting a family, and I thought that this might be something that would work out very well.

SMITH: When did you begin to start your family?

NELSON: Not until 1958. But this is how I made the transfer over to USC, and I began to realize that there was this great rivalry. I had been student body vice president at UCLA and so had these very strong feelings about UCLA, a strong feeling of loyalty, and when I arrived at USC it was sort of “Well, it’s that other school, but I’m going to get some good experience here.” I found that the professional schools had very strong ties to each other. They were in competition with each other, but the faculty knew the faculty on both sides. And I realized that at least as far as the professional schools were concerned, I could give a few of my loyalties to USC. Although it was interesting, when I started teaching at USC and then became dean, one of the fringe benefits of becoming dean was the fifty-yard-line seats at the football games. And my children were young and we would bring them, and they became loyal Trojan fans. My son later ended up at the USC Law School. But when I was vice president of the student body at UCLA, I signed Johnny Wooden’s contract, the head basketball coach, and was never — and still to this day — have been unable to transfer my basketball loyalties from UCLA.

SMITH: How many children do you have?

NELSON: I have two children, a boy and a girl. My son is now twenty-nine years old and became a computer expert and graduated and went from USC undergraduate. He attended Occidental for two years and then transferred to USC and is a loyal Trojan fan. And his hope was to advise businesses on computer needs. And he started work first with Security Bank and found that boring, transferred to USC Computer Science Center, which he loved, and then decided to hold his nose and go to law school. He was sure he was not going to be interested in law school and ended up loving his experience at the USC Law School and became one of the editors of the *Major Tax Planning Journal* and *Computer Law Journal* and is currently studying for the bar exam.

My daughter is our housewife in the family. I should mention that my younger sister, Nancy, who had three little girls, died when her children were six, seven, and nine and my children were five and eight. And although the children remained with their father, they spent great periods of time with our family. So really, basically, my children grew up with Julie,

Janice, and Jill, and my daughter Lorna was the youngest. She was five at this time, and then little Jill was six, Janice was seven, my son Frank was eight, and Julie was nine. So there have been very close ties. The older four were always very, very strong academically. My youngest was not as interested in academic life, and I think sort of didn't want to compete with all of that although she was an honors graduate from her junior high school and did very well in high school. But she went on and took a course to become an animal care consultant, and, in fact, when she lived in San Diego (she is happily married), had a little card listing her as training at UCLA as an animal care consultant and adviser to five pet shops, and gives personal consultations on animals and indeed at the San Diego Zoo volunteered her time in the snake department and the elephant department. She now lives in Corona and is still an animal care consultant advising people mostly on the care of cats and dogs, although her brother always had snakes in the home. In fact, I was a good mother in the sense I wanted my children to explore all possibilities, so we did grow up with every animal known to man in our house. But her love for animals and particularly wounded animals She belongs to every society for the prevention of killing whales to save all endangered species, and she has continued with that interest.

My youngest niece is a graduate of UC Santa Cruz and is a business-woman. With her Gucci bags and her Beverly Hills apartment, we're not quite sure where she is going to end up.

Janice just received her Master's from Claremont Graduate School and is a specialist in early childhood education.

Julie just received her Master's from the Harvard School of International Education and is very interested in international education and has spent a year in Colombia, a year in Papua New Guinea teaching the new math. She has really been all over the world, in Oman, and is married to a young architect who has just graduated from the Harvard School of Architecture.

SMITH: Well, this has certainly provided you with a very busy and full life.

NELSON: It has and still does, I might add. It is a myth that children at age twenty-one leave the home and you see them occasionally. We find, just as one has left the home, another one comes back home to go to graduate school.

SMITH: Well, now back to your own very special career. When did you get the first intimations that you were being considered for a position on the federal bench?

NELSON: Well, here again it's a long story because when I was getting my Master's at USC, I was in a seminar called Judicial Administration. The professor of that seminar was called away to Europe. He actually was vice president of the university. Because I was working on my Master's program and knew all the judges and had become quite familiar with all the issues in judicial administration, I was asked to teach the last nine weeks of the course. The course had not been very interesting, to put it mildly, and because I had all the connections downtown I said, "We're going to leave the law school, and we're going to go downtown and start at the drunk tank, and we're going to move through the criminal justice system. One day a week is going to be a field trip. Everyone is going to do a paper with a judge on how to improve the system, either in the juvenile courts, the traffic courts, the probate courts, whatever they are, and then we are going to do the same with the civil justice system."

Justice Tom Clark was a dear, dear man, and he agreed to come and meet with my seminar the very last day when we had the brunch, to talk about the administration of justice from the perspective of a Supreme Court judge. As you undoubtedly recall, Justice Clark was so responsible for many innovations — the National Center for State Courts, the Institute for Court Management, and a real inspiration. At the end of that course the students marched in and said to the dean, "Hire her, hire her!" and oddly enough, I was hired. I was the first woman member on the USC faculty but maintained my interest in judicial administration and always taught, no matter what else I taught — and I taught practically everything in the curriculum — I maintained my interest in judicial administration.

Since there were so few law faculty in the country with that interest and also so few women, as boards and advisory boards were established through the American Bar or through the National Center for State Courts or through the Federal Judicial Center, I became a member of many of those advisory boards and as a result came to know Griffin Bell quite well.

When President Carter and President Ford were running against each other for the presidency, I was at that point chairman of the Board of Directors of the American Judicature Society, my favorite society because it

admits laypersons and its prime purpose when it was organized in 1914 was to improve the selection of federal judges. And we asked President Carter and President Ford, "If elected, would you adopt a merit system for selecting federal judges?" Both replied that they would. Much to my surprise, shortly after President Carter was elected, his new attorney general, Griffin Bell, called me and said, "All right, Dorothy, bring your people to Washington, and let's figure out how we all are going to do this." All of the Southerners, Tom Clark and Griffin Bell, always would say, "How are we all going to accomplish this?" With some members of the American Judicature Society we met in Martha Mitchell's (the wife of the former attorney general) old dining room. And I remember it well because it had red flocked wallpaper, red velvet roses in the center of the table. It was still so soon in the Carter administration that none of this had been changed. And we plotted out a system for merit selection of federal judges during the Carter administration. And President Carter indicated that he wanted special emphasis on the selection of women and members of minority groups. Little did I think that a couple of years later I would be approached by Mr. Sam Williams, head of the twelfth (there were twelve committees around the country, and Sam Williams was head of the one that included our circuit) calling and saying they wanted to submit my name for consideration. Did I have any objection?

It took me a couple of weeks to think about this. I, being the first woman dean of a major accredited school, had because of this been asked to serve on many boards of directors, including the Federal Reserve Board, Farmers Insurance, the Southern California Edison, and the like. I did this for two reasons: (1) I learned a great deal by being on the boards, but the second reason was it was a good fundraising source for the law school; and my job as dean was to bring a good deal of money to the law school, and as a result of serving on those boards a good deal of money was brought to the law school. But in addition, I was permitted under the rules of the university to keep the money that I made by being a member of a board of directors, which is substantial. On every board on which you sit it's \$12,000 to \$15,000 to \$20,000 a year for meeting four to six times a year. So my income as dean had been heavily supplemented by my membership on those boards; and with various members of my family being in school and in graduate school, it meant taking a decrease in salary. But it was my dear

husband who said, “Look, you have been studying the judiciary from the outside all these years. Why don’t you go on the inside and see if all of your theories are correct?” So it was really with his encouragement that I went on the bench.

But the first intimation came with the phone call from Sam Williams, and then twenty-seven of us were proposed for investigation by the American Bar, by the FBI, by all of these various groups. And I received questionnaire upon questionnaire, upon questionnaire. Then it was narrowed down to seventeen finalists.

SMITH: What were the kinds of questions they were asking you?

NELSON: Well, some of them were basically improper. Some of them were, how would you vote on such and such an issue — abortion, desegregation, on issues of this kind. Other questions came from minority groups, “What have you done for minorities lately?” others from women’s groups, “How do you feel about the women’s movement?” Those from the FBI were just basically checkups, “Do you have an alcohol problem, do you have a drug problem? Tell us about your family. Have you ever been arrested?” From the American Bar Association more serious questions about my lack of a great deal of trial experience, and it was true I had some trial experience but I had been a law professor all of these years, and they wanted to know whether or not I felt that I could handle the job.

So there were just far-ranging questions. Most of the questionnaires I filled out. Some questions I refused to answer.

Then it was narrowed down to seventeen of us, and we were interviewed by a group of laypersons and lawyers, the persons selected on the basis of our recommended plan. But the first question I was asked during these interviews was, “You have been a law school dean, and after all, that just involves taking care of the students and the faculty. What makes you think you can be a federal judge?” Happily, on the interviewing committee was John Frank, who had been a law professor at Yale, who was now a Phoenix lawyer, who knew what law school deans had been through — everything from the Kent State Cambodia days to fundraising, to many, many constituencies such as your own students, your own faculty, the law school alumni, the law school supporters, the Board of Trustees, the universities, the community constituencies as well. And the law school

faculties had changed. We had moved from a regional school to a major national school dealing with publications, dealing with all of these kinds of things. So he gave a little lecture to the committee on what law school deans really did and that, if anything, it would be retirement to go on the federal bench. After his kind words of encouragement all the other questions appeared to be quite friendly, and the list was narrowed down to six of us, five from Southern California, only one from Northern California, who were recommended to the president.

The fact that five were recommended from Southern California infuriated the Northern Californians. It infuriated Senator Hayakawa. Because of this my nomination was held up for a period of seven months, along with the nominations of some of my other colleagues. And ultimately when I went back for my Senate hearing with the Senate Judiciary Committee, Senator Cranston said to me, "Now Dorothy, Senator Hayakawa will probably just introduce you very formally and then I will give you a proper introduction." Senator Hayakawa asked to meet with me before he was to introduce me. I was very familiar with his book called *The Meaning of Words* which my mother had used in her classrooms for years, and I started off on this note. We had the most wonderful conversation, and when he introduced me to the Senate Judiciary Committee it really was as if I were his daughter. He went through practically line by line of my résumé; and Senator Cranston, in great amazement, looked at me and then stood up and said, "I really have nothing to add to what my dear colleague, Senator Hayakawa, said." But the very first question I was asked by a Democratically dominated Senate Judiciary Committee — and I should add I have always been an Independent, I have never belonged to a political party — was "What have you done for minorities lately?" And I gave what I felt was an adequate answer. And then I was really before the committee for quite a long period of time, but I was followed by Terry Hatter, a black law professor who had headed the Western Center on Law and Poverty that we created at USC after the Watts riots. And when he sat down, he said to the Senate Judiciary Committee, "Before I answer your questions, I want to amplify Dean Nelson's answer to the question that was posed, 'And what has she done for minorities lately?'" And I treasure his words to this day. It was a sweet and wonderful thing for him to do, but he described our affirmative action programs at the USC Law School,

our Western Center on Law and Poverty, our National Senior Citizens Law Center, the Black Law Students Association, the kinds of things that we had tried to develop, and then went on and said, “Now you may ask me any questions you want of me.”

So the day that I was officially sworn in at USC, Terry Hatter had his swearing-in ceremony. I gave him his oath of office for the District Court and then my formal swearing-in was at USC, and then we had sort of a joint reception together, and it was a lovely way to start out my career as a federal judge.

SMITH: Do you remember the first case you had to decide in your new position?

NELSON: Actually I remember very few cases, but I happen to remember the first two cases because on the federal circuit we have a system whereby we sit on 18 points a day. We have staff attorneys who screen our cases; and if they are very, very difficult they are given a high ranking, say a 10. If they are very, very routine and easy, they'll be given a ranking of a 3, and there is 3, 5, 7, and 10. I was first assigned to Portland, Oregon because, of course, in our circuit we sit from Anchorage to Seattle to Portland to Pasadena, Honolulu, and the like. And they gave me just two days of sitting instead of four. Now we have five days of sitting a month. And the first two days had one 10, one 5, and one 3. On both days I was assigned the 10, and I was a little aghast because here I was starting out, and they were both very complex cases.

SMITH: How did this happen? Was this by chance or was this to test the new member of the bench?

NELSON: Well, I'm not quite sure. They were both cases I felt very strongly about, and I have since learned in conferences afterwards, if you feel very strongly about a case, the other judges who may not feel as strongly are very happy to have you write the opinion. But I got sort of a bad start that day because I went into the courtroom — it's a lovely courtroom in the Old Pioneer Courthouse in Portland, has a fireplace, has an old John Adams desk, has a lovely antique clock ticking away, it was raining outside, there was a fire in the fireplace, and I came in — the last of the three judges to walk in. And the presiding judge came in and sat in his chair and leaned way back, and the next judge came in and sat in the chair and leaned way



FIRST KNOWN ALL-WOMAN PANEL ON THE NINTH CIRCUIT —
 (L.-R.) JUDGES DOROTHY W. NELSON, BETTY BINNS FLETCHER, AND
 JUDITH NELSON KEEP (BY DESIGNATION),
 SAN FRANCISCO, MARCH 11, 1981.

back. I came in and sat in my chair and leaned way back and went right to the floor. My head banged on the floor, and I was a little disoriented because it was these old, old chairs that are wonderful for men but simply don't fit short women.

So I came into the first conference sort of a little embarrassed about what had happened; and I began talking about — it was an Indian rights case — and I really guess I got very excited about the case, and the presiding judge said, "Well, Judge Nelson, I'm going to let you write that opinion." In the first place I said, "Well, there are many issues here. I'd like to know how you all feel." And he said to me, "Well, are you for the Indians or against the Indians?" And I said, "Well I'm coming down, if all these other issues work out, I'm probably going to hold for the Indians in this case." He said, "Fine, write it that way." And I said, "But . . . but . . . but I'd like to know how you feel on these other issues." He said, "Well, write it, and we'll see how it comes out."

And that led me later to when I preside, I ask the judges to come an hour early — if it's in the morning, I'll bring a continental breakfast; if it's in the afternoon, I'll promise to bring sandwiches — to sort of, first of all, ask what bothers us about the briefs. We have what we call a hot court. All of our judges read all of the briefs. We have our clerks — most judges have clerks — prepare neutral bench memoranda telling us what they think are

the real hard issues and the kinds of questions that might be helpful to ask on appeal. I found as a new judge, sometimes I have all these questions and I wouldn't get them in. And I think it's helpful if we all agree on what is really bothering us. Sometimes we still might not have enough time. But then I feel it is very helpful to discuss the cases when we are looking at each other. It saves a lot of memos that go over our computer. I think it's much easier to talk out issues since we are all well prepared for oral argument, without exception, on this court rather than coming back to chambers and then trying to send mail to the other two and try to work them out in the end. So input is the way I work when I preside, and now I'm halfway up the totem pole in seniority. I preside a good deal these days.

SMITH: Do you have particular work habits?

NELSON: Oh indeed.

SMITH: What are those?

NELSON: Well, the best part of this life are your clerks, and I might say my secretaries, too. We are a working team, and I look for people — I get over 300 applicants for the three clerkship positions — they all are very bright; in fact, I could probably choose any of 100 of the 300 and be very, very happy with them. But I am looking for people who are not only very bright but who like a collegial atmosphere, who will consider the work of the chambers the work of everyone, who are not concerned with being No. 1 clerk or No. 2 clerk, are concerned with working with each other, growing together — my work needs as much editing as anyone else's — but who don't mind having their work edited, who will drop what they are doing at the drop of a hat when someone says, "Help, I need help," or we often have round tables in my chambers when we get to difficult issues. It seems every year we have one or two cases that require all of us. I can recall this past year a case dealing with the Marcos property, the ex-president of the Philippines, involving 4.5 billion dollars. The year before we had a case with the Oakland Raiders, whether they could move to Los Angeles and become the Los Angeles Raiders. The year before that was a patent and trademark case involving the Levi Strauss Company. Those were our big ones during the year where everybody sort of knew what was going on, in fact, different clerks took different parts of the case.

Generally, in chambers, when we get summaries of what our cases are to be six weeks hence, I sit around with my clerks and we say, "What looks good? What would we like to work on?" And we negotiate with the other chambers. We will take some of the cases that we think are better than others. They'll take some. We'll take some that we really are not so excited about. They'll take some. And it balances out. And I try to let my clerks have input so that at least every other month they are all working on some case that they really care a lot about, which I think is very important.

But we have a very collegial atmosphere. The clerks help to select the cases. In preparing bench memos my door is always open. They walk in and out. And they talk to each other all the time. They write draft opinions, and they check them out with each other. Nothing goes out of my chambers unless it has been reviewed by at least two of us very thoroughly. And then I have my marvelous secretaries, who have been with me for some time, and they often will catch things that none of us see. They will see a paragraph — and they read for meaning as well as for just to see if we have complied with the court rules — saying, "Judge, this doesn't make any sense." And I will look at it and say, "We were reading this paragraph having in mind all these things, but let's rework it." So basically I have six wonderful helpers.

SMITH: Do you find that the clerks have gone on to do other things since you've started in your position? Have any of your clerks gone on to other courts?

NELSON: Well, of course I've only been on the bench now, I'm in my ninth year.

SMITH: Well, yes, however —

NELSON: So my clerks have not yet become judges, although, of the nineteen judges on the District Court, nine of them are former students of mine who took my seminar in Judicial Administration; and I am still grading their papers, as they say.

I have an annual clerks' party every year in my home. And they come in from Washington, from New York, from San Francisco, from the Midwest. I have now four former clerks who are law professors, one who became associate dean of the University of Chicago Law School, one who became assistant dean of the UCLA Law School. And I enjoy correspondence with them

all the time. Two of them came through from Washington last week, and we had lunch together. But it's a lifelong friendship. And what is so exciting about the clerks, I get postpartum depression about the beginning of summer because I know I am about to lose my wonderful clerks, and then three equally wonderful clerks come in about the end of September. My secretaries and I say, "Aren't we lucky again? We've got another wonderful group!"

In addition to my clerks I take an extern each semester coming from USC, UCLA, Stanford — we had one from Yale — who spends a semester with us getting fifteen units credit or a semester's credit from the school. And we find the externs are a marvelous source as well. But with the externs and the clerks you get a fresh perspective on kinds of cases. For instance, you'll get a whole run on search and seizure cases, and you'll say, "Oh, another search and seizure case." And the extern or the clerk will say, "Oh, but Judge, Professor Kamisar says this is the most important issue before the courts today." And I say, "Really! Tell me about it." And I get a new enthusiasm for the issue. So it's a wonderful part of the whole, of running a chambers.

And I have my clerks travel with me. I am permitted to take up to two clerks to travel, and I feel this is a marvelous chance for them to get to know other judges and other clerks. And when you're away from chambers you tend to have lunch together and dinner together, and you get to know each other very well personally.

SMITH: In these nine years, do you feel that you have innovated in any of the procedural elements of the judicial system?

NELSON: Oh heavens, yes.

SMITH: Would you like to describe some of those?

NELSON: It's been lively. On the Ninth Circuit, our chief judge, who just retired yesterday — he retired June 15, 1988 — was very open to innovation and very open to new ideas. So it's been like a child in a sandbox. Since I've been on the circuit we have a lot of fellow judges who are interested in such things as alternative forms of resolving disputes: now in an experiment in our District Court in San Francisco, all cases involving \$100,000 or less are referred to arbitration automatically, and we are getting only about two percent of those back in the trial court. This was against the opposition of some members of the bar but now is fully accepted.

On our appellate system we have pre-briefing conferences before the appellate attorneys even file their briefs in a large number of cases to see if we can simplify the issues, address the questions that should be briefed. Oftentimes during those pre-briefing conferences, the parties come together and realize they don't really have a lot to worry about.

We have done a lot with our Judicial Conference, which I chaired just two years ago — our annual meeting where all the judges come together with some of the lawyers to discuss what might be done to improve the administration of justice in the circuit. As a result of some innovations, instead of just meeting with the lawyers once a year, we have ongoing meetings with lawyer delegates all year long, sometimes three and four meetings, which lead to proposed changes in our court rules to benefit both the lawyers and the judges.

There are just innumerable innovations that have taken place in the Ninth Circuit under the leadership of Judge James Browning. And one of the things that, when I was chairman of the circuit and we knew that Judge Browning was going to retire, someone suggested, "Well let's put his speeches in a leather-bound volume and give them to him." And I said, "No, that won't be a lasting monument to him. Let's bring in eight scholars from the academic world." And I might say that Judge Browning has been very open to making closer ties with law schools, bringing in law professors: Judi Resnik of USC, who has written some articles on managerial judging for instance, was the centerpiece of one of our conferences. At any rate, we are bringing in eight scholars from across the country to critique the various procedures and various innovations of the Ninth Circuit that have taken place basically in the last several years. And so we are going to have a volume that will be useful to judicial administrators, to all chief judges in state and federal courts, to teachers of political science, of business administration, public administration, judicial administration. And this particular volume will be presented to Judge Browning at our summer conference this year as a living monument to his encouragement of innovation in the Ninth Circuit.

SMITH: Well, that should be quite a living memorial. It would be a better thing by far than what was proposed, just a notebook.

NELSON: I talked about it because I am so happy that we will have something of a permanent nature that will be useful to other people but describe

really wonderful innovations in our own circuit. We were about to be split. The proposal was that our circuit be split because it is so large. We have twenty-eight active judges and seven retired judges. The next largest circuit, the Fifth, has fifteen. And Chief Justice Warren Burger expressed the view that he thought that we ought to be split, which led to many of our innovations to show that, really, the wave of the future will probably be fewer circuits with good internal administration rather than continuing to split our circuits in the country. And so those are the kinds of things that we have worked on, and we feel, very successfully. Not only has the Ninth Circuit remained intact, it has shown a way to Congress, a possible future way. We have twelve regional circuits and one United States Federal Circuit that handles patents and Court of Claims cases. But the wave of the future in judicial administration may be to even combine some of our circuits and have good internal judicial administration within those fewer circuits.

The advantages are many, including probably eliminating the need for another level of review. There have been many people who have talked about the need for another court of appeals between the current courts of appeals and the Supreme Court because of the large number of inter-circuit conflicts. If you have fewer circuits, you have fewer inter-circuit conflicts.

And so I feel that I have been in a wonderful circuit, open to innovation and change and that we probably, hopefully, have created a model and are continuing to create a model for the twenty-first century.

SMITH: We have spoken about the procedural. Referring now to the decision-making itself, is it your view, as it is of certain others, that the decisions should be innovative as well? Should they point the way, or should the decisions be more conservatively following what they feel precedent has been?

NELSON: I guess you're talking about, "Should there be an activist court as opposed to a non-activist court?" Well, I'll take you back to my academic background. One of the courses I taught was Legal Process with some marvelous materials by Professors Hart and Sacks of the Harvard Law School. I taught this course for almost nine years, I guess seven years, before I became dean. And one of the things that we talked about in that course was that words have no single plain meaning. And what that means

to me is this: That one of the strengths of our system is our system of *stare decisis*, our system of precedent, which gives stability to the law.

Uniformity enables us to predict our lifestyles and how we should behave. But anyone who says to me that you can look at a case and say it can tell you exactly what's going to happen in all of the cases to follow, I think, to me, doesn't understand the legal process — that even in cases where you have precedent, where you have a statute, there is always room for interpretation. And my bias is toward stability and toward giving words the common meaning or the meaning based upon the internal social, economic, and legislative history and the external social, economic, and legislative history. But there comes a time when you have a case where some people will say, "It's very clear," and I say to myself, "Nothing is absolutely clear."

So I hope that no one can ever predict how I will vote on a given case. I will feel that I have been a successful judge if I am known to be a judge that looks at everything that is involved in a given case — the precedent, internal, external, legislative history, the social, the political, the economic history. I am not one who believes that you can determine how a case should go by looking to the intent of the original writers of the Constitution, those forty-four men who in those hot four days in Philadelphia wrote what was originally a four-page document, leaving out the rights of women, leaving out the rights of minorities, and so forth. Until it was amended four years later, we didn't even have a Bill of Rights. I think it's a good starting point, but I think there were so many things put into the Constitution — equal protection of the laws, the due process clauses and the like — which showed the genius of the original framers of the Constitution, that there were certain open-ended questions where rights of persons would have to evolve over a period of time, depending upon the maturity of our nation, depending on social, economic, political developments. So I think we ought to start with the original framers and look to the purpose of these various clauses. It is just those framers who left these open-ended clauses for us in the federal judiciary to interpret. I think it makes a great deal of difference if we interpreted certain clauses in a certain way over a long period of time. I think that lends a certain stability which should not be overturned unless we have very, very good reasons for overturning it.

But I think that the congressional hearings, the open hearings, on the nominees for the Supreme Court were so wonderful, a wonderful lesson in

American constitutional history because there were so many people who testified, including academics. All in all, it was a wonderful experience for all of us.

SMITH: Well, yes. As a Circuit Court judge, what is your perception of the District Court and the Supreme Court?

NELSON: I really have a very good feeling about the District Court. I think the judges as a whole are very hard working, very dedicated to their jobs. Some of them even have two trials going on at one time. I think the hard part of their job is the heavy caseload, the press for time, and they're often forced to make decisions on the spot that if they had time for reflection or research they probably would not make. I find that the work as it comes to me is extremely good. It helps in our circuit that we get to meet together twice a year, once at our annual conference and once at seminars, where we have informal discussions about what we like about what we all do and what we'd like to improve. For instance, I find it much easier to make a decision when there are findings of facts and conclusions of law as found by the District Court judge rather than just an outright ruling. And they have let me know that they prefer it in my own opinions if instead of reversing and remanding when I occasionally do this, that in accordance with the above opinion that I specifically tell them what I wish them to do on remand.

SMITH: And referring to the Supreme Court?

NELSON: Oh, the Supreme Court. Again, one of the privileges of a Court of Appeals judge is to sit in moot court competitions, often with a member of the United States Supreme Court. I sat this past year with Justice Scalia at Stanford and Harvard and the University of Chicago. And I find that I get to know the justices much better just having this close association with them. And I must say I have extreme admiration for all members of the United States Supreme Court. I feel that they are dedicated, that they really do a lot of extraordinary research; and I think that the writing on the Supreme Court is extremely good. I don't always agree with it, and the Supreme Court doesn't always agree with me either. But I always have a feeling that the members of the Supreme Court are really truly sincere in what they write and sometimes convince me. Even when they occasionally reverse me, I feel that it is justified.

SMITH: And in your turn, have you written dissenting opinions?

NELSON: Yes, I have written a number of dissenting opinions. I really don't write a lot of them. I feel that it is much better to try to work out the differences among the members of the court. I think it is better for the profession. I think it is better for the court. It is only occasionally when I feel that something is extremely important to the administration of justice as a whole. This past year I had a case involving foreign heads of government, and I dissented from the opinion that it was none of our business, that it was the business of the other government.

I had a very difficult patent case at one time where I felt it was important to dissent because it affected the law of the whole country in a very important way.

I will not dissent if I just disagree; and indeed, as I say, I think to mediate the differences among us and perhaps leave a paragraph out of an opinion is far more important than having it remain and trying to file a dissent.

SMITH: What would you say you have found is the hardest part of your work?

NELSON: The hardest part of the work, I think, is the constant rise in the caseload; and I think one would love to sit with a number of these cases for a month or two at a time and sit and think about it, talk about it, and read not only the legal literature but read in the social sciences as well. But with 22 to 25 to 30 cases a month, we are writing approximately 10 opinions a month (not all published, of course), but it forces us to produce at a much faster pace than I think would be ideal under the circumstances. I think one possible solution to this would be new forms of dispute resolution to keep some of these cases out of the court system. But as long as the caseload is as it is, I think I would say the hardest part is trying to do a very good job, which of course you want to do, with the cases constantly coming into the chambers.

SMITH: Do you feel that there is perhaps some opinion you have rendered, some decision which perhaps even in the dissent will have a far-reaching or lasting effect on our judicial system?

NELSON: One never knows about one's opinions. But one of the very first opinions I was privileged to write I felt very good about. When I was dean of the law school my field of specialty, as I have mentioned, was Judicial

Administration, how to improve the court system. Part of that was a study of the commitment of the mentally ill. In the California Superior Court it is called Department 95. And I was very distressed at what I saw there, not because of what the judges did but because of what the law permitted. And one of my very first cases was *Doe v. California*, where a UCLA student was picked up on the street, could not identify himself, had no identification on him, was acting “strangely” according to the police, and was brought down to Department 95 and given drugs to calm him down. He became quite upset about being in Department 95 and actually was held there fourteen days without requesting a hearing. And in *Doe v. California* I said no one could be held more than seventy-two hours without being given a hearing whether requested or not. Because the department is permitted to administer drugs, it is very understandable why this young man did not request a hearing; and later, when he was released and off drugs and so forth, was quite upset about what had happened to him. And it did change the law of the commitment of the mentally ill of California, and it remains that to this day. And I am very pleased with that decision.

SMITH: That, indeed, is the kind I was referring to.

NELSON: Good.

SMITH: Of the many honors that you have received, awards that you have been given throughout your career, is there one perhaps that stands out for you, that has particular significance for you?

NELSON: I think I was very happy to be among the group of four women who in 1975 received a World Peace Through Law award. This was 1975, as you may recall United Nations Year of Women, and I was a delegate to the United Nations Conference in Mexico City. I was a delegate representing the Baha’i International Community; and it was in law school



DOROTHY W. NELSON SPEAKING
AT THE SEVENTH WORLD PEACE
THROUGH LAW CONFERENCE,
WASHINGTON D.C., OCTOBER 1975.

that I became a Baha'i, which is a world religion, basically, that believes in the oneness of God and the oneness of religion, that all religions come from the same source, and the oneness of humanity. When I was a first-year law student at UCLA in 1950, and I say the date because it was before *Brown v. Board of Education*, out of my class of fifty only — we were the second class at UCLA Law School — were two women and one Black student. We were all invited to join the Phi Delta Phi legal fraternity. Three weeks later, word came from the national that everyone but the women and the Black were welcome, but they were not welcome. The president of our law school class pulled our whole class together and said, "This is ludicrous. Let's all resign and form the UCLA Legal Association," which we did. And I walked up to him (his name was Donald Barrett), and I said, "Donald, that was a very nice thing to do, but whatever led you to do this?" I had known Donald in undergraduate days. He was a big fraternity man, not exactly concerned with social issues. He said, "I don't know what's happening, but my whole life is changing. I've been going to Baha'i meetings in Westwood Village. Would you like to come?" I said, "Oh, what is that? Is that an ancient sect of some ancient religion?" And he said, "No, it is an independent world religion and no priesthood and no clergy, but you can learn about it through firesides." So I said, "Well, Donald, I am a good Episcopalian and my husband is a good Presbyterian, but thank you very much."

Two weeks later he had us to dinner and to play bridge, and right in the middle of a bridge rubber, he said, "Oh, there is a Baha'i meeting going on just a block down the street. Would you like to go?" My husband rolled his eyes as if, "What are we into?" but we went to that Baha'i meeting where we had people from Hollywood. I remember Vic Damone was there. We had professors from UCLA. We had people of all backgrounds, and it began a five-year study of comparative religion for me and my husband. And we never thought we would become Baha'is. We thought, "Well, there are five million Baha'is in the world, why not know what it is all about." And we found that basically I read the Koran for the first time — and the beauty of that book! In Sunday School I remember a picture of Mohammed on a white horse cutting off the heads of the Christians, and my view of Islam was one of a wicked sort of evil religion. And when I found in the Koran the fatherhood of God, the brotherhood of man, the Golden Rule, the common prayer, and so forth, I felt I had been very deprived all of my life. Oddly

enough, seventeen members and their families of our law school class became Baha'is.

Several of the principles of the Baha'i faith have greatly influenced my life — the equality of men and women, the need for universal education, a universal auxiliary language, a world government, a world federation of nations, and so forth. But all of these principles, we as Baha'is believe, must be recognized at the same time before world peace will be possible. But on the principle of equality of men and women, the Baha'i belief is that men and women should have equality of opportunity but that the station of motherhood is very, very high, that the family is the central unit of society; and, therefore, I had the best of both worlds in the sense I have always been a family person, but I had always been drawn to the women's movement about equality of opportunity, and here was a religion that exalted the role of the mother but also very firmly believed in equality of men and women to the point that in our religion until women achieve high policy-making positions, the peace of the world is not possible.

And so, when I was named a delegate to the International Women's Conference, I was invited to Cairo to meet with Mrs. Sadat, the wife of the then-president of Egypt, who was also going to speak at the conference. I was to deliver one of the addresses, talking about the role of women in the West, and she was going to talk about the role of women in the East; and she was very interested in my views as I was interested in hers. And Mrs. Sadat had done a lot in Egypt to ensure equal education for women, which was quite difficult to do. And so, when I first met with her, it was sort of interesting. I was invited to the palace, and she was as nervous as I. And when she first greeted me, she said, and her secretary was standing next to her, "Dean Nelson" (I was then dean of the law school), "I want you to know how pleased I am to see you, but before we begin to talk I do want you to know I love my husband and I love my children, and I do believe in the family as the central unit of society, and I just want you to understand that I don't think we'll be ready for the feminism you know in the West for many, many years to come, if ever." And I said, "Oh, Mrs. Sadat, you know I am a Baha'i, and we, too, believe that the family is the central unit of society." And I said, "I, too, love my husband, and I love my children." And she turned to Mr. Fawzi, her secretary, as if to say, "It's all right." She said, "You may be excused now. Dean Nelson and I will have a lot to talk about."

And we agreed on the importance of educating women and, indeed, if you have to make a choice between educating a boy and a girl, you educate the girl because she is the first teacher of the child.

And then, we went on to talk about the importance of the equality of men and women in achieving world peace. And she told this wonderful story about after the 1973 war which Egypt won, she received this letter from a woman from Jerusalem, who wrote to Mrs. Sadat and said, "I write to you not as the wife of the president, but I write to you as one woman to another. My husband is dead. My only child was captured. Would you find him and send him home to me?" And Mrs. Sadat not only found the child, the young man, but sent him home and published in the *Jerusalem Post* this wonderful reply, "As one woman to another, I return your child to you. Until we, the women of the world, refuse to give up our sons and daughters to war, we will have no peace." And that is why when I received that particular award, having gone to the UN conference in Mexico City, I felt that it signified something in which I truly believed.

SMITH: And what was the auxiliary language that was proposed?

NELSON: Well, we as Baha'is believe that the peoples of the world will choose this universal auxiliary language. We have many Baha'i Esperantists; but the founder of our faith, Baha'u'llah, said, "The governments of the world will recognize the need and will choose an auxiliary language." As I go to international conferences, I am very pleased, however, to note that a lot of people have learned English, even the Chinese women and the Russian women, and I'm not very good at languages so I'm sort of holding out for English.

SMITH: Well I hope you have what you like then.

NELSON: Thank you.

SMITH: Going back to more of your personal life and to its earliest periods, would you say that travel has been an influence in your life?

NELSON: I think I can say that travel has been, although my family accuse me of becoming a Baha'i and seeing the world. My mother was Episcopalian and my father was a Baptist. Both of them had Baha'i memorial services. My mother-in-law at age eighty-one became a Baha'i, which was interesting. But that had to do with travel because I had not traveled a great

deal. As an undergraduate I was the national president of a sophomore honorary called Spurs, and I got to go to Laramie, Wyoming. And then my next big trip was to Tucson, Arizona. But after we became Baha'is, there was a World International Congress in London in 1963. We took our young son who was then age four. I left my young baby home with my sister. If I had to do it again, I would have taken my baby as well. And our families thought we were crazy. Paying off our law school debts, here we are going off to London to meet with 9,000 people from around the world. But from that point on, travel has been very influential in the lives of my family. We flew now and paid later. We took our children with us.

I took my first sabbatical, and because the Baha'i World Center is in Haifa, Israel, I tried to figure out something I could write about in Israel. And I did a comparative study of the laws of marriage and divorce in Israel. In the eastern countries, as you know, the laws of personal status are governed by religious law. So in Israel we have the Rabbinical courts for the Jews, the Christian courts for the Christians, the Shari'a or Moslem courts for the Moslems, and the Baha'i administration for the Baha'is. So I proposed this as a study, got a grant, went to Israel. My husband took leave from his law firm, and we took our two children, who were then four and seven; and indeed they picked up a little Hebrew along the way. And our children saw Paris before they saw Chicago, and they saw Frankfurt before they saw Washington, D.C. But in 1970, when I was named to the Children's Commission, there was a National Conference on Children. President Nixon named me to the commission. We took both of our children with us then, and they had a wonderful two weeks in Washington, D.C.

On all of these trips they would write essays each day about what they had done, would bring along their math books and do their required math, which my husband did with them in the evenings. And we found that our whole family became greatly enriched by this travel.

SMITH: And it was something all of you could share together.

NELSON: Something we could all share and have memories of and have pictures of. It also let our children see other parts of the world. And I think that now with travel becoming more accessible I think the whole feeling — of course we believe the earth is really one country and mankind its citizens as Baha'i law says, that we're all the leaves of one tree, the fruits of one

branch — all of these things in our own writings about world citizenship. The best way to become a world citizen is to become friends with peoples in other parts of the world. And so, from India to Africa to Western Europe and the South Pacific our children have had these experiences with us and we with them.

And being a career mother, I was very fortunate in that I didn't become an assistant dean until my children were in school full time. But I value the time with my children, and to take them out of school didn't bother me one bit because I felt that they were doubly enriched. It also meant that I didn't have to be separated from them during those crucial times.

SMITH: Speaking of relationships, did you find that your friendships with other people were the same or were they changed before and after your appointment to the bench?

NELSON: I think that relationships with young lawyers have changed a bit. When I was dean I was used to writing and being used as a reference for hundreds of former students. And when I first became a judge, I continued to write these letters of recommendation until some judge pointed out to me that I might be used as a reference but I couldn't write a letter of recommendation unless it was requested of me. And I thought, "Oh dear." And then I began to notice that I was so used to — when wonderful things happened to former students — getting together for lunch and so forth, and although people are always welcome in my chambers I have to be very careful about these kinds of relationships with lawyers in the community who appear before me. Although I am still very active in the community, I sit on Americas Watch and Asian Watch dealing with human rights violations around the world, and prominent members of law firms are members of those kinds of committees or the Community Dispute Resolution Center or the L.A. County Bar Foundation and the like. But I am much more circumspect in my personal social relationships with these particular people.

SMITH: And do you find you have time for activities which in no way relate to your profession?

NELSON: Yes, of course I am very active in the Baha'i faith, and around the world Baha'is are organized in a local, a national, and an international level. There is a National Assembly of the Baha'is of the United States. There are National Assemblies of 169 countries and territories of the world.



JUDGE DOROTHY W. NELSON
WITH MAYOR TOM BRADLEY, WHO
DECLARED BAHÁ'Í DAY IN LOS
ANGELES, CA. 1985.

I am the chairperson of the National Assembly of Baha'is of the United States at the current time, after having been treasurer for seventeen years. It was just recently that I was elected, and this involves a great deal of my time. We meet in Chicago once a month for three days. We have an International Youth Conference coming up in Indianapolis with 9,000 youths, both Baha'i and non-Baha'i youth. I am meeting this coming week up in Santa Cruz with women from several countries, including thirty women from Russia, talking about the role of women in world peace, planning an international convo-

cation of women one to two years from now with women from around the world. All of this basically has come about I think largely through my Baha'i connection and involves a great deal of time. Just this past weekend we had a Children's Peace Conference in Pasadena with 1,400 children and their parents, half of them non-Baha'i, children from all races, colors, creeds, backgrounds, ages, about 300 youth; and this is a very stimulating and exciting part of my own life.

With respect to the court, I also have auxiliary activities. We are establishing, north of my own courthouse here, a Western Justice Center. We are bringing people interested in alternative forms of dispute resolution, law-related education for primary and secondary school children, ways to improve the selection of judges, the competence of judges and lawyers and so forth. This is continuing with my own interest in judicial administration and the improvement of the justice system.

But those are the kinds of things that I think help you to be a better judge, give you a more balanced life, and they are thoroughly enjoyable.

SMITH: What would you think are the most valuable attributes of a good judge, and then you might compare to a good lawyer and to a good administrator.

NELSON: That is a very interesting question and one which might take several hours to respond to. But very quickly, I am more interested in the character of the person than I am in either academic achievements or worldly achievements, although both of those can be a good indication of character. But it is very easy, it seems to me, to teach an honest, trustworthy, compassionate, bright person to be a good judge than it is to train someone who happens to be very successful in the legal profession to be trustworthy, warm, and compassionate. And I think oftentimes when committees go out looking for people, they ask the wrong people; they ask the person's partner about, "Is he a good lawyer?" and so forth, and "Is he all right as a person?" I would ask the persons who worked for the people, frankly. I think that the secretaries, the people in the office, can often give you a greater insight into judicial temperament, for instance, or the balance of the person, or is there a problem with self starting and hard working, and so forth. Some of these are attributes that I think are very important in a judge that are not often measured in worldly terms.

Happily, I think our method of selection . . . I have the greatest respect for all of my twenty-seven active colleagues and my seven senior judges on the bench. In fact, I am thrilled, each time I sit with a new panel of judges, about the sense of commitment, the sense of hard-workingness, the sense of caring about the people these decisions affect. Some judges have a greater sense of compassion than others.

In working on Immigration cases, it doesn't mean that one judge is better than another because the judge doesn't seem to be as compassionate, but I do think that a broad range of experiences informs a judge and might affect the decision in a particular case.

SMITH: And what would you say are the attributes of a good lawyer?

NELSON: From my perspective as a Circuit Court judge, what I appreciate is a lawyer who writes a brief that is straightforward, well organized, does not misquote, does not become super-adversarial. I realize that lawyers are

in the position of representing a client to the best of his or her ability, but I find that some lawyers go over the bounds and keep information from me or mischaracterize information improperly or mischaracterize facts. And so, once I find that a lawyer does that, I never trust that lawyer again. Once I find a lawyer who doesn't do that, I tend to receive a brief from that lawyer when he or she reappears, and I tend to have a feeling of trust. And so I really seek that out.

In oral argument I like the lawyer who answers the question. It always amuses me when a lawyer responds and says, "Well, that's a good question, Judge" (as if the lawyer would dare say, "That's a bad question"), but then doesn't say, "I'll get to that later" but proceeds to answer it because I perceive the purpose of oral argument is to assist me in trying to make the best possible decision. The briefs should have covered all of the arguments, and it is nice to have oral argument to reemphasize the important arguments. But if I have a question on my mind, I greatly appreciate it if the lawyer answers that question so that I might be assisted in making my ultimate decision.

SMITH: And what would you say are the qualities of a good administrator?

NELSON: I think the qualities of a good administrator . . . the ability to consult. And by consultation, we have a little Baha'i song that says, "Consultation means finding out what everybody is thinking about. You listen to them, and they listen to you. Then you all do what most of you want to do." I think an administrator has to have the ability to listen. And I think an administrator ought to also be personally interested in the people with whom he or she works. I think oftentimes administration becomes very dry and very mechanical. A person is hired to be a secretary. That person should be a secretary and go home and forget about it. Or a person is hired to be an assistant administrator, and we shouldn't be concerned with that person's personal life. I think you have to become involved in the lives of the people with whom you work. I think it enriches your life. It enriches their lives.

My young daughter prescribes the dog food for Judge Pregerson, and she just loves doing it. And we have some nice relationships that build up, particularly because we do travel with each other and get to know each other. But I think that's true with staff, and I think you are really a mini-administrator here as a Circuit Court judge because you have three clerks

and you have an extern — and some judges have five externs — and two secretaries. And then you relate to the central clerk's office, and you relate to the central staff attorneys' office. So you really must have some administrative skills.

I think, trying to keep up to date with your work and not letting things slide by and get old. I was sort of shocked when I first came on the court to find that there were some cases in our circuit that were four and five years old. I think we have a responsibility as judges to administer our chambers so that cases don't become that old, and I am very happy to say that in recent years our court has really basically caught up to date. I do think it is a responsibility to the litigants; and if we have to make our opinions shorter to keep up to date, then I think we have to make our opinions shorter. If we are able to tell the litigants what we are ruling and why we are ruling, that's the first thing we should do. And then if we want to embellish our opinions and make them learned so to speak, I think that's fine. I don't think we have the luxury of writing the opinions of a Learned Hand, of a Cardozo, of a Frankfurter, except in the most unusual case. Not that we have the ability to write those opinions, mind you, but what I'm talking about is the extra time it takes to try to make your opinions a little bit more literate, so to speak.

SMITH: You have mentioned the term "extern" on several occasions. Would you like to describe what is an extern as it obviously might compare to intern?

NELSON: In our profession we, like others, have our own special terminology. An extern could well be called an intern. It arose in the law schools when students were permitted to work for certain select judges or legislators outside the law school premises, off premises so to speak, externs. Interns refer to those law students who work for law professors within the law school framework. And so the judiciary picked up the term "extern," but they are really interning for us in every sense of the word.

SMITH: That very much clarifies it. Referring again to your very personal life, has literature played an influential part in your outlook on life?

NELSON: Yes, indeed it has, and, of course, I grew up with a mother who was an English teacher; and so we were read to from the time we were born, probably read to before we were born, and going to the library twice a week, where we would each get our allotment of five or six books and bringing them

home. And I can remember Christmas time was always a time of books. My lovely Aunt Lou, who taught at Columbia and wrote children's books, would always send us a box of books. We always knew that we had books. So literature and reading was a great part of my early life and has remained so to this day. In fact, when I do have to be away from home, away from my family, the only way I can get to sleep is by reading something.

One of the things I enjoy most are autobiographies and biographies. I remember when Eleanor Roosevelt came to UCLA where I was student body vice president, we got to have lunch with her. Seven students were selected, and we asked her about the literature she enjoyed. And she said that she learned more from biographies and autobiographies than from any other kind, as I guess you could call this literature.

And so, I read all the biographies and autobiographies I can get my hands on. I find I enjoy more nonfiction than fiction. I have read all the books about the Kennedys, all the books about the Roosevelts, all the books about the Nixons, and so forth. I guess, I was a political science major, always sort of interested in people who went into government.

But I do love historical novels: and my sister, who is an elementary school teacher, is an avid reader, and we trade books all the time, everything from the wonderful thick book, *Ladies of the Club*, to books about early American history or historical novels about early American history. I love things dealing with past presidents and the Constitution, both fiction and nonfiction. And then the old classics that always come back and are fun to reread from time to time. Often as I am heading for an airplane, I'll just pick up an old Charles Dickens or something just to reread while I am away. My rule on the airplane is I do work, unless I'm way behind, until the meal is served, and then I indulge in reading anything that I want to read. My secretaries, my clerks, we have a little shelf where we bring books that we're reading.

On a recent trip to Israel I lugged along six books with me, ranging in everything from the No. 1 best seller dealing with, I guess it was *Presumed Innocent*, to a marvelous story about a family in Mexico and how they survived on the land, a good book that was brought to me by Stella, my secretary.

So I find that reading, in addition to being relaxing, constantly enhances my ability to relate to people of all backgrounds, of all kinds.

Just as music. For instance, in being a Baha'i I have been exposed to a new kind of modern music, Seals and Crofts. And because Dizzy Gillespie

has become a very dear friend, and I love his records, and I didn't appreciate them before I got to know him.

I have always loved classical music and play a little piano on the side just for my own enjoyment. My son plays very well and took music for twelve years, and he plays the classics wonderfully well, as well as playing things like Scott Joplin and Dixieland Jazz and things of that nature. So my whole family tends . . . A weekend, we love to go to the opera. We love to go to a concert. We love to go to — the hard rock is still not appealing to me, but the soft rock I have learned to enjoy and appreciate.

SMITH: These are things you obviously have shared with your family.

NELSON: Yes, and we're a dancing family, too. My husband grew up as an only child, and I grew up with my two sisters. And after dinner or something, music was turned on. My father would waltz through the house with my mother. We would all get up and dance with each other. In fact, I thought I wanted to be a ballet dancer when I was very little, or a tap dancer, one or the other. I remember the old Shirley Temple movies where she danced, and I would get up; I could do all the same steps that she could.

We still all enjoy dancing. We taught my husband to love dancing; and, in fact, oftentimes we even go to the old German restaurants and do the old German folk dancing, which is also a favorite of ours, and square dancing are our wonderful family pastimes, and we have friends that enjoy the same things. In all the Baha'i schools and Baha'i summer schools we have the kind of dancing that includes everybody, the round dances, the Israeli dances, the Greek dances, and so forth. And so this has been a part of our family life as well.

SMITH: In reading your biographies and autobiographies, has it ever occurred to you that they will be writing biographies of you?

NELSON: Oh heavens, no. Oh, absolutely not. There are so many thousand people about whom to write these days. I can't imagine that they would run out of that kind of material. But I think I encourage my children and my friends, the youth — I am going to be speaking at a Youth Conference in a couple of weeks — to do the same thing that Mrs. Roosevelt told me to do and told us to do when we had that luncheon with her because you find that things that you've worried about in your life — have I done this right or have I done this wrong or maybe I should have done this — when you get really

good biographies where they tell you about the hard times as well as the good times, I think it gives you a kind of inner strength and an inner assurance that although all of us goof every once in a while and we wish we'd done this instead of that, but this is a part of growing and that tests are really here to enable us to grow and to become strong and nothing to worry about.

Again, Mrs. Roosevelt had a big impression on me and she would often say, "You know, sometimes I would go and give a speech. At the end I would know it wasn't quite the right thing, but I didn't have time to worry about it. I just picked myself up, and the next speech I gave I tried to improve." And I thought about that sometimes in my life when I haven't had as much time to prepare as I would like. If you dwell on that, you have even less time to make the next thing that you do a little bit better. And so this is the ability to pick yourself up and just make the best of the situation and try not to let it happen again. And I have received so much from biographies and autobiographies of that nature that I continue to read them.

SMITH: Do you think in many years to come you may be tempted to ever write your autobiography?

NELSON: I doubt that I'll have much time to do that because in the years to come — as I've mentioned, my husband is a state court judge — when we both retire, we probably plan to end up either in Africa or in India, two favorite places of ours. As Baha'is, there are no Baha'i missionaries, but Baha'is go and live in a place and make whatever contribution they can. And the skills of the Western administrator are very important.

And, for instance, there are 400 Baha'i schools in India, ranging from vocational schools to academic schools. Well, we see ourselves as probably that will be our next career as we move off the courts and move on to something new.

SMITH: Well that's unusual and very interesting. Considering your tremendous workload and your stature, what is your very present family life like?

NELSON: My present family life is really quite easy because our own children, age twenty-six and twenty-nine . . . Frank has just moved back home to go to law school and is just about to graduate, and he was anxious to get out of home at age nineteen. Since he's moved back home, he appreciates everything so much. He doesn't have to buy paper towels and toilet paper. He has dinner on the table. And all the rest of the children, including my

daughter and my three nieces who have lived with us off and on during their lives, are all out having lives of their own. Just about five weeks ago we moved my mother-in-law, who is eighty-seven, home to live with us. She'd had a couple of strokes, and she has been living with us since October, and she has grown ten years younger. She now is baking every day, arranges flowers, works in the garden, and is a joy to have around. So basically our lifestyle has eased up considerably.

When the children were younger, and young female lawyers often ask me, who are raising young families, and my advice to them is, spend as much time at home as you possibly can, particularly the first five years. I think if you can afford to, and there are some people who can't afford to, and therefore, I think child care becomes very important. But for me, if my children were sick I stayed home. And if I were going to lose my job, I would lose my job. The family was always, and still is, the most important thing in my own life. And, as I mentioned, we had our children travel with us. We'd often borrow money to do that, but we knew we could pay the money back. This was an important family experience.

But now my husband is at home. I thought when I came on the Court, we'd be taking these nice long, month-long vacations. Somehow, we seem to get involved in one project after another, but it's a fairly easy family life. But anyone who says, "Ah, when they're babies they're so much easier, and then they grow up, they'll move out of the home." Once a parent, you're always a parent; and you find that your ties with your family are still the most important of your life.

SMITH: Well, thank you very much, Judge Nelson. I know that everyone will appreciate this opportunity to look in and see you, the individual, the woman, the very important person in the community, the world community —

NELSON: May I say in turn that you are a marvelous interviewer, and it has been a pleasure and really a privilege to be able to sit and talk with you. I'd like to interview you about your life.

SMITH: Thank you so much.

NELSON: You're so welcome.