

ORAL HISTORIES

THE FOUR REMAINING UNPUBLISHED
ORAL HISTORIES CONDUCTED BY
THE FORMER STATE BAR COMMITTEE
ON HISTORY OF LAW IN CALIFORNIA,
EACH WITH AN INTRODUCTION.

ORAL HISTORY

LEON THOMAS DAVID

(1901-1994)



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Courtesy Contra Costa County Historical Society

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EDITOR'S NOTE

The oral history of Superior Court Judge Leon Thomas David is one of four oral histories conducted by the former California State Bar Committee on History of Law in California in 1987. These were the final oral histories conducted by the committee, and they are published for the first time in the present volume of *California Legal History* (vol. 6, 2011). Judge David served as chair of the committee in 1977, and he was interviewed by committee member Raymond R. Roberts on January 16, 1987.

The oral history has been reedited for publication. Citations have been verified or provided, and the spelling of names has been corrected wherever possible. Explanatory notations in [square brackets] have been added by the editor. The sound recording and original transcription are available at The Bancroft Library, UC Berkeley. The oral history is published by permission of the State Bar of California.

A biographical sketch of Judge David by Superior Court Judge Roger Alton Pfaff was published in 1962 by the *Los Angeles Daily Journal*. It is reproduced below as a brief introduction to Judge David's life and career.

— SELMA MOIDEL SMITH

LEON T. DAVID¹

Judge Leon T. David has led a busy life since his birth in San Francisco, August 25, 1901. His early years were spent in the Bay Area. He attended Alameda, Berkeley and Vallejo High Schools before entering Stanford University in 1921.

In 1924 he received his A.B., and in 1926 his Juris Doctor from Stanford. Thereafter, he migrated to Southern California where he studied Public Administration at USC, from which institution he received his M.S. degree in 1935 and in 1957 a doctorate in Public Administration.

In 1926 he was admitted to the California Bar and engaged in the private practice of law under the firm name of Malcolm and David. He also accepted an appointment the same year as deputy city attorney and city attorney pro tem for the City of Palo Alto, a position he held until 1931. In 1931 he became assistant professor of law at USC law school. For one year, 1930-31, he was retained as deputy city attorney for the City of Lakeport, California. In 1934 he accepted an appointment as assistant city attorney for Los Angeles, a position he held, except for his absence during World War II, until 1950.

In 1927 he married the talented Henrietta Louise Mellin. The Davids are the proud parents of two children, Mrs. L. Perry Holmes, Jr., of Lafayette, California, and Leon Colby, of Honolulu. They have three grandchildren. Mrs. David majored in music at USC and for many years sang professionally in church. She is a past president of the Women's Auxiliary, Society for Cancer Research at UCLA, and is listed in *Who's Who of American Women*.

While a student at Stanford, Judge David was on the staff of the *Daily Palo Alto* and *Stanford Quad* and actively engaged in intramural athletics, including track and football. In 1921 he was discus champion and record holder of the California DeMolay track and field.

As a student at Stanford, Judge David took ROTC training and was commissioned a 2nd lieutenant, Field Artillery, ORC [Officers' Reserve Corps], in 1924. He maintained his reserve status, and in July, 1941, he was called to active duty by the War Department and thereafter served in a

¹ P.A.R. [Roger Alton Pfaff], "Leon T. David," *Los Angeles Daily Journal*, June 22, 1962, p. 1. Reprinted in *Judicial Profiles of the Superior Court of Los Angeles County, California* (Los Angeles: Los Angeles Daily Journal, 1963), p. 23 (in which articles signed "P.A.R." are credited to Judge Roger Alton Pfaff).

number of command posts, including chief of Special and Morale Services, NATOUSA [North African Theater of Operations, United States Army] on General Eisenhower's Special Staff in Algiers in 1943. He was honorably discharged in 1945 with the rank of colonel, and was retired from the AUS [Army of the United States] as colonel, Artillery, in 1961. Judge David is the recipient of the [U.S.] Legion of Merit; honorary officer [of the Order of the] British Empire; Brazilian Medalha de Guerra; French Médaille d'Honneur; Italian Commander [of the Order of the] Crown of Italy; European Theater Medal and three Battle Stars.

Upon his return from service, he resumed his duties as a senior assistant city attorney for Los Angeles, which he held until 1950 when he was appointed to the municipal court by Governor Earl Warren, who elevated him to the superior court in 1953, a position to which he has been continually reelected.

Throughout Judge David's career, he has engaged in many varied activities, including journalism and teaching, both in Law and Public Administration, at the University of Southern California, and also as an instructor at Command and General Staff School at Fort MacArthur, San Pedro; and the Presidio, San Francisco.

The Davids attend the Westwood Presbyterian Church. Judge David is a member of many professional, fraternal and civic organizations, including the Los Angeles, American, and Westwood Bar Associations, American Judicature Society, Phi Alpha Delta, Order of the Coif, American Legion, Reserve Officers Association, Acacia Club, Masons, and Shrine.

Tracing his ancestry back to early American colonial days, Judge David is a member of the Sons of the Revolution and a vice chancellor of the Society of Colonial Wars for California. He is chairman of the Los Angeles County Bar Association Legal Aid Committee and president of the Kiwanis Club of Los Angeles for 1962. He is a member of the Jonathan Club and numerous civic organizations.

Judge David is an amateur radio operator, holding General License W6QFA, and a student of portrait painting. Other interests are speaking and writing on historic and legal subjects, travel, and the study of foreign languages.

He sums up as one of his philosophical guideposts, the following maxim:

"Time is our priceless commodity which never can be replaced; use it, don't waste it."

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Q: I am in the home of Leon T. David, who has graciously consented to reminisce with me on his observations of the history of law in California. Before we go into any of the particular details, he has offered to play a tape that he made of reminiscences that will be by way of introduction to the formal interview.

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DAVID:¹ As of August 26, 1976, I was in the practice of the law and on the bench for a total of fifty years. Over that period of time, there have been many experiences it may be well to record, particularly as I now serve as chairperson of the State Bar Committee on History of Law in California. I was born on August 25, 1901, in the 300 block of Leavenworth Street in San Francisco, where my parents, Ella Thomas David and Leon Kline David, lived upstairs in Mrs. O'Halloran's flat. My father at that time was a book-keeper and teller in the old First National Bank. Shortly after my birth, the family moved to Alameda at 1109 Pacific Avenue, down the block from my grandfather's residence, Edward E. David, at 1223 Pacific Avenue.

¹ "The Practice of the Law" by Judge Leon Thomas David, recording on July 31, 1977.

I remember the 1906 earthquake. My crib rolled across the bedroom floor, and struck the opposite wall. Above, the chimney collapsed and the bricks hitting the roof made a fearsome clatter. The green Antikamnia pain pill calendar, with its life-size portrait of the president, Teddy Roosevelt, with his eyeglasses and big-toothed smile, fell on the floor. The little sheet iron stove made a rasping noise as it slid along the floor. My father dashed in to see if I was all right. I think I was more mystified than scared. Our house stayed on its brick foundation, with only the bricks at the top of the chimney to be replaced. When permitted to go out, I saw a house around the corner on Bay Street where the main floor was sitting down on a collapsed basement. I remember my father setting off for San Francisco with a shovel over his shoulder to aid in digging out the remains from the bank.

People displaced by the San Francisco fire came to Alameda, looking for places to stay. Our house was not very large, but mother and father made the rear bedroom available to a homeless couple. They stayed for a year. After they left, mother was scandalized! The couple were not husband and wife.

The following year, of course, there was a panic. There were hard times, and my father found another situation at the Henderson Bank in Elko, Nevada. The family thereupon moved to Elko. It was a frontier town. Indians gathered upon its wide main street. Sheepmen and cattlemen gathered in town — the cattlemen on the one hand, and the sheepmen on the other — keeping discreetly apart, and each patronizing a separate large saloon at opposite ends of the block.

There was an Indian camp about one mile north of the town. There were some Shoshone Indians still living in teepees. Others had built small cabins and cottages. These were said to be the small cabins of Indians who went to Indian school but who had, nevertheless, come back to live the life of their people. The Indian squaws came to town to work in washing and other household chores. The Indian bucks would come in on the weekend to collect their wages. I remember seeing Indian squaws sitting down on the high curbs in the main street, chewing large wads of gum, pulling the gum out a great distance from their mouth, sprinkling it with cheap cologne and then putting it back into their mouths and chewing again. This was a cheap way of getting a jag on, since the sale of liquor to Indians was prohibited.

The street to the school passed the county courthouse, a large structure with a broad stairway leading to the courtroom. My father had not been in town very long before he was summoned for jury duty on a murder trial. The county judge was Judge Brown, who afterwards, I believe, was a justice of the Supreme Court of the State of Nevada. The defendant was found guilty in the murder case, and I remember that my father reported afterwards that he had shaken the hand of the defendant. The defendant had loaned him a horse to ride around and see the country shortly after my father arrived in Elko, Nevada, right after the first of the year 1907.

The bank shortly afterwards was rebuilt. Inside, the cashier and other attachés of the bank served behind the counter. The entire counter was surmounted by a latticework, which was supposed to be bulletproof. Under the teller was a trapdoor, which he could use to drop out of sight in case there happened to be a holdup.

My schooling began in Elko, Nevada. I attended school in the first grade in a little two-story brick schoolhouse in a room presided over by Miss Rose Gardner. Upstairs, Mr. McQuinney, the principal, conducted classes. I made rapid progress in the first grade, thanks, first of all, to the fact that in the family I had been presented with a blackboard with a scroll, which carried all the letters on it. I had learned to read after a fashion from the Sears Roebuck Catalog, where the names of items were given and little pictures were shown of the items themselves. My brother, Persis Anderton David, was born in Elko, Nevada, on December 28, 1907, and my grandmother, Ella Thomas, from Vallejo, was present. When she returned to Vallejo, I accompanied her and was entered in the Jefferson School in Vallejo. Thanks to my reading ability, I was placed in the high second grade. When I returned to Nevada in the fall of 1908, I was placed back in second grade there. As a matter of fact, although this was a pioneer community, Miss Gardner had been using the Montessori system of instruction, particularly in reading, and I was simply keeping pace with the class there.

In the spring of 1909, my father, along with other young men in the community, went prospecting. In doing this, they waded up through icy creeks and he came down with inflammatory rheumatism, rheumatic fever, which he once had before as a boy. This was so severe that he almost died. He ultimately went back to the Alameda hospital in order to fight for

life. Unfortunately, right in the midst of this, while playing with boys on a road scraper in front of the school, I was pushed into the wheel and my leg was broken near the hip. I came home and was immobilized in bed, cared for by my mother along with my bed-bound father. With three other children in the household, this was a tremendous chore for her.

Recovered a bit, my father was warned that he could not return to that climate, and secured a position in Gustine, California, where a Miller & Lux Bank was maintained. This was a branch of the Bank of Los Banos. My father was placed in charge of the Gustine bank. Gustine was a company town, named after the wife of Henry Miller of Miller & Lux fame. The bank was in a building owned by Miller & Lux, and in which a general store was conducted. The town had about 400 inhabitants at that particular time. As far as I can recall, there were no lawyers in the town.

We attended a little one-room school, a white schoolhouse in the south of the town where Miss Hoyt and Mrs. McClusky were the teacher and principal. Back in California, I again skipped a grade and was placed in the high third. This posed certain difficulties for me, in that the students were in the multiplication table and doing fractions, ahead of what we had had in the second grade in Nevada.

There was a Kerr family in town, father and son. The son, as I recall, was called Frank Kerr and I believe was the express agent in the town. On my ninth birthday, August 25, 1910, I had my first ride in an automobile. Mr. Kerr gave me a ride up to the town of Newman, seven miles away. We seldom saw any other automobiles at that particular time, and those that did come into town and needed repairs or new batteries, were taken care of by the village blacksmith, who I believe was a chap by the name of Jensen. In 1911, my father was offered the position of auditor for Miller & Lux, headquartered in San Francisco, traveling the length and breadth of the Miller & Lux holdings, auditing accounts at the banks and the various ranches. We moved back then to Alameda.

With my brother Edward and my sister Dorothy, we were enrolled in the Porter School. The Porter Grammar School was an old school in an old building where my father had attended back in 1896 or 1897, where my aunt Juanita David had attended and in which, for a period of years, my maternal grandmother, Alice White David, had been a teacher. The principal was Sam M. Cohn, a one-armed, black-eyed, black-haired man of great

vitality and energy with a great interest in his students. Mr. R.H. Bossard, as I recall, was the vice principal. The teachers I remember were Miss Mamie Hunt and Miss Edna Patterson. I ran into trouble right away with my arithmetic, but my other studies were reasonably good, I believe. In fact, I was quick enough with my lessons so that from time to time I got into little bits of devilment. After one such incident, I recall that I was called to see Mr. Cohn in the office, and I expected something severe to happen. However, what he did say was that he had asked me to come down because he wanted to send me to the public library. He wanted me to go over to the public library, a couple of blocks distant, and come back and write a paper on the origins of Thanksgiving. He had called up the librarian and told the librarian I would be there and the librarian had agreed to show me how to use the Dewey Decimal System and the card indices and to undertake that little research project. This, I believe, was a wonderful demonstration of pedagogy as it was practiced in those days. He took me out of mischief, he gave me something to do, and over the years that one learning experience in using the library and its resources was to be most valuable.

At that time, at some twenty-minute intervals, a red electric car came by the school on the tracks on Encinal Avenue, behind the schoolyard, and proceeded then to make a loop and go back to Alameda pier, carrying commuters to the Alameda pier and the ferry to San Francisco. Before the Fourth of July, a group of us had acquired a stock of caps and other assorted pyrotechnic devices, and thought it would be a swell show if we put caps on the tracks for three or four blocks before the car reached the school. We did, the train did, and there were bangs all along the way. We visited Mr. Cohn. Again, he gave us a lecture, saying he recently had been to San Quentin and had visited all the men who were there for misdeeds. He said he was impressed by one fact — they were not there because they were *not* bright, but because they were *too* bright. He cautioned us all that we should direct our energies toward lawful activities and explained that train men use caps and torpedoes on the tracks as signals and so this prank was a very dangerous thing to do. So that was that.

Another incident we recall of Porter School was this: we had all to take manual training, which consisted of woodworking. The woodworking class was conducted in the seventh and eighth grades by a woman teacher, whose name I unfortunately do not recall. We were upset because

we thought that carpentry was a man's occupation and wondered why we didn't have a man teacher. Again, we dreamed up a situation and so we went to Mr. Cohn as principal and said that since we did not have a man teacher for manual training, we thought we ought to be enrolled in the girl's class in domestic science, so that we could learn to cook. He didn't ridicule the idea or put it down directly, but I recall he turned to me and said, "Leon, think probably you want to be a lawyer, and if you're a lawyer you're going to have to handle a lot of cases that may involve land and boundaries. Now, if you answer a question I'm going to ask you correctly, right off, I'll let you go over to the domestic science class, but here it is: A man has a field, and one side of it is a hundred rods long. He wants to put a fence up. Now, quick, if he puts a fence up and puts a post every ten rods, how many fence posts would he need? And I said, right away, "ten." And he said, "Ah, no, the correct answer is eleven — so you go back to manual training."

Had I determined to be a lawyer at that time? Not exactly. A group of boys, by name Harold Newman, Gordon Gould, Willy Condon and I, had all become interested in wireless. Willy Condon and I ran a telegraph line along the neighbors' rear fences over on Park Avenue where he lived and buzzed dots and dashes. Harold Newman was quite devoted to the new art of wireless and had money enough to buy equipment, including rotary spark gaps and things of that sort, which were far beyond us, but which entranced us no end. I had the idea that I would like to be an electrical engineer. That idea persisted after I entered Alameda High School but died, when, at the end of my freshman year, I flunked algebra. I was assured that perfection in mathematics was necessary to an engineering career, and from that time on, I shifted toward becoming a lawyer.

From Alameda, our family moved to a new home which they started to buy in North Berkeley, over at San Lorenzo and Ensenada in what was then called Thousand Oaks. My father continued to travel for Miller & Lux. He made the acquaintance of Mr. Edward F. Treadwell, who was the attorney who had been in charge of the Miller & Lux legal interests, particularly in the realm of land and water law and water rights. From time to time, my father brought home bits of information he had gathered from Mr. Treadwell about legal practice and more or less encouraged the idea that perhaps someday I might become a lawyer.

At the close of 1915, old Henry Miller, the cattle baron who had put together this empire, died, and there was a great commotion in the readjustments made by such an event, not the least of which was the necessity of paying a tremendous inheritance tax at a time when the company was land rich but cash poor. One of the readjustments was that Mr. Treadwell was said to have collected a million dollar fee for his work in reference to taxes and inheritance and water rights. In the midst of the readjustments, my father left Miller & Lux.

We moved to Vallejo from which my mother had come and where my maternal grandparents, Mr. and Mrs. J.W. Thomas had lived ever since 1883. My father became the vice president and manager of a new bank, called the Central Bank of Vallejo, which opened up its doors in May of 1916. Across the street from us where we resided at 909 and then 915 Georgia Street, lived W[illiam] T. O'Donnell, the superior court judge of Solano County. Judge O'Donnell talked to me about the practice of law and loaned me a two-volume edition of Story's *Commentaries on the Constitution of the United States*. While still in my junior year in high school I read this from cover to cover. Mr. L[ewis] G. Harrier was the attorney for the bank, practicing with Harry Gee, who was city attorney, and with Harlow Greenwood. Harlow Greenwood, a Stanford graduate, had acquired quite a reputation in regard to matters of land law and land titles, and later became a judge on the Superior Court of Solano County; and at a later period lived across the street from my mother's home on Camino Alto in Vallejo. All of them were friends of mine, with whom I talked about law practice.

My father decided that he wanted to know more about the law, and so he enrolled in the LaSalle Extension University [of Chicago] correspondence course and got the texts and proceeded to write his lessons. At the time, Arthur Lindauer was district attorney and one of the younger attorneys in town was Russell O'Hara, "Pat" O'Hara, who was to become president of the State Bar and who was well known to us.

In my senior year in high school, 1917–1918, of course we were involved in war. In this particular year, I wrote an essay for the statewide contest of the Sons of the American Revolution on "America in the War" and won the first prize. Later on, the proprietor of one of the town's theaters hired me to memorize and deliver every night for a week the entire text of President Wilson's war message to Congress. This I did, for which I received \$35 plus

a pass for two to the theater for two years. I think I valued the last more than I did the first. I could take girls along on that pass.

Father died in the influenza epidemic on November 2, 1918, and most of the family, including me, ended up in the influenza hospital, hastily improvised and set up at the Boys' School in Vallejo, watched over by the nuns of the local parish. I had been working on Mare Island Navy Yard doing a number of jobs but from high school days on had been writing sports and other items for the *Vallejo Times*. My career as a workman on Mare Island Navy Yard and all the events there were very interesting and instructive, but I shall pass on to the matters which pertain ultimately to the practice of law. Well, a lot of my experiences pertained ultimately to the practice of the law.

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Q: I don't think that there's anything that a person does that doesn't eventually become useful in law practice.

DAVID: I became a writer and full-time newspaperman for the *Vallejo Times* in 1921, and also became correspondent for the *San Francisco Call-Bulletin* and the *Sacramento Bee*.

At my father's death I suffered what amounted to a nervous breakdown, plus various infirmities which attended the recovery from the influenza. During the period 1918-1921, I was treated, among others, by Dr. J.J. Hogan. Dr. Hogan was a forward-looking doctor in Vallejo and became a legislative representative before the Congress relative to the naval base controversy and the status of Mare Island Navy Yard. He was a Stanford graduate, and he began to tell my mother that I should go to Stanford, as did Robert McPherson, assemblyman from Vallejo and who was one of the few Stanford graduates in the city. At this time, Mr. Robert Walker was the proprietor of the *Vallejo Times*, and the shop foreman in the printing shop was Mr. Luther Gibson. Bob Walker, under Governor Frank Richardson was to become state printer, and Luther Gibson was to become state senator of many years' service in the state legislature, of considerable political stature as well as building up a substantial business interest in Vallejo, including the ownership of the *Vallejo Times* which became the *Vallejo Times-Herald*.

In the course of my newspaper work, I made the acquaintance of Captain Edward L. Beach, who was the commandant of Mare Island Navy Yard. He and his wife also became members of the Vallejo Presbyterian Church, of which we were members, and which I attended, as well as my wife-to-be, Louise Mellin. In the late spring of 1921, I was doing well in my newspaper work and was very interested in my young lady, and so my mother and friends got together and decided a crisis was at hand — I would have to decide whether I was going on to the university or not, and they prevailed upon me that I should. At that particular time, it was thought best that I should attend the university summer session to refresh myself after the three years I spent following high school in other pursuits. At the time in question, it was too late to enroll for the summer session at the University of California, toward which my efforts had always been pointed, and where most of my friends were. It was possible, however, to enroll in the summer session at Stanford, and so that was what happened. Off I went to Stanford University in the summer of 1921. Before this time, I had corresponded with LaSalle Extension University, and they agreed that I might go ahead and continue with the law course that my father had not completed. And this I did for a considerable spell, covering their generalized text.

When I arrived at Stanford University, my aim was to be enrolled in the law school forthwith, and I sought to be enrolled as a special student. At the law school I met the acting dean for the summer session who was Professor Arthur Martin Cathcart. Sitting in his office and urging my case to be admitted as a special student, I was comforted by noting a set of the LaSalle Extension text high up on a shelf in his office, and I remarked that I had noted his particular contributions to it. He immediately disabused me, saying that “that is what we lawyers call “farmer’s cyc” [cyclopedia] to be used by laymen and artisans but not for the professional study of the law. He informed me that I could enter as a special student, but that it would cost full tuition, I would not have the benefit of any corrections or examinations on the part of the instructors, and I would not go forth formally to a bar examination with the blessing of the school. On the other hand, I could enroll if I wished. However, his recommendation was that I proceed promptly to cover the two years’ instructional requirement necessary for

entry into the law school and that that would be the best for me and my career. So I set out to do it.

I had saved \$700 when I hit Stanford. Although tuition was \$66 a quarter, that was enough to tide me over most of the year, and I soon found enough jobs of all sorts to produce a little income. My first quarter in Stanford was rather reassuring. I took 17 units to bridge this two-year requirement fast. I passed all of them and acquired something like 17 plus 21 grade points which was regarded to be very good. Suffice it to say that in four quarters, instead of six, I presented myself for enrollment in the introductory course to law which was given by Dean [Charles Andrews] Huston. In this was presented some of the old common law cases and some more modern cases that had been decided by the courts. He used these as a method of introducing us to the legal method, the case method, and also a little bit into the history of the English law. I remember particularly that in the introduction we studied the case of *Turberville v. Stampe* — the escape of fire from one man's premises to another. And secondly, we discovered the basis of the master and servant liability was control by the master in the family over the servant in the family in which he served, and so forth and so on.

In fall, 1921, my roommate was Daniel W. Evans. Dan Evans was the son of the county clerk of San Bernardino County, a returned war veteran, of an engaging Irish disposition, with a good sense of humor, a great talent in writing which he exercised in writing up some of the campus plays and eventually becoming student body president. He launched me into a number of activities on the Stanford campus, such as that of being on the *Stanford Daily* where, for a number of years, until I abandoned journalism, I stood at the top of the roster in terms of seniority on the staff. He also got me into the Glee Club. He also saw that I became a member eventually of the law fraternity, Phi Alpha Delta, and into which I was initiated in 1923. Many of the members then achieved legal greatness in future years, including Philip Grey Smith of Los Angeles and C. Victor Smith of Oakland and Homer W. Patterson who served many years as judge of the superior court in Contra Costa County with whom I've met frequently since our removal to Danville in Contra Costa County.

There was an annual debate between Phi Alpha Delta and Phi Delta Phi in which I participated in one year when I was opposed from the other

fraternity by Lon Luvois Fuller, a classmate who later was for many years on the Harvard Law School faculty. Mr. Justice [Frank] Angelotti of the California Supreme Court was among the debate judges and I made his acquaintance at the particular time. That, at a later period was a key to becoming acquainted with other members of the California Supreme Court. In the early Stanford years, I had been supporting myself by journalism, and carrying on as correspondent for the *San Francisco Call-Bulletin*, the *Fresno Bee* and the *Sacramento Bee*, with some barnstorming with free-lance contributions to NEA (Newspaper Enterprise Association) and other publications.

In the fall of 1923, I became the publicity man, so to speak, for the Board of Athletic Control, and for a year's time put out bulletins praising the rise of Stanford football under Andy Kerr, looking forward to Pop Warner's arrival. I covered the small and large newspapers all over the state of California, but toward the end of the year it became evident to the graduate manager, Paul Davis, that this was not quite what was wanted or expected. It was good for promoting the name of Stanford generally, but what Stanford wanted to do was to promote Stanford football and the recruitment of Stanford football players and other athletes. The only place where football in high school had any substantial footing was in Southern California and Southern California high schools. Therefore, it was felt that the campaign for that year had not been effective, and therefore I was relieved of my job as publicity director. In the summer of 1924 I took the only vacation in my career in Stanford University in order to attend the final ROTC training camp at Fort Lewis [Wash.] where I received my commission as second lieutenant in the field artillery.

In the following fall, I was driving my old 1914 wreck of a Model T Ford along Palm Drive toward the university when Professor Cathcart was walking on the sidewalk, and I hailed him and he took a ride. After some preliminary remarks, he said, "Well, Mr. David, I hear rumors downtown that you are thinking of running for the Legislature. I assured him that I neither knew anybody downtown nor had I any such ambition, after which he replied, "Well, I wasn't too surprised. In my classes you showed a great ability to determine what the law ought to be. I can't say you know as much about what it is."

A little time after, he summoned me and my roommate, Mr. Andrew R. Boone (both of us were writing articles and features for our support), and told us directly that he thought we had a choice to make, that it was necessary for us to decide whether we were going to be lawyers or journalists. He advised us that he thought we could have great success with the law if we would abandon our journalistic efforts and put in all our time to our law studies. Andrew Boone, or as we called him, Dan, and I went to our rooms and debated most of the night as to what should be done. Dan decided to stick with journalism, and up until the time of his death he did, and was a frequent and valued contributor to *Popular Science* magazine and others of that particular sort in which he then specialized. I abandoned my journalistic career, but at that time still retained my job as a hasher at the Stanford Union and also as custodian of the Stanford Union where I collected the rents, stowed the baggage and handled the keys for the tenants, and so forth. I studied very hard for a quarter on the subjects of sales and negotiable instruments which were thought to be hard courses, and soon found that I was running very short of funds, and it did not seem likely that I could come back the next succeeding quarter and proceed with my law studies. There was an unwelcome break. I consulted Dr. Barnett, the men's physician at the gymnasium, about my red spots; measles, again? He looked me over at the Palo Alto Hospital. Immediately, he said, "They will not thank me for bringing you here. You have scarletina." For three weeks, with a nurse in attendance, I lay banished in solitary isolation in a house on the Searsville Road. After every inch of my skin had peeled away, I was permitted to read, and to write letters which were baked in the oven before mailing. This was a serious break in my law school studies. I was advised to withdraw in all classes, retaking the subjects the next time given. Add another quarter, when I was almost broke and anxious to finish? I gambled. I borrowed some lecture notes, read the cases, and completed the courses. I passed in the end-quarter examinations, at the probable expense of some grade points. But I was nervous and somewhat weak after the disease and the catch-up effort. It was some time before I could recite in class without faltering.

When I left the Navy Yard as a woodworker's helper, I'd received an "excellent" discharge which, presumably, I could present again and be employed over the summer or employed during the ensuing spring, and I had

in mind that this was what I would have to do. I sold my typewriter, I sold my spare books and was prepared to leave school to go back to work for a spell. I went in to see Dean George Bliss Culver, the dean of men to whom I reported in connection with my job as custodian of the Stanford Union, told him of my plight and of my probable resolution; and then he said, "David, there's only one thing that you haven't learned. When you have done the best you can, you haven't learned the knack of saying 'to hell with it.' I want you to go back and take your Christmas vacation and not make any determination, but come back in here at the beginning of the quarter in January, and we'll see what is to be done."

I went back home to Vallejo and in three days wasn't quite sure what was going to happen next. Then the mail came with my grade slips and I found that I received 17 hours of A's or A-minuses in my law school courses for the preceding quarter. It seemed to prove that the study of the law had paid off so far as results in the law was concerned, but it still didn't answer the other question. But quite unexpectedly, in the succeeding mail came an announcement that I had been awarded the Mrs. Ira S. Lillick Scholarship in the sum of \$500 for the ensuing semester. This scholarship and that given by her husband, Ira S. Lillick, were the best ones available in the law school. I was awarded it a second time and with university scholarship and tuition loans had managed to finish the university course although the demands for work still cut into time that perhaps should have been devoted to my law studies. My attention was somewhat diverted by the opportunity I had to go to San Francisco in the afternoons to the office of Sawyer and Cluff, where my friend Dan W. Evans was located. Harold Sawyer and Alfred T. Cluff were engaged in the admiralty law practice and it was interesting to do small tasks, to run errands around San Francisco, to check jury lists in the federal court, to serve witnesses subpoenas and the like, all of which satisfied an urge to be in on the action when I was still supposed to be putting all my attention on the books.

Dean Huston had a heart attack while at the swimming pool and died shortly after. Marion Rice Kirkwood was named dean to succeed him. Dean Kirkwood was brilliant in his field, particularly in real property, was entirely professional in his manner, in his dress, and in his language, and held up to us the highest ideals of being a professional man. He was a disciplinarian in one respect, however. One had to be in his classroom

and seated when the bell rang. From that time on, the door was locked. We have visions of students standing out in the old quadrangle outside of the classroom itself, with the windows raised, with their notebooks on the window sills, taking notes through the open windows. One of these we recall particularly was [Walter A.] "Pete" Starr, later a Sierra Club devotee who fell to his death while mountain climbing. I took Professor Kirkwood's courses in real and personal property. In Real Property, of course, a great deal of attention was given to the different types of estates in land. I found in an old copy of Blackstone that I purchased for twenty-five cents at a bookstore that the footnotes carried a great number of the examples which Dr. Kirkwood had given us, and therefore, I studied some of the footnotes greatly to my advantage. Chester Garfield Vernier was a long lanky hoosier who never quite forgot his Indiana twang. We took Criminal Law from him and also Domestic Relations. His lectures were quite matter-of-fact. However, someone studious read some of the cases cited in his lectures, and reported they were "hot stuff," either in their language or the facts: 111 Atl. 599, "Men are still cavemen in the pleasures of the bed," where, in an annulment suit, his plea of non-intercourse was rejected in colorful language; or where a husband was held guilty of raping his own wife, having inspired his coachman to do so.

Professor George Osborne, with his stentorian lectures and Socratic dissection of the rationale of the judicial decisions studied, became a legendary figure, both at Stanford and at the Hastings law school, where he taught after his Stanford retirement, until his death. I benefited a great deal from his instruction, and his friendship extended long after my graduation.

Considering a legal proposition, a student might be called upon to present arguments supporting it; but having done this, Professor Osborne would require him to argue for the opposing view. Or he might express a view and ask the student to argue against it. Then there would follow evaluation of the diverse points of view. This battering give-and-take took well-prepared students to stand up to it and appreciate the mental gymnastics. It was a good firm basis for lawyerlike assuming and lawyerlike procedures, and he had a very high regard and reputation among practicing lawyers who had been subjected to his courses. He was not without his sense of humor, however. On a dreamy summer afternoon we were gathered in one of his classes which happened to be on the subject of quasi-contracts. He

went down the line on the question of unjust enrichment. "If John invited Mary out to dinner for a period of time after which they became engaged following which she broke the engagement, could John go ahead and sue her for the value of the entertainment he had afforded, Mr. Jones?" Well, Mr. Jones would answer, "No, this was not intended in any other way than a pure gift and, therefore, he could not recover." "Well, John gives Mary an engagement ring and when the engagement is over, can he get the ring back from Mary? It was a good ring, diamond all of half a carat." And the same answer came again. "Well, Mr. Smith, suppose John invites Mary to his home and thereupon gives her a series of dinners in the home and the engagement is broken, can he thereafter recover from that?" "No, he cannot." In the back row was Brown, sitting very quietly and half sleeping; "Mr. Brown," the name came out, and the man next to him hit him with his elbow to wake him up. "Mr. Brown, suppose Mary was invited to his home and while there for a period of some months she got free room and board. Could he, thereafter, on breaking the engagement, sue her and recover?" Mr. Brown stuttered and stuttered and finally said "No, he could not." "Well, why is that?" said Professor Osborne. "Well, because he would have been amply repaid." With that, there was laughter in the classroom and Professor Osborne slammed his book shut and left the room for the day.

Professor Cathcart, in addition to having taught us in Torts, taught Common Law Pleading, and it was certainly a very worthwhile and important course in our later law practice. We were forced to analyze and determine what the elements were that were actionable in any given legal situation. He was very matter-of-fact but had a very dry sense of humor and was on top of a situation all the time. One day in our Torts class we had the case where a pregnant woman aboard a train was injured when the train collided and the question came up as to the railroad's responsibility. Professor Cathcart called upon the lone young lady in the class to recite the facts of the case. And when she got down to the word "pregnant," that sort of thing not being generally discussed in those days, she stuttered around it, whereupon he drew himself up and said, "Miss Cox, the word is 'pregnant.' Do not shrink from it. It refers to a definite human situation you will meet many times, a condition desired by many women, acquired by a great many, and sometimes not desired by a few."

Professor Joseph Bingham, known generally as “Smokey Joe,” seemed to have less student contact than other members of the faculty, who, like George Osborne, would pause on the law steps to smoke a cigarette between classes and talk back and forth with members of the law classes. Bingham was one of the early “realists,” so called, in the law. The law was what the court said it was; the law was what the courts actually did in the given controversies. He was actually reported to be a brain whose major activity was playing chess at the faculty club. He lived in Palo Alto and walked to and fro the mile or mile-and-a-half to his home every day, at a brisk pace, bare-headed, and thereafter, was holed in his office at the law school, and was rarely seen by any except the students in his immediate classes. He was very informal, but very pointed in his comments. One day, after I had made an explanation, I think perhaps on the *cy-près* doctrine, he said, “Mr. David, that is just as clear as mud.” I retorted, “We can only reflect what we get as mirrors from the faculty.” Now this is very cheeky, of course, and after class I went around and apologized for my statement. He dismissed it curtly, with a wave of his hand, saying “harmless persiflage, harmless persiflage.” I believe I got a “C” in the course. I was very much upset because I thought I had done very much better in the examination. I went back to see him, and was greeted cordially, and said, “Mr. Bingham, I’m very disappointed in the mark I got in this course.” He said, “Mr. David, so was I. Good day.” And that was all there was to that. Some three or four years later, when I was deputy city attorney of Palo Alto, Joe Bingham was suddenly found to have built an addition to his house into the forbidden setback line area on his particular street. He came up the steps in our office in the Thoits Building and said he was very sorry that this had occurred and wondered what could be done about it. We said, of course, that he would have to apply for a variance and see whether or not the city fathers would authorize it by way of a variance. He apologized again as he was leaving and as he left, I said, “Well, think nothing of it, it was only harmless persiflage.”

Professor William Owens, of course, taught Practice. His “California Form Book” [*Forms and Suggestions for California Practice* (1924)], in which forms were set out in full for the benefit of lawyers and their stenographers, became a bible for us in class and also for us after we began

our practice. He was very approachable, had a nice smile and was a very pleasant friend to all of us.

Clark B. Whittier taught Evidence and had at one time, I believe, taught Contracts. I was very interested in his course, and one day, as I was coming in from Palo Alto with my old flivver, I met him walking on Palm Drive, and I picked him up and gave him a ride. We entered into conversation and I happened to say that I'd been pondering over the doctrines of consideration and particularly the old doctrines in regard to livery of seisin. It seemed to me that ceremonies such as livery of seisin were purely evidentiary and designed to impress unlettered people that the parties had been in earnest when they entered into their agreements. He immediately was greatly pleased. He said that was exactly so, and that if we understood that, we understood a lot of the mysteries of the early doctrines of consideration and livery of seisin, like exchange of rings before witnesses to a marriage ceremony. I took a seminar course from him in the Administration of Justice and do not remember much about the course except that one of my classmates was J.A.C. Grant, who later became a professor of political science at the University of California at Los Angeles. My research and papers in this course related to quiet title under sections 738 and 749 of the California Code of Civil Procedure. In my conversations with him, I remember one occasion I was wondering about the progress of young lawyers in the law after they got out of the law school, and he said, "Let me assure you, Mr. David, that within five years after you get out, you'll be making \$5,000 a year." That seemed like a princely sum at that particular time. And as it was, he was very nearly right.

The average law school class at this time was about thirty-five students, with a trifle greater number in the first year. In the entire law school during this period, there were only five women whose names I recall. There was Ruth McBride Powers, Frances Sheldon Bower, Carolyn Loeb Boasberg, Pauline May Hoffman Herd, and Hope Cox Lefferts. Carolyn Loeb Boasberg got her J.D. degree in 1926. The others were of different classes.

The Stanford Union Dining Hall at this time was manned by student waiters or hashers including a great number of law students. They were a rather remarkable group. Among those who served as hashers were Calvin Conron, later a leader of the bar in Bakersfield, Clarence J. Tauzer (Red Tauzer) of Santa Rosa and Charles E. Beardsley of Los Angeles, who later

became president of the State Bar. Then, Leonard Avilla, Anthony Brazil, Norman Main, William Bradshaw and I all became judges of the superior court and all served for many years. Norman Main and Bill Bradshaw were both judges in the superior court in Kern County. Anthony Brazil was in Monterey County. Leonard Avilla was in Santa Clara County before his untimely death. I served on many court assignments in Los Angeles County and on appellate court assignments, and Percy C. Heckendorf, who had some administrative experience with the State of California, later became a judge of the superior court in Santa Barbara County.

In the Juris Doctor class of 1926 there was Milo E. Rowell, later to become a leader of the bar in Fresno, and who would have a distinguished career in military government in World War II when he served in Japan and helped to draft the new Japanese constitution. Another in this class was Claude R. Minard, who practiced in Fresno and served in the Legislature. Claude became secretary of the State Bar and served for many years up to the beginning of World War II, when he went into military government and again had a distinguished career, coming back to represent railroad interests before the legislature until his final retirement. He was also a member of the Committee on the History of Law in California. Gilford Rowland was the youngest president ever elected to head the State Bar. He was in law school at this time and received his J.D. the following year.

The Stanford campus at this time was divided into what were known as the Hall men and the Row men — as between those that were residents of the dormitories and those that were members of the social fraternities. Encino Hall was the largest hall in 1921 and 1922, and the aristocracy of Encino Hall was found in three eating clubs established nearby, chief of which were El Campo and El Taro and Breakers. Daniel W. Evans was a president of the El Campo Club, and I and Claude Minard became members of it. We, together with Dan Evans and Wardwell Evans, his brother, formed the legal contingent of this club. Board at that time was one dollar a day, based upon a rather simple but substantial diet. The club employed a cook and a manager who saw to all of the arrangements for the maintenance of the little building and also for the supply of meals. In the summertime, when most of the members of the club had dispersed, the manager was sometimes permitted to receive summer boarders, and this was done at El Campo. Late in the fall of 1926, the club was presented with a fuel bill by

Mr. Worrell of Palo Alto which had not been paid by the summer boarders and their summer manager. The club demurred at paying this bill and Mr. Worrell sued in the justice court in Palo Alto. Minard and David were employed, though not attorneys, to represent the club before the justice court as they were then permitted to do under the law. They worked together and produced a magnificent brief on the law of unincorporated associations, showing that the liability could not be asserted against any of the members of the club that were not present during the summer session. This was presented before Isabel Charles, who was then justice of the peace, and in due time and no doubt duly impressed by the voluminous briefs, she gave judgment for the club. The club thus being vindicated, proceeded to pay Mr. Worrell his bill and as a fee, Claude Minard and I each were given one month free board. This probably was our first legal fee.

Moving on into 1926, I and Minard decided that we might like to practice law together. Minard was suggesting that Fresno was a proper place to begin, that being his home town, and we having a friend also in Gilbert Jertberg, who was ahead of us in law school and who had gone down there and had started a successful practice.

During the last year in law school, I and Minard studied together, looking forward to the anticipated bar examination in June, 1926. A method of study was first of all to take a copy of Wigmore's "Pocket Code of Evidence" [*Pocket Code of the Rules of Evidence in Trials at Law* (1910)], which was annotated to the California codes in respect to evidence and also to Clark Whittier's lectures on evidence. Then, the same thing was done in regard to the Civil Code and the Code of Civil Procedure, which were cross annotated to the class notes from the courses given in practice and also in pleading. We proceeded to study the codes, section by section. At this time it was customary for law students to go to quiz courses where a few bright people reviewed particularly the late cases in the advance sheets with the idea that this would anticipate questions which might be given in the bar examination. Indeed, by making a review of the California law, particularly the late cases, the good review courses offered a considerable chance of success. Neither of us had the money to put into any review course, and so we conducted our own.

In regular law school study, pre-legal, as it were, I had accumulated a considerable background in courses in history — English Constitutional

History, American History with Edgar E. Robinson, who was an exceedingly wonderful teacher, Reginald Trotter in English History, Carl F. Brand, later teaching English History. I had also taken Russian History under Professor Frank Golder. Russian History was a new course and was a matter of curiosity at that time, since we had had our first taste of Russia following World War I and of all the propaganda put out regarding the Communist state.

About this time, in my junior year at least, Captain Edward Latimer Beach, who had been Commandant at the Mare Island Navy Yard and whom I knew, came to the Stanford faculty to teach military and naval history. Therein lies a story, of course. Captain Edward Latimer Beach and Curtis D. Wilbur were both classmates at Annapolis about 1888. Curtis D. Wilbur, as one will recall, had become the chief justice of California after being a judge of the superior court in Los Angeles County. Also he was a brother of Ray Lyman Wilbur, the president of Stanford. I renewed my old acquaintance with Captain Beach, and I took both of his courses in military and naval history. Before I had finished my law course, Captain Beach had retired from the faculty and had been appointed city clerk of the City of Palo Alto and held forth in an office in the City Hall on Ramona Street with Mrs. Kidd, his secretary and assistant. The City Council at that time, of a membership of fifteen, was largely composed of University professors and University oriented people.

Dr. Frank Golder, who taught Russian History, being a resident of the Stanford Union, became a personal friend, and after taking his course, or enduring it, he employed me to become his reader in Russian History. That was a very interesting job and, as it turned out in future years, a very rewarding one. The reader had the task of correcting the theme books and exercises and also the examinations in the first instance for the professor. Whereas each student was required to read one book on a recommended list of readings, there being ten on the list, the reader had to read all ten, so I got well acquainted with *War and Peace* and *Crime and Punishment* and a lot of the famous books in Russian history and literature. That provided some little stipend as I went ahead to finish my law course.

Minard and I went to San Francisco together to take the bar examination and registered at the Clift Hotel. We studied hard and even carried with us copies of the latest advance sheets just in case we might find something

there that might light our way. We finished our first day of written examinations and were very tired and sleepy. Claude rolled over and was prepared to go to sleep and I was reading advance sheets, and all of a sudden I shook him and said, "Wake up. Here are two we should pay attention to." Here were two late cases in the advance sheets, one of which I still recall. It happened to be a case involving the doctrine of *Rylands v. Fletcher* [House of Lords 1 (1868)] where a swimming tank had collapsed in a building in Long Beach during or after the earthquake. The California doctrine was established that *Rylands v. Fletcher* as such did not apply. The other case was a community property question that I do not recall. But sure enough, the very next morning in the examination, a question was asked on each of those cases, and we were very happy that we had been forewarned, even at the last minute. We finished our written examinations for the second day, and then we were conducted on the third day to the oral examination. The oral examination was conducted by members of the Board of Bar Examiners who received students in groups of ten or fifteen and proceeded to question them much as the justices of the appellate courts had done before for candidates who had been presented for admission upon motion. Our particular examiner was Mr. George F. McNoble of Stockton. He had the reputation of being a classicist, and he believed that a lawyer should be an educated and accomplished fellow as well as a legal technician. He came around the class asking a broad scope of questions. He reached me and his question was, "Mr. David, can you state the doctrine of *McCullough v. Maryland*?" Well, if there was one case that I had learned under Professor Arthur Martin Cathcart, it was *McCullough v. Maryland*, fortunately, I believe I did very creditably. Then he said, "Mr. David, I suppose you studied a foreign language — Latin, perhaps?" I said, "No, sir, I did not study Latin, but I studied Spanish." "Well," he said, "will you please say for me in Spanish, 'Will you kindly step out and get me a glass of water?'" The examination over, Claude and I celebrated. My sweetheart, Louise Mellin, came down from Vallejo and Claude's apple-of-the-eye, Dolly Paulson, came up from Palo Alto, and we joined forces and danced and dined that night in the Redwood Room, I believe it was, at the Clift Hotel.

Then came a period of waiting for the results of the bar examination. I spent some time in San Francisco with Dan Evans of the office of Sawyer and Cluff. A little earlier, I had attended a trial in the federal court before the Honorable John Partridge. It was an admiralty insurance case.

The vessel had burned at the dock in one of the Northern Coast cities. The question at issue was whether or not the heat had been such as to render its engines unsalvageable although they apparently were intact after the vessel was scuttled at the dock. In this particular case, there was a good deal of testimony of experts about the condition of the boat and a great deal of speculation about the degrees of heat to which the engines had been subjected. It had been conceded that if that heat had exceeded a certain figure, the engines thereafter would be unsafe and unserviceable. The experts had been on the stand for a couple of days when I happened to look at a picture of the engine. I had become acquainted with marine engines in a way when I worked on Mare Island Navy Yard and particularly the boat shop. I knew some of the parts of the engine, such as what we would call in an automobile the connecting rod that came down to the crankshaft, and that those particular shafts had to be oiled. And they were oiled by means of an oil box on the side of the engine, the oil being conducted by a tube of copper down to the particular bearings. After the debate had gone on for a couple of days about the degree of heat to which the engine had been subjected, I called Mr. Sawyer's attention to the fact that in the picture of the engines, these copper tubes were still intact and indicated that from what I knew of the testimony, if there had been a temperature as great as that which had been claimed, the copper tubes would have melted, and they did not. "Out of the mouth of babes," he yelled. "Are you admitted to the bar, Davy? If you are, I will hire you right now." So I admitted I was not, but the marine surveyors who were working on the case verified the fact that I had pointed this out, and Mr. Sawyer sat down and wrote me a check for, I believe, fifty dollars, which was the first legal fee I ever got for any expert testimony.

While waiting for the results of the bar examination, I lived with Dan Evans in Palo Alto during the absence of Ellowene Evans, his wife, in the Southland visiting her relatives. It was while I was living with him, cooking the breakfast and relaxing, that the postcard came through, announcing that I had passed the bar examination. As I recall, this was a birthday present, received on or about August 25, 1926, my twenty-fifty birthday.

We were sworn in by the District Court of Appeal, the Honorable Presiding Justice [John Frederick] Tyler and his division. Following that, we went almost en masse to the federal court where we were admitted to the Federal District Court of the Northern District of California, and then

proceeded on to the Circuit Court of Appeal and were admitted then to it. When it was over, I went back to Palo Alto, packed up my trunk locker and got ready to go to Fresno, where Claude Minard had preceded me, hoping to find a way to start practice there and some way to eek out the small amount of change that still remained in my pocket. As I was walking along the main street in Palo Alto, I came face to face with Captain Edward Latimer Beach. Captain Beach exclaimed when he saw me: "Hello, Leon, I was just looking for you. You're just the man I wanted to see." He said, "You're to be the next city attorney of Palo Alto." I said, "What?" He said, "Well, come on to the office and I will explain." Well, I went on over to the office and he told me that the city attorney, Norman E. Malcolm, had served the City for many years, that the City Council was desirous of retiring him, and that before they did that, they wanted to have some understudy come in and learn the ropes in regard to city business for a year, and that he was recommending me for that particular opportunity. At that time, of course, my old professor, A.M. Cathcart was a member of the council; so were J. Pearce Mitchell, Edwin A. Cottrell of the political science department, with whom I had worked while at the University, and others of the fifteen members.

Norman E. Malcolm was a greying man with mustaches and watery eyes who looked a great deal older than he probably was. He had been admitted to the bar at about the turn of the century, had been in the California State Legislature, had been one who helped get a nomination through for United States Senator [George C.] Perkins, and as a reward for it, was made a United States commissioner for Alaska. He went to Alaska during the Klondike rush and was United States commissioner there, where he had an appetite to learn the law but also an appetite for liquor, which proved his periodic undoing. He had been a schoolteacher and at one time was offered the job of becoming a superintendent of schools for Hawaii when Hawaii was made a territory, but had gone to Alaska instead. He had married one of his pupils, Mrs. Vernelia D. Malcolm, and had been practicing in Palo Alto for some twenty years, and had been city attorney for some time. During that period, he had been the president of the League of California Municipalities and had been active in its proceedings. He was a good man to be a preceptor in municipal corporation law as I found out over the next five years. The office he occupied first was in the Bank

of America building in which also was the office of Egerton D. Lakin, and one of my late classmates, Lewis Hayd Leve, from Stanford Law School. The secretary was a Miss Laura Vaughn, who related that she had been the secretary for Mr. Gary of steel fame in earlier days. She sat in the outer office in a rocking chair and rocked and knitted, which should have been a sign to me that the promise also held out by Mr. Malcolm that there would be a lucrative private practice which we might share in association was not quite the fact.

The arrangement was made and I entered his office with his full knowledge and consent to what the city had in mind. He was kindly and a good teacher in matters involving the city, whereas I picked up a certain number of cases of the sort that lawyers ordinarily get when they first start, justice court cases, automobile claims and the like. He had only one big case in the office, which was the Estate of Morgan [200 Cal. 400 (1927)]. Ynez Morgan had been a bank clerk in the bank below where our offices wore. She had died, I believe, of consumption. Upon her desk by the side of her bed was written what she had set forth by way of a will. It began, "I, Ynez Morgan, do hereby . . .," and so forth and so on, vesting her estate in her nieces Alma and Renette Prior. It bore no signature at the bottom, but otherwise it was entirely written, dated and signed in the handwriting of the testator. She had been abandoned by her father in her infancy, and now that some fourteen to fifteen thousand dollars was in the offing, he suddenly appeared out of the woodwork and laid claim to the patrimony on the ground that this was not a valid holographic will. Norman Malcolm appeared on behalf of the executor, and Lakin appeared on behalf of the two wards. Malcolm permitted me to write the brief in support of this will, and in doing that, I researched the law for holographic wills through all the civil law countries, and we published a book of some 180 or 190 pages, where the law from the Philippines and everywhere else was gathered in regard to this kind of testamentary disposition. So we filed a brief in the Supreme Court and, likewise, Lakin's office (by Lewis Hayd Leve) wrote a brief, a very short compass, simply saying that this will comported with the tests laid down by *Estate of Manchester* [174 Cal. 417 (1917)] which had preceded it, and that it sufficiently appeared from its form, and so forth, that it was intended to be the last will and testament. Whichever was persuasive, or if both were persuasive, the fact is that the will was sustained, and out of

the situation, the attorneys were to receive roughly \$3,000. Norman Malcolm shared \$1,000 with me; another share was for him, and another cut was made for the Leve and Lakin firm. The guardian of Alma and Renette Prior was not quite happy about this, so there was a hearing before Judge Brown in the superior court in San Jose, and he convinced him that this was reasonable under the circumstances. With this \$1,000 in hand, I was able then to proceed and get married and set up housekeeping with my wife, Louise Mellin David.

In the first year of my association, I was not formally recognized as an attorney for the City of Palo Alto as a deputy or otherwise, but I was employed to codify the ordinances of the City of Palo Alto. This I did in an editorial way, collating and codifying them and also correlating them with the provisions of the charter upon which they were based or to which they related. This was published, and I believe for that whole effort I got something like the banner sum of \$300. For this first year, 1926 down to the *Estate of Morgan*, when it came through in 1927, my brother Edward had supplied me from time to time with the funds necessary to keep going. At the end of the first year of practice, I found that the net of the whole business had cost me \$75. On July 1, 1927, I was made a deputy city attorney of Palo Alto.

Q: Leon, I think it might be of interest to tell me the particular date on which you got married, and if anything else besides your marriage was of importance that day.

DAVID: Well, that would be May 22, 1927. We were married in the Stanford Church. Louise's vocal teacher came down from San Francisco to sing the solos, one of which is still in mind, "On Wings of Song." Warren D. Allen, the university organist, played it as his wedding present. As we came into the city, Sergeant Curley Greeb of the Police Department of the City of Palo Alto came ahead of us with his motorcycle and the sirens blaring. We had to take up residence then, after we made a brief honeymoon trip in a Chrysler I rented for the sum of \$100 for the week. We traveled to my grandmother's and grandfather's in Lodi, and went down to Yosemite, then went on over to Carmel. And when I came back and paid the \$100 for the Chrysler rent, the dealer was a little perturbed because he said "\$500 more will give you the Chrysler," and I loved it — it made all of 40 miles an

hour on the road. But I didn't have the \$500. But while we were being married, Lindbergh was flying the Atlantic and his landing in Paris coincided, more or less, with our wedding day. So we've always remembered that.

Q: We haven't talked of your Palo Alto experiences, contributing to your reputation and advancement. Did you ever formally become city attorney, or why not?

DAVID: It was generally understood that after a year of apprenticeship, so to speak, provision would be made for Mr. Malcolm in retirement, and I would be appointed. Appointments were made at the first city council meeting in July of each year. But on July 2, 1928, no pension plan had been enacted, so old friends of Mr. Malcolm on the council were implored not to take action without one, and his termagant wife campaigned against the young man who was "going to take the bread out of our mouths." From the start, Mr. Malcolm knew that I was to replace him, and never raised one word against me in our association, designed from the start to lead to my appointment. So on July 2, 1928, he was reappointed; but my salary was increased and his reduced by \$25 a month. The situation was the same on July 1, 1929. He was reappointed, my salary as deputy city attorney was raised, and his was reduced as before.

By 1930, it was no secret that the bulk of the work of the office had fallen on me, as well as the trial of a condemnation suit and defense of the city officers in *Black v. Southern Pacific Railway*, a personal injury suit against city officials based upon an automobile collision with a wigwag signal standard at the Embarcadero [Road] crossing. Mr. Malcolm refused to have any part in this litigation, the plaintiff being a prominent club-woman and friend of his wife. Approaching July, 1930, there were caucuses of council members considering the city attorney appointment. They faced again the absence of any retirement plan; some felt that it would be set up if the changeover occurred. I had no part in any discussions. A majority, eight votes, was required for the appointment of city officials. Returning from vacation to attend the council meeting, one councilman died of a heart attack and another was hospitalized. Only thirteen were present, and thirty-one ballots taken, seven to six, six to seven, without electing either Mr. Malcolm or [me; so he held over] pending the appointment of a successor.

By late spring of 1931, membership on the council had changed. There was no more certainty than before that the council would face up to the situation on July 1st. Personal attacks launched against me unsettled my wife. The Depression was under way, and I was embedded in the community. I was the president of the Palo Alto Kiwanis Club; I had been initiated in Palo Alto Lodge #346 of the Masons, and was at the lowest step of advancement in its hierarchy; I was an elder in the Palo Alto Presbyterian Church, and had been its Sunday School superintendent; I belonged to the local Parlor of the Native Sons of the Golden West; a charter member of the new Stanford Golf Club; and an interested and active member in the California Taxpayers Association.

There was a banner headline in the *Palo Alto Times* when it announced that on July 1, 1931, I would join the faculty of the Law School of the University of Southern California, as assistant professor and director of the legal aid clinic.

Q: You had already gained some prominence in municipal law practice throughout the state, had you not?

DAVID: Yes, I had, in several respects. As of 1930, I was chairman of the city attorneys section of the League of California Municipalities. The league was organized into functional sections, city councilmen, city planning, public health, etc., and the city attorneys throughout the state were in the city attorneys section. The league's board of directors were past chairmen of the sections. Thus, in 1931, I was a member of the board. In the 1931 meeting at Santa Cruz, the league was reorganized by the directors as the League of California Cities. At this meeting, the young city attorney of the City of Montebello, Louis Burke, was appointed legal counsel for the new league. (My friendship with him continued through all the years until his death after retirement as an associate justice of the California Supreme Court. In retirement in Marin County, he continued oil painting of scenes of the environment. I had introduced him to this hobby through the Business Men's Art Institute, where also Judge Aubrey Irwin and I were painting.)

Attorneys from all over the state participated in the city attorneys section. At that time, there were two major legal concerns: (1) The increase in claims brought against cities and their officers for personal injuries, arising

from alleged defects in streets and sidewalks. Suits were brought long after the event, when witnesses had dispersed, and where the physical condition had changed, and the lapse of time made investigation and defense difficult. (2) In the apparent prosperity before the panic of 1929, cities and counties, large and small, undertook ambitious local improvement projects, principally street opening, widening and improvement. Special assessments for the cost of such work were made against adjacent properties, at least theoretically benefited. It was settled that there was no general municipal liability for delinquencies where bonds were secured by direct liens against specific properties. But under the Improvement Bond Act of 1915, bonds were issued secured by collective assessments in a district, and two methods of meeting delinquencies were provided. Suits could be brought to foreclose delinquencies. This had been done by the City of Burbank, represented by James H. Mitchell, and the Brown-Crummer Company was very dissatisfied with the sum produced, and suit against the city was pending in federal court. The bond act also provided, in effect, that the delinquencies could be foreclosed by tax sale procedures, and that cities were authorized to buy in the delinquent properties, and to levy a ten-cent tax to provide the funds. The fight was on. Did cities have to levy the tax and buy in the delinquent properties? If so, how many times? Companies and banks holding 1915 bonds were insisting there was this quasi-general liability. The city attorneys assembled considered that cities had the option to choose. They also knew from experience that a test case would soon be brought, and that it would be brought against some small town where the amount involved would be small, and the town's resources too small to resist adequately.

Q: Did this happen, and did you get into the controversy?

DAVID: It certainly did. The target was the little city of Lakeport in Lake County. A short section of road by the land of one Blakemore was improved, and the payment due became delinquent. The American Company brought suit. Lakeport attorney [George D.] Hazen called for help. James H. Mitchell, Burbank city attorney, and I responded.

Q: What experience did you have in street proceeding matters?

DAVID: I began a study of street improvement laws when the City of Mountain View requested Mr. Malcolm and me to review an entire street

proceeding, to determine compliance with the statutory requirements. I read all of the decisions relating to the requirements, and also those which covered the constitutional issues and construed antecedent improvement statutes, and did all the checking. In Palo Alto, I utilized the Improvement Act devised by Everett Mattoon, county counsel of Los Angeles County, for the widening of California Avenue, and the levy of assessment for the work. In the work, we did house-moving and relocation in connection with the eminent domain assessment of damages. I went to Los Angeles to check with Mr. Mattoon concerning this operation. He was aghast at the work included in the project. The work was completed and there was never any challenge.

Q: What happened in the litigation?

DAVID: We tried the case in Santa Rosa, and won. There was the appeal to the Supreme Court, two hearings in which I argued the case, supported by amici briefs in which city attorneys throughout the state appeared. Ultimately, it was held that the remedies of foreclosure and purchase on tax sale were cumulative, not separate remedies; and that the cities were obligated in default of other purchasers to buy in the delinquent properties to the extent of funds made available by the ten-cent tax levies.

There were other suits involving the issue of general liability for delinquencies. Had certain cities followed the law in levy and collection of taxes, and sales for delinquencies? Liability might follow failure to do so. I went afield and checked procedures. In King City, I found that for years the tax procedure was that which prevailed when it became a city. For fifty years, no one questioned it, until there were street bond delinquencies and outsiders came in. In Monterey, City Manager [R.M.] Dorton accepted payments in any sum, toward payment of taxes. Only seasonally did fisherfolk have any money. Payments went into a trust account. When amounts credited to X were sufficient, they were transferred to meet his tax liability. These examples indicate that there was latent home rule, statute or no statute, so long as no one questioned it.

Q: Did you carry on street bond litigation after you left Palo Alto? After you joined the law school faculty at USC?

DAVID: It was understood when I accepted appointment there that I might conclude the bond fund litigation. Though over thirty cities cheered us on

in the several appellate cases, they were not very remunerative when expenses were considered.

In the summer of 1934, I was the speaker at one of the spasmodic meetings of the nebulous City Attorneys Association of Los Angeles County. The topic was the 1915 Bond Act litigation, flavored a bit with tort liability considerations. Los Angeles City Attorney Ray L. Chesebro attended. He had been police judge, and was drafted for his office by reform-minded businessmen in the municipal election of the year before. This was my first, and eventually momentous, meeting with him.

Q: What about the law school appointment and your activities from 1931 to 1934?

DAVID: I had set my sights on the city attorneyship in Palo Alto. With my time through five years primarily devoted to city government, I had built up little private practice, shared with Mr. Malcolm, and he had almost none shared with me in our association. For the summer of 1931, my close friend, Professor Cathcart, was acting dean of the Stanford Law School. I asked him if any information about possible placements had come to him. He said that Dean William Green Hale of the USC law school was searching for a lawyer to manage the legal aid clinic, and be responsible for other courses. "If you are interested, I will find out if he would care to interview you." "What is a legal aid clinic?" I asked: "Dean Justin Miller, now at Duke University, by analogy perhaps to medical school clinical instruction, set up a legal clinic. Third year students, under supervision of the staff and volunteer attorneys, interview indigent clients, record the pertinent information, and decide what action may be taken or advice given. This is checked by the supervising attorney, and advice given accordingly. If court action is involved, the student prepares the necessary papers, and assists a volunteer attorney when he goes to court. The course, I understand, is mandatory for all third year students. Some other teaching may be involved."

I was intrigued at once. I had a glimpse of university instruction as reader in Dr. Frank Golder's Russian History course. I had been brash enough to earn a little money by conducting a paid seminar in Agency for first year law students. When the wolf was at the door, banker friends in Palo Alto induced me to conduct American Institute of Banking classes for banking personnel at San Jose. Starting first with a course in negotiable

instruments, I was hired to teach economics and commercial law; and thanks to what I had learned by osmosis from my banker father, standard banking also.

In Los Angeles, I was interviewed by the dean, by members of the Legal Aid Foundation (which raised the money to operate the clinic while the University provided the facilities), and by Dr. Rufus B. von KleinSmid, president of the University. The new director would succeed Professor John S. Bradway, who would follow Dean Justin Miller, to set up a clinic at Duke University Law School. Bradway had worked up a manual of procedures. I had sat up all night reading the manual, coming down to Los Angeles on the Lark.

I was appointed director and assistant professor of law for \$4,000 a year, one month vacation. Law review articles by Bradway and myself have described the legal clinic work, I need not repeat it here. The legal aid clinic was ahead of its time, so far as law schools have been concerned; extern training now is the vogue.

The demand for legal aid services grew and outran the ability of the law school to provide the facilities. The demand on student time perhaps impaired their other studies. Concededly, there was not great variety in the subject matter. But over fifty years, lawyers who had the experience under my directorship assigned high value to the instruction. From the graduates in that era have come many judges and celebrities, including U.S. Senator Tom Kuchel.

Q: Besides managing this law office for poor people, did you teach other courses?

DAVID: I taught at various times Municipal Corporations, Damages, and Research and Briefing. The latter was a basic course: how to find law in law books, how to analyze cases to separate ratio decidendi from discussion and dicta, how to prepare an appellate brief.

Q: Did much of your legal writing originate in this period?

DAVID: Yes. With cooperation of Professor Robert Kingsley, faculty adviser to the *Southern California Law Review*, my series of articles on "Municipal Liability for Tortious Acts and Omissions" was published; it was later published in book form by Sterling Press [1936]. It was cyclopedic rather than an analytical work, and had wide circulation. Articles on specific topics, or

in reference to specific officials, appeared in *Western City* magazine. Then came the various published articles relating to the legal aid clinic. The *Review* published a number of book reviews I wrote, including a review of Professor John Pfiffner's new work on public administration. This not only attracted his attention, but that also of Emery Olson, dean of the new School of [Citizenship and] Public Administration. The dean had been an old friend of mine in Palo Alto days, and had organized institutes attended by public officials, from which the School of Public Administration was established.

Out of this arose a colloquy about the role of lawyers in government. Were they merely hired technicians or active policymakers in governmental positions? Until his death, my friend John and I debated this. Contacts with him and the dean led to my enrollment and receipt of an M.S. in Public Administration in 1935; and ultimately Doctor of Public Administration in 1957. The title of my lengthy thesis was, "The Role of the Lawyer in Public Administration." For many years, while assistant city attorney and as a judge, I was a lecturer in the Civic Center division on public administration topics, including taxation and administrative law.

Q: Apparently, you were quite satisfied to be on the USC law school faculty, and with the management of the legal aid clinic. Why did you choose to become an assistant city attorney? How did your appointment come about?

DAVID: 1934 was a Depression year. A salary of \$6,000 a year looked better than \$4,000, already subjected to a "voluntary donation" to the University of a ten-percent reduction. In August 1934, I delivered a paper at the Municipal Law Section of the American Bar Association at its annual meeting in Milwaukee. The subject was tort liability. In the middle of the session, there was a telegram from Ray Chesebro, city attorney: "Please see me immediately on your return." I met Ray in person when I addressed the city attorneys group in Los Angeles County. Some time before, the City Council requested USC and UCLA (unpaid) to survey the organization of the Los Angeles city government, under the charter, and recommend changes. Professor Leon T. David was one of the three on this committee. To place the City Attorney's Office under civil service was one of the recommendations.

Ray Chesebro, in the election the year before, defeated incumbent Pete Werner for the office, aided by rumors of Werner's misfeasance, which proven,

sent him to jail. When Chesebro took over the office, he made a clean sweep of perhaps seventy-five of Werner's appointees. Some three or four top echelon attorneys, of undoubted integrity who had served under prior city attorneys were retained. Chesebro said: "I couldn't have cleaned house if the office was under civil service; it was corrupt also." But having cleaned house, he had been able to fill vacancies with many able attorneys willing to serve since the Depression left them struggling without clients. They were now struggling to become competent in municipal corporation law.

One of my legal aid students, Leroy Garrett, called his attention to my articles in the *Southern California Law Review*. Upon my return from the convention, I was curious to know what Mr. Chesebro wanted, and called at his office. I thought perhaps he wanted to talk about the organization survey. Without preliminaries, he asked if I would accept an appointment as assistant city attorney, at \$500 a month. This took my breath away. As I had signed a contract with the University running until July, 1935, and though I was inclined to accept, the University would have to release me, and that was doubtful, as the fall term was beginning. "I will hold the offer open," he said, "and I hope you can accept soon."

Q: Just by way of background, although it is not part of legal history, I wish that you would give me a brief summary of your military career, especially with reference to World War II.

DAVID: Before sketching my military career generally — it was not wholly disassociated from law — in the Morale Branch of the Adjutant General's Office, I was assigned the revision of the Army's manual of courts martial; and to make a study of disparity of sentences for the same offense in different commands. Likewise, where the offenses were identical or parallel to those handled in civil courts, the study was to study disparities.

Only the results in general courts martial were on file in the War Department. Reports of special and summary courts martial in corps areas and major commands were requested to be sent in. I started to work with the material at hand. There were conferences with officers in the Judge Advocate General's department, with Mr. [James V.] Bennett, director in charge of federal prisons. But by October, there was general belief that conflict was imminent. While awaiting the reports, I was pulled over into the planning section of the Branch, and after December 7th, 1941, into other assignments.

Within two weeks after my arrival at AFHQ [Allied Force Headquarters] in Algiers, the judge advocate general, Adam Richmond, phoned me, requesting me to serve on a general courts martial. Due to my recent arrival I was excused. If I had ever paraded my legal background, I would have ended up in his department. In a group departing for the U.S. after the war, he asked what I would be doing. I told him, and he exploded. "In all our contacts, you never told me . . . !"

As you say, my military career is not "legal history"; it had its effect on my legal career, and I will try to summarize it, from 1927 to 1961, when I was retired in my rank as colonel, particularly from 1941 to 1946.

I was just below the age of some of those of my classmates in high school who went off on the draft under the 363d Infantry, and so forth, from Vallejo in 1917. I went to work on Mare Island Navy Yard as a boy at \$1.58 a day to do my war effort at that time. However, when my comrades came back, they told me what a terrible experience it had been, that some of them had served under the so-called "ninety-day wonders" who didn't really know what to do, and therefore, they swore if another war came, they wanted officers to know what side was up. At that particular time, I asked for an appointment to Annapolis.

Congressman [Charles F.] Curry was the chairman of the House Naval Affairs Committee, but he said he had so many applications at that time he wasn't going to grant any of them. But in preparation for any appointment, I had taken Mr. Wells's *Algebra*, which I mentioned was my high school nemesis, and I worked every problem in the doggoned book. It had answers in the back, so I knew my algebra and I thought that would get me by. But, no, that approach to the naval side failed, although at work I got well acquainted with boats. I drove oak pegs in the teak decking of the battleship California before it was launched and helped build the submarine chasers that were built there at Mare Island Navy Yard. So anyway, the other report I got from my friends coming back was that November 11th, after all, was only an armistice. And they were sure that hell would break loose again. And how right they were. We expected things to be better under the League of Nations, and we all became ardent Democrats for Woodrow Wilson. He was quite my hero for some time. And of course, he made the mistake of not asking the advice and consent of the Senate before he went abroad, and you know the story politically from there on.

I thought that if war were renewed, I would be of draft age. I would be an officer who would not be unprepared. Anyway, when I got down to Stanford University, I decided that I would enter the ROTC, which was the field artillery unit. And I began my training with the ROTC. We had some very fine officers who were in that detachment, and even the non-coms who were part of the detachment were World War I veterans, and had been commissioned, in some cases, in the war. So I went through the ROTC. It normally was a four-year course. I took it in three years. I did not make my summer camp after the second year. I was interested after the first two basic years in it, because, among other things, the advanced students got their uniforms, which were nice leather puttees and nice serge suits, and they got \$16 a month, which was the equivalent of the commissary costs for board or which we could have taken by boarding out with the detachment at Stanford.

So, in the summer of 1924, the only one I took off from Stanford till I graduated from law school, I went to Fort Lewis and there, after a month's training at Fort Lewis, I was given my commission as second lieutenant Field Artillery. General [Charles T.] Menoher of the Army Command presented us with the commissions. I came back to Vallejo. I remember the first participation I had in my uniform with my gold bars, in October of 1924. There was a Defense Day. By that time I had been assigned to an aerial reconnaissance unit. But I didn't reconnoiter, I marched in the parade that particular day. The Army had a very good system of correspondence instruction, and there were unit instructors in Los Angeles to whom I reported, after I came down there. However, before that, I went to the Presidio of Monterey and had duty with the 76th Field Artillery for training. The training was actual, real training. I was put in as a junior lieutenant in the D Battery. The junior lieutenant had to be the mess officer. He went on out and fired his required problems with the other officers. He rode the horses, and [so] I conducted battery drills, drilled the whole battery out on the parade ground. We learned our horsemanship fairly thoroughly under our instructors at Stanford. Some of the officers of the 76th Field Artillery asked me why didn't I apply for a commission in the regular Army. But I was intent on the law and I didn't do such. I had other periods of service at a later time down there, actual service, and put right in as an officer in a regular outfit and was supposed to do what they were supposed to do. I

early was made the officer of the day of the whole post, and I had to go down and inspect the guard, and I got all the treatment that you would expect. I inspected the guard mount. You were supposed to pick out the likeliest looking soldier who then would be sent up to be the orderly for the commanding officer of the post. So I inspected the guard as officer of the day. And I picked out a fellow who seemed to have the brightest buttons and the shiniest shoes. And afterwards I found out that I had picked out a recruit. They said, "Don't you know what you should do? You should always consult the sergeant who is in the guard detail and knows the men. He can tell you who is the sharpest." I went down the line, inspecting the weapons and doing all of that sort of thing. They also told me at that time that the officer of the day had to inspect the guard between midnight and morning. And on the morning before he was relieved, he had to stand and take reveille. Each unit would report the number present and absent and so forth. So I was gung ho on that. So I decided that I would really do it. I went out around midnight, went out back of the post hospital in Monterey. I came up to the guard on that post and he met me with a raised pistol, and as he did he tripped the little button, which sent the magazine sailing out towards me. I remembered that, and of course I had to report it. And then I found out again that I didn't know what I was supposed to do. The officers of the regular garrison would make their inspection trip just before reveille, and then go right on and take reveille and make it all one deal. And of course, that's what those who were posting the guard at the other end of the place had figured out. Therefore, the trained men who knew all the orders, who could repeat, "My duties are to walk my post in a military manner," and so on, would be on that shift. Well, anyway, I really learned the hard way.

We had a fine artillery instructor in Los Angeles by the name of Colonel Louis Daugherty. We actually got up in a loft and had a little pneumatic gun and would conduct firing practice shooting large ball bearings — gunnery practice. I was originally in the 439th Field Artillery as long as I was in Palo Alto and a Colonel [Arthur L.] Keesling from Santa Rosa — a World War I man — commanded it. I remember some of the names of fellow officers that are not important. But there was one that was, and that was Homer Spence. Homer Spence at that time was secretary to the governor, and later became judge of Alameda County and an associate justice of the Supreme Court of California and was my friend over all the years.

Q: Where were you militarily in 1940?

DAVID: In 1940, I was at that time in the 426th Field Artillery (Res.) in Los Angeles. I was a major and was executive officer of the regiment.

Q: Was your outfit called to active duty in 1940?

DAVID: With the Selective Service Act, most of the men in that outfit were called to active duty, but the Army was a little laggard in calling up the field officers. I was a major at that time, and furthermore, I was an assistant city attorney and was special counsel for the Harbor Department. We were fighting with the federal government over the harbor at Terminal Island. The Navy Department wanted to condemn the whole thing, and brought a suit called “339.6 Acres of Land” to do it. The only trouble was, the engineers for the Army had spent seventy-five million dollars building up the harbor and the City had spent a lot more trying to develop this area as a deep-water terminal, which didn’t please the Harbor Department at all. So I was charged with the defense. So in 1940, they gave me an exemption from coming out then since this was a matter in which the U.S. Navy was interested as well as the City.

Q: When were you called to active duty?

DAVID: July 4, 1941. The circumstances were not very good. I went back to Washington in this harbor condemnation case. I had done something nobody had ever done before — outrageous! I actually wrote a history of the Los Angeles Harbor. Every time the federal government had asked anything of the City or got any permit to berth a ship or put sand behind a bulkhead, I had it listed. And furthermore, I illustrated it. I got particular photographs of the development of the whole Los Angeles Harbor. Among others, there was a deed authorized by an act of Congress for the exchange of the lands of the City of Los Angeles with the Army for part of Fort MacArthur. And I had that in there, too. My friend, John Preston, lately associate justice of the [California] Supreme Court, was my opponent on the other side of this case. Right in the middle of it, after I had filed this answer in response, he called me up and said, “Leon, you know you can’t estop the federal government.” I said, “No, I can’t, but how about the Congress of the United States exchanging land down here when we eliminated Dead Man’s Island?” Well, about that time, I had a call from the naval intelligence in

the federal building, right across from the City Hall, and I came over to see them. An officer said, "We've had a look at this document you filed in the court. And what do you mean? You've got photographs there of the whole harbor and here off at one corner is a picture of the big gun placement for our 16-inch gun up at Fort MacArthur." I said, "Well, I realize your concern for security. I'm a major, Artillery, ORC [Officers' Reserve Corps], but I wonder why it's taken this long. That picture has been on sale down here at the Fairchild Flying Service for the last three years and that's where I got it." Well, they knew then that I had military connections. Finally, we got a telegram that said the attorney general, Robert Jackson, wanted to have an interview in Washington about this case. So I was sent in June of 1941 to have this interview. We spent a week in the interview with Robert Jackson and his other men. It was determined that the Navy was not only interested in the site because of the possibility that there was oil, but also because they had documented the fact that more than a thousand illegal aliens had come in with the fishing fleet, largely Japanese. And the Japanese were all organized. A magazine or sheet which, as I recall was called the "Jiji Shimpo" [*The Rafu Shimpo* / *Los Angeles Japanese Daily News* ?] was published, saying that Japanese who had served in the Japanese army were organized into reserve units right in Los Angeles. There were Japanese gardeners running around with little leggings which went up half the leg which were Japanese army leggings, and the Navy men were very much concerned about the whole business. But anyway, I said, "We want to settle this case, but you know . . ."

Q: I want to interrupt, because I think from a historical standpoint we should mention something. And that is that, in 1941, two who were considered the most liberal politicians in the country, one of them being Earl Warren and the other Franklin Delano Roosevelt, both agreed that the Japanese should be excluded from the Pacific Coast. And ten, twenty, thirty, forty, and fifty years later, we can see the folly of such actions. But I lived through those times and you just mentioned it. And I think it would be interesting if you would elaborate, for just a minute, on perception of the danger as we saw it at that time, whether it was true or not.

DAVID: Well, let me finish this, and I'd be glad to. I've written long letters on the subject because I had other viewpoints to express. Anyway, we had

this conference with Attorney General Jackson. When it was over, Hugh MacDonald, who had been in our City Attorney's Office in Los Angeles, and had been called to duty, was serving over at the Adjutant General's Office. I decided that on Friday when I was to go out on the "Chief" that night back to Los Angeles, that I would go over to see Hugh. I came through the front door of the Munitions Buildings Office and went in. I met Hugh, and Hugh said, "Well, here's Major [K.D.] Pulcifer. He would like to know you." Major Pulcifer stepped up to me and handed me an order that Leon David, now being in Washington, will report to duty immediately, there. And to myself, I said, "dirty pool, dirty pool!" Why? Well, any person in the armed services guilty of prosecuting a claim against the United States can go to Leavenworth for an indefinite period or a \$10,000 fine. But worse than that, they ordered me here to duty without the possibility of bringing my family or bringing my goods or anything else for the one-year term that we were supposed to have. So they went clear to the adjutant general, James Ulio, and they rewrote my orders so that I could go back home, report and take the train on July 4, 1941, to come back to Washington. So that's what I did. I stayed up all the night, writing all this report to the Harbor Commission, and when I got home I found that they weren't around. But I had to tell them that I wasn't going to be there any longer. Anyway, I got on the train on July 4, 1941, and started for Washington. I reported then to the adjutant general. Under MR1-10 Mobilization Regulations, it was provided on the basis of World War I experience that there would be an officer appointed at all major commands to look after matters of morale and welfare of the soldiers. So there I was in Washington, D.C., and I was placed in a little branch which had expanded, called the Morale Branch of the Adjutant General's Office. Anyway, by October, it was well assumed that things were going to happen in the Pacific.

Q: What year?

DAVID: October of 1941. In the Philippines, my two unit instructors in field artillery had both been sent down the year or so before to train the Philippine army, and they were due to come home in July, 1941. The Army extended their duty there, and they got the Philippines to initiate their selective service in October of 1941. They also started to build up our forces in the Philippines and also to send them materiel and everything.

On December 7, 1941, those were on the ocean. The men were diverted to Australia. The supplies and so forth were all diverted to Batavia and New Guinea.

Going back to my own experience, in the course of this negotiation with the City, a second act came when the Navy Department asked to have some representative come before them, before Secretary [Frank] Knox, to talk about the case. We'd said that the City had already leased the Reeves Field for a period of years for a dollar a year for Navy aviation and that, therefore, instead of destroying the terminal facilities for the City, they ought to negotiate with the City for some leasehold, which would not give up what the City owned, and they could have it for a reasonable fee. Why try to condemn and take away the big asset of the port? So anyway, the Harbor Commission telegraphed me, asking if I could appear before Secretary Knox to present the case. I said, "A military officer before Secretary Knox?" "Well," they said, "can't you go as a friend of the court or something like that?" I went to the adjutant general and told him about the situation, and I got the go-ahead, not as a representative of the City, but as an officer of the armed forces, intent on giving whatever information I could to aid the armed forces. I went to the office of Secretary of the Navy Knox, and was received by him along with a couple of admirals, one of whom I believe was Admiral [Stuart H.] Ingersoll and he asked me to relate to him the story of our dealings in regard to the harbor at Los Angeles. So I spent some little time covering the various steps of the development of the harbor and the fact of the exchange that Congress had authorized and so forth. I finished and one of the admirals said, "You've just left out one thing." He added some other little detail. They'd studied my answer from Hell to breakfast. Well, anyway, there wasn't any conclusion at that time. But the next fact is that they asked to have the officials come in and sign an agreement. So the Harbor Department Commissioners came to Washington to do so, headed by Ray Chesebro, city attorney.

During the interim, the summer, I had been history-minded. With Hugh MacDonald, likewise a major at that time, I traveled the whole country, and had gone up particularly to Gettysburg. All of our training maps and problems were based on the old terrain of the Gettysburg Quadrangle running through Pennsylvania and Maryland and so forth. So it was quite familiar to us from our studies. So I went up frequently and became quite well

versed in the Battle of Gettysburg. When the port commissioners came up with Ray Chesebro in December (in fact, they were there earlier; I think Ray was even there during Armistice Day and went to a memorial service at that time). They wanted to see the place, and on December 7, 1941, they said that they would like to go up to see the battlefield of Gettysburg. We entrained in my old Studebaker and another car and went to Gettysburg and got there real early, smelling the apple fields as we went through Maryland, and I went over the battlefield, bit by bit with them, and the net result was that we got dinner somewhere, but didn't get news of Pearl Harbor. At 9 P.M. we came rolling in to my little place in Arlington and as we came to the front door, my daughter rushed out and said, "The Japanese have bombed Pearl Harbor! The Japanese have bombed Pearl Harbor! What does that mean, Daddy?" And Ray Chesebro said, "That can't be, that can't be," But it was. The next thing over the radio, everybody was directed to report for duty the next day, which was Monday, in uniform. We'd been out of uniform all the time. So, we reported in uniform, and there we were.

During the interim between July and December, the section I was in had expanded from about eight or ten people to some eighty and our little section was then called the planning group. And so I started doing planning, all kinds of planning. These were still Selective Service days. The main idea, among other things, was how to make Johnny happy and make his folks happy while he was away in Selective Service, and how to keep his congressman happy. So the department was engaged in building field houses. We worked on the camp newspapers, we worked on radio, we worked on telling people why this special service operation was necessary, and among other things, we were faced with the expansion of the army by the selective service system, and the question was, where do we get the morale officers who have not even the slightest idea of what we were after, to man them? So, it was decided that the Army didn't have qualified officers but a lot of officers were already assigned around the country. So we had a big conference in Washington in December, and those officers came. During this time, I'd made studies of different things. The first was to find out what the cost would be of taking the National Guard divisions that were harbored in their own home states and moving out of the state to get them out of the political deal of always writing their Congressmen and raising hell. So I made that study, and what happened? I had to go through

the different departments to get the prices and everything of that sort. On that deal, I presented the plan. General [James] Ulio looked at it and said, "David, did you write that?" I said, "Yes, sir." He said, "Thank you very much. I congratulate you." He put it on his desk. Two weeks later, it came back, disapproved. Among other things, besides having made up training schedules for troops, I made up a program for establishing a school where we could give training to some of these new morale officers, and I worked it out in some considerable detail, and sent it up to General Ulio and it came back with a compliment, "Disapproved." Back in the drawer it went.

The war broke on the 7th of December. The first thing that happened of personal interest to me was that as of the first of February, all of the officers on active duty were to be promoted. Originally, it was provided that all of the regular army officers were promoted as of February 1st and all reserve officers on duty would be promoted as of February 7. Well, that didn't last, and very shortly we were all promoted, and so I became lieutenant colonel on February 1, 1942. And at that particular time, the War Department was now convinced that we had to have a school. So right away, orders came buzzing back to our branch, "We've got to set up a school." Somebody said, "Well, David worked out a plan for the school." So out it came, out of the drawer. Colonel Taylor E. Darby, an old wartime veteran, who had been an instructor in the Command and General Staff School, had been the executive officer of the Surgeon General, was the head of my particular section. He was made commandant and I was made an assistant commandant of the new school to be set up at Fort Meade, Maryland, on February 4, 1942.

So anyway, we went over to Fort George Meade and opened up a school. We opened it up for a hundred officers a month. We had to improvise our studies pretty much. We found that we could bring in a lot of physical training people, that being one of the things that we were charged with. We had an education group, and so forth and so on. So the school got running and I was assistant commandant, and Colonel Darby was the commandant. As it turned out, he was more interested in what was going on in the classroom than I was, so I, with some false steps, was helpful in running the school. We had a faculty that we gathered out of the more promising people out in the field. In October, 1942, we were sending the first contingent over to England which was II Corps, reinforced. The planners immediately said to us, at the school, "We want to know the officers in

the school that can be sent to the Corps.” We scratched our heads and said, “well, we’ve got a bunch of lieutenants, and we’ve got a bunch of captains, but no lieutenant or captain is going to set up a program with the generals in the Corps; he has to have some rank.” So, actually, we stripped the faculty of four of our majors and sent them over with the II Corps to England.

Later in the year, the brass understood that 100 officers a month were not enough — they wanted a 500-officer school. So Colonel Darby and I went around at that time inspecting civilian institutions that had been denuded of their male contingent by the war and which wanted to be put to work by the Army. We ended up at Washington and Lee University in Lexington, Virginia. Colonel Darby and I had arranged to come down and open the school on December 5, 1942, and I was sent to Fort Benning, Georgia, to see the training methods there and to meet General Manton Eddy who was then the commandant. I had just returned to Washington when I found that Colonel Darby had been recalled and was going to take charge of the big new Army hospital down in San Antonio, and I was to be the acting commandant of the 500-officer school at Lexington.

So I went down to Lexington, brought the family down and we started in to set up the school. But we didn’t have faculty, we didn’t have an Army installation to support us, and so it was quite a wrestle. In the meantime, we were trying to develop courses that would be apropos to overseas. All those majors who had gone to II Corps from the school at Fort Meade ended up in November in North Africa. So I received personal letters from them. I asked when I wrote them, “Tell us which of these things that we have been trying to teach the men have been of use?” Well, they came back with some very pungent comments about some courses. A lot of activities, however, related to physical training. After their landings they were able to take troops out for some training or let them play volleyball or active games, to take tension off and to steady them down. As fast as I got the letters from these officers, I sent them on to the then Special Services Division in Washington.

On December 21, 1942, I was promoted to the rank of colonel. We carried on with the school, trying to struggle along to set it up shorthanded and work out a curriculum. But one day, two generals came down from Washington. They said, “You know, David, we’ve been trying to find out what the situation is over in North Africa, relative to the special personnel

services. Almost the only information we have is from these personal letters that came to you from North Africa. They sent a major to Ike's headquarters in Algiers to explain the functions morale and special personnel services were to do. Then a cable came stating a long list of things the command wanted. After things they needed to set up a program, the cablegram asked for "one qualified officer to take charge." The generals came down again and said, "Colonel David, you seem to know more about this than anybody else, you are it."

I went to Washington for a brief spell to prepare. Among other things, I worked out a multi-million dollar procurement list of things that had to be sent, and the staff was really astounded. But General Osborne, who had been promoted to head this operation, regretfully signed it, and then I took off and I went to North Africa by way of South America. We flew out and went down to French Guinea, British Guinea, and ended up at Natal and then over the South Atlantic into Dakar in West Africa. I then flew over the Sahara to Marrakesh and then to Casablanca, and ultimately, in April, I reported in Algiers.

Q: I want to get back to your legal career just as fast as I can, but I just noticed on the wall of your den some pictures from Bob Hope and Irving Berlin. Were they associated with you in any of your activities overseas?

DAVID: Yes. Bob Hope and associates were the first of over 100 USO entertainers that we cared for and routed. "This is the Army" was a unit of Army personnel which came to Italy.

Q: Tell me the particular awards that you got, especially from foreign countries.

DAVID: I received the Legion of Merit from the United States; honorary Officer of the British Empire, military division (O.B.E.); Commander of the Crown of Italy; Medalha de Guerra (War Medal) from Brazil; and the Médaille d'Honneur d'Or (Gold Medal of Honor) from France.

Q: Did you ever supervise the firing of a gun in anger, after all of your field artillery experience?

DAVID: All the colonels of field artillery were staff officers. The field artillery was reorganized into battalions that served individual infantry or armored units and so the artillery as a regiment didn't exist. Battalions were

commanded by lieutenant colonels. So we were spare parts. And I didn't fire, although I did pull the lanyard of a gun when I was at a unit firing at Monte Cassino.

But anyway, you asked about USO performers. Among others, I had a section which originally came over as so-called theatrical specialists. The plan was that they would teach the soldiers to put on soldier shows. Well, it was fine in the training and service areas, but we wouldn't set up such activities except in the back areas and the men there weren't the fellows who needed such diversions the most. So they ended up as being officers that moved USO people as mobile units around the Theater. There were over a hundred of those different USO troops that my section took care of. Among them, of course, was Bob Hope's unit. Bob Hope was one of the best. He was in North Africa just at a time when we could move his unit about by air. We had just chased the Germans out of Tunisia and were getting ready for Sicily. So he had good audiences and had a good reception. On my 42nd birthday, August 25, 1943, he was broadcasting from Radio Algiers, back to the United States. I remember that quite well, because that night we got a big bombardment from the Krauts and Italians. So I saw quite a bit of him. He stayed at the Hotel Aletti in Algiers. When his troupe arrived, and the first time he left the hotel, he was waving his arms as we came down the steps and he said, "Here comes Arab Bob Hope." I said, "Yeah, take a look at yonder fellow out here in what looks like a bed sheet. There's your Arab." Then he said, "He looks like a walking lister bag." He used that comparison later as an army gag. Bob Hope had a great knack of sensing the temper of a crowd and ad-libbing. He didn't write all of his stuff, although a chap by the name of Block came down from Britain and put out Hope's broadcast from Algiers to the States.

Irving Berlin, of course, in the United States, organized the show, "This is the Army." The show was destined to have a great deal of acclaim through the camps and training stations. But the time came when "This is the Army" was a bunch of Army guys who had never seen a battlefield and had never been where the fighting was; so it was decided to send them over to us. They arrived after we'd taken Rome. I worked with Irving Berlin and his manager, Ben Washer. So we later brought them to Rome and gave a big performance there. In fact, you see there wasn't any place outside of that where you could take 100 men, or even 75, under security. But in the

Brancaccio Theater of Rome they put on a show. So the men filed in and went up tier after tier of seats, all in helmets and carrying their guns, to sing their songs. And I had the then ambassador to Rome and the admirals and everybody else to witness the show. And they just got started, "This is the Army," and putting on some skits that in fact they really were soldiers, when some jerk in the back row let go his rifle and it went bump after bump down to the stage. That turned out to be the hit of the show. But anyway, I asked Mr. Berlin if I could have a photograph. He said, "Gladly, if my manager says it's all right." So he did, and he wrote this, and he wrote it for Louise — he autographed it. I have pictures of Bob Hope along the line in several situations. But the one that hangs up here with his autograph on, I got back from him more recently, when he had his big anniversary party. And I wrote him a nice letter and he came back with that picture you see there and to decipher what he wrote, it's, "Thanks for the Memories." Then, of course, he wrote his little story, *I never Left Home* [1944], about his trip over there. He wrote about borrowing Colonel David's big-bottomed suit. I was told when I got aboard the airplane to be prepared with civilian clothes. So I had a loose summer suit that I took, thinking perhaps they would land in neutral Portugal on the way, but no, instead went to Natal and Dakar. So, I loaned it to him. So it was immortalized in the book.

Q: What date were you discharged from active duty after the war?

DAVID: February 26th, 1946. We had V-I day in Italy before V-E day in Europe and V-J day in Japan, and after the time we got the Germans out of Italy, we'd been getting ready to ship everybody to Japan. I'd initiated tours for the troops up through Italy and Switzerland and that sort of thing, but headquarters around August of 1945 began releasing men to the States on the basis of the time overseas. So my number came up, and so I came back to Fort MacArthur in Los Angeles and then was given all my leave, so actually I was not discharged until February 26, 1946.

Q: Leon, I've got a list here that I've acquired on some of the writings that you have made and some of the things that you have published, and I see from my list that you began publishing in law reviews as early as 1934. Is that substantially correct?

DAVID: Yes.

Q: I noticed that most of the time prior to World War II that your writings were concerned with the clinical lawyer, with the formation of legal aid societies, and in general, the clinical work of lawyer reference and legal aid. Is that substantially correct?

DAVID: No, because, you see, I had my articles and my book on tort liability. I had written articles on taxation, municipal organization and planning and zoning. In 1935, I received an M.S. degree in Public Administration at USC. After the war I received the degree of Doctor of Public Administration. My thesis was on "The Lawyer in Government."

Q: Well, I'll get to the tort liability.

DAVID: It was in that interim, I authored and published a survey of the handling of tort claims in the City Attorney's Office. Then I had some in eastern law reviews, all dealing with the general subject of tort liability.

Q: Well, I'm going to intrude in your memory a little bit and tell you that this includes not only the *Hastings Law Journal* and *Hastings Constitutional Law Quarterly*, to which you contributed several articles. According to this list, you have written for the *UCLA Law Review*, for the *USC Law Review*, the *L.A. Bar Bulletin*, and then in the East, the *Minnesota Law Review*, the *Annals of the American Academy of Political and Social Sciences*, the *American University Law Review*, *University of Pennsylvania Law Review*, the *Tax Digest*, and at least two chapters in the CEB [Continuing Education of the Bar] book, *California Civil Procedure During Trial*. According to my notes, you began writing law review articles in 1934, and at least the last one that I see published was in the spring of 1980. Is that correct, or substantially so?

DAVID: Of course, the big one written and compiled in the last part of the eighties was the State Bar history, not published.

Q: Well, during this period of some forty years, you have certainly written on many, many aspects of public tort liability and the role of city government, so far as tort liability is concerned. Can you tell me what general fields you consider that you've contributed the most in?

DAVID: You have named them in general. I would add my California constitutional law articles and my doctoral dissertation on the lawyer in government [*The Role of the Lawyer in Public Administration*]. I have also

entered the historical field. For instance, my great aunt went to Reverend Jason Lee's mission in Oregon in 1839. She wrote letters back home which I suddenly came upon and so I edited them, annotated them historically, and published a volume called, *The Raymond Letters* [1959]. The letters themselves are regarded to be the only account extant by any woman who'd written at that time from Oregon.

Q: And this was what year?

DAVID: 1839-40. So the Oregon Historical Society was interested, and I spent some time up there with them. Aside from my gathering up my things here, my various perpetrations in prose and poetry, called, *Old 89, My Horse, [and Other Tales, Essays and Verse, 1974]*. I wrote a 25,000-word novel which made its rounds to several publishers and finally to a well-known critic who persuaded me that I'd better try again. It was a story of the *Sun Traveler*. The *Sun Traveler* was a tuna fishing boat out of Los Angeles that burned off of the Galapagos Islands one Christmas Eve. The insurance company sought after some years to try and recover the insurance money they paid for it on the ground that a man by the name of Musgrove had confessed that he had set the fire and had been paid \$5,000 by the owners of the boat to do it. I tried that case and it came out as a verdict in favor of the boat owners. I rolled that into a novel involving a mythical fisherman and his sweetheart who, however, decided she wasn't going to marry a fisherman, and his various pursuit of her till finally they caught up with each other in Hawaii. She, in turn, had been left an orphan by her mother and didn't remember her father or her father's death. And her father's death was revealed to her when she went to the Islands and it turned out that he, all along, had been one of the crew of the fishing boat who had lost his mind by amnesia and had known his daughter for several years without recognizing her. The main objection to the novel was that it was a large number of well-written scenes, according to my critic. "But," says he, "the public now is used to television. The first scene in television must show the actors; it must immediately show the problem that they are going to meet, and when they meet one problem, it has to lead itself logically to the next. All the pretty descriptions of life on the sea and Hawaii and so forth, are overdone from the standpoint of the current public, and they won't pay you for that."

Q: Well, aside from your novels and non-legal writings, you have written a published history of the first 128 years of the City Attorney's Office in Los Angeles, haven't you?

DAVID: I did that in 1950 [*One Hundred Twenty-Eight Years in the History of Los Angeles City as Seen from the City Attorney's Office*, republished in the present volume of *California Legal History* (vol. 6, 2011)].

Q: What else have you published, either orally or in writing, as far as the history of law in California is concerned?

DAVID: The California Judges Association, through its committee on the history of the association, wanted to have a history of the judges, and so I undertook to start in on that. In the course of time, Judge Mark Thomas, whom you know, was the chairman, and you also were on that committee. I made some preliminary starts on that, but based on my family situation for the last year and a half, and the fact that these latter days of the California Judges Association all occurred really after I retired, led me to sign off that project.

Q: Well, didn't you write some sort of a history of the State Bar of California?

DAVID: Yes, I wrote a draft of a history of the State Bar of California, and that is one that I have described in a way to you, which, however, never saw normal publication for various reasons.

Q: What year did you write that?

DAVID: Research and writing on this took almost three years. And it really began on the fiftieth anniversary of the State Bar in 1977.

Q: You began your history with 1927 on the formal organization of the State Bar?

DAVID: I began earlier than that, insofar as the judges were concerned, because in the judges section I tried to get together what I could find out about the activities of the judges from the time that the old California State Bar was in being. From the very start of the bar associations, it was recognized that when a man became a judge, he wasn't quite on the same plane as the attorney. His interests led him in a different direction. The attorney was interested in winning the case, and the judge was interested in achieving justice, if you want to use some trite terms. Therefore, the judges were

encouraged to have a section of their own at the early bar meetings, and they did. That carried on through to the organization of the California Bar in 1927. I, having been admitted in 1926, attended that first meeting of the State Bar.

Q: Where was it held?

DAVID: I recall it was held at Del Monte. I may be in error, because another one of the very first ones was held at the Hotel Del Coronado in San Diego. But the judges were active in that meeting, and some were very active. Then, there appeared on the scene the feminine lawyers — Clara Shortridge Foltz, being one of the first.

Q: What political office did she hold, do you remember?

DAVID: None. Her father [sic; brother], Sam Shortridge, of course, was a United States senator from California. She was admitted very early, and some other women were admitted early and were active. Let's see what I can find here for you. You want to hear particularly about the judges?

Q: No, whatever you have written — the reasons why you wrote it, so far as the State Bar or the judges are concerned.

DAVID: The State Bar, at the start, of course, was puzzled by the fact that the purpose of organizing the State Bar was really to get a procedure to discipline lawyers. Some judges in San Francisco had been recalled on account of their activities, and attorneys wanted to discipline them. And that precipitated, coalesced, the idea to get the local bars together, because there wasn't any formal way of discipline. Each court could discipline the attorneys. The bar associations as such had no standing before a court to initiate the proceedings.

Q: Certainly among your close acquaintances were some of the early leaders of the State Bar. Can you tell me some of those names?

DAVID: I'm trying to recall the time frame, because I attended these State Bar meetings rather religiously for a number of years. I have in the draft of my history for the State Bar, Chapter Nine, "The State Bar and the California Judiciary." There had been a Judicial Section in the California Bar Association. That section in 1925 secured the introduction of a bill in the Legislature to establish a conference of judges. My old friend, Judge J.R. Welch of Santa Clara County Superior Court, was the chairman of that particular

section. That bill passed in the Senate but was killed in the House. In 1926, Judge John Perry Wood in Los Angeles had been the chairman, and Judge Harry Holzer of that superior court served as a secretary of that organization of judges. For several years, Holzer had been very diligent in reporting judicial and legislative matters to the judges. And on formation of the Judicial Council in 1926, Holzer became its all-important first secretary. And later on, that passed. In 1926, before the State Bar was started, there was a movement for a constitutional amendment providing for judicial retirement and retirement pay. That was defeated in a general election. Some said the title on it was misleading. I don't know. The amendment was supported by the California Bar Association, and the brief of Chief Justice [William R.] Waste was put in, examining the statutes of seventeen states, or something like that, providing such systems, and that was published in the *State Bar Journal* in 1926. I remember Chief Justice Waste presiding over a meeting of the State Bar, and the Morrison Lecture. This one was definitely at Coronado. The Lord Chief Justice of Canada, as I recall it, was to be the speaker. But Chief Justice Waste got up, and absolutely forgot the name of the speaker, and he fumbled for his notes and said, "I have the name here, somewhere, my secretary must have provided it. Oh yes, here it is" And he introduced the Lord Chief Justice that way. Well Chief Justice Waste was reaching the age of retirement, and shortly he actually did.

Before the State Bar met at Del Monte in 1929, the so-called Hardy decision had come out. Carlos Hardy, a judge of the superior court in Los Angeles, was a very active member of Aimee Semple MacPherson's Angelus Church Center. I made the point, as I think in my correspondence with you, that that was quite a vigorous evangelical concern. It was, however, embellished by the showmanship of Aimee Semple MacPherson. She was hailed as being the prime advertiser of the time by Bruce Barton, or somebody of that sort. She was always putting on the bizarre. She was allegedly caught in a love nest at Carmel with the radio announcer of the Temple, and thereafter disappeared for a time, and a story was given out that she had been kidnapped and was down in the Arizona or some other desert. She reappeared. Then Asa Keyes, as district attorney of Los Angeles County, tried to make something of it, and indicted her for fraud of some indefinite sort. So Judge Carlos Hardy rose to her defense. Allegedly, he was paid \$2,000 for the services. The State Bar sought to bring him to answer the

charge. This was resisted, and the Superior Court of the State of California, the presiding judge of that time being Marshall McComb, in the case held that judges were not members of the new State Bar and couldn't be disciplined by them, which very greatly distressed leaders of the Bar. He held also that impeachment was the only remedy. And impeachment of Judge Hardy was initiated, as you know, and failed.

Q: Let me pick up a note that you neglected to say, and that is that the State Bar started disciplinary proceedings against Judge Carlos Hardy, and that's what gave rise to the lawsuit in Judge McComb's court.

DAVID: That's right. He refused to honor the summons to appear, among other things. And I guess they wanted to remand and compel him.

Q: When that case was finally decided by the Supreme Court it was definitely stated then that judges were not subject to State Bar discipline and, in fact, were not truly members of the State Bar. Is that correct?

DAVID: That is correct. After that, the Hardy decision was one of the chief things that was discussed at the 1929 meeting at the Del Monte convention. I was there. I seem to remember that, in the general bar session, the motion to have a committee appointed to determine how judges should be brought into the State Bar, integrated, was laid on the table. The judges at that time ran their own Judicial Section. C.J. Goodell, San Francisco Superior Court, was their chieftain. Presiding Justice [Nathaniel] Conrey of the Second Appellate District, and Judge William Finch, of the Third District, urged that judges should find some way of returning to State Bar membership. After all, they were lawyers. Presiding Judge [Lewis R.] Works of the DCA argued that judges were lawyers and hence were required to be members of the State Bar, but were not subject to its discipline. But the Supreme Court Justices [William H.] Langdon and [John E.] Richards, who came before the State Bar meeting, explained their court's position that judges should be dissociated from the State Bar. Well, therefore, the judges founded a new Association of Superior Court Judges. Judge Raglan C. Tuttle of Nevada County was president of it, and Judge Homer Spence, of the Alameda County Superior Court at that time, was on the executive committee, and Judge [John F.] Fleming of Los Angeles was on it, and also Judge [C.E.] Beaumont of Fresno was on it.

Q: He was later a U.S. district judge, wasn't he?

DAVID: Yes. In October at the State Bar Convention, it was decided that all judges should be retained as honorary members of the State Bar, with all privileges except the right to vote and hold office, and to be free of dues and assessments. And they let that be known in the Judicial Section. Though I almost quoted that back to them when, for a brief time, I became a member of the State Bar after I retired and reneged, and went back to being a judge, retired.

Well, the first program of the 1930 Convention (now I have my notes) was the first meeting of the association which was formed, called the Association of Superior Court Judges. Judge Raglan Tuttle of Nevada County was the president. Morris T. Dooley was there, I know, and later on he gave his impressions, which I think were published in the *State Bar Journal* or the *L.A. Bar Journal*. There were some thirty or forty judges present at these original meetings. In 1933, the organization became known as the Judges Association of California, so that they would include if they wanted to, to have them there, the appellate judges, because although there is a differentiation between the State Bar and judges, there was also a distinction between judges of the superior court and of the other courts who were superior to them.

The Judges Association organized its own committees; they had one on legislation, and they were primarily concerned with legislation affecting the practice of the law and things that affected the courts. And the judiciary began to expand about that time, after the depression and so forth; the population increased and judges came on up along the line. However, the Association of Judges meeting, held at Yosemite in 1941, found only fifty-seven judges present, according to the report.

Q: That entire association meeting was held at the Awahnee Hotel. And the hotel hasn't increased in size since then.

DAVID: Well, there came in some people that I got very well acquainted with. Robert Scott of Los Angeles was made chairman of the Association. That September I'd already departed for the Army but got to know him on our court. And Judge [Andrew C.] Scottky of Mariposa County and Judge A.P. Bray of Contra Costa County were supposed to work with the California Youth Authority to assist in its development. That was the kind of

thing they were in. Well, by 1946, five years later, they changed their name again, and then it was known as the Conference of California Judges. And at that particular meeting, in 1946, which I attended, Mr. Justice Raymond Peters declared, "The Conference of California Judges is a judges union. It has all the municipal, all the superior and all the appellate court judges of the state as members."

Q: I think now would be an appropriate time to put a personal note in, because I want to get back to Leon David. In the memoirs that Earl Warren wrote, he mentions, to the best of my memory, only one judge as being associated with him early in his career, and that was a man later made judge, by the name of Victor Hansen. But somehow or other I associate Victor Hansen and Leon David and Louie Burke as a triumvirate. Can you tell me a little about the three of you working together?

DAVID: In my legal aid work, one of the first people I met was Kimpton Ellis of Los Angeles. He was very much interested in it. His office mate at that time was Joe Vickers, who had resigned from the court and become a practitioner. (He was later reappointed to the court.) Over the years thereafter, I was perpetually a member of the State Bar Committee on Legal Aid, and its chairman on various occasions. In that connection, Earl Warren was a member of the Legal Aid Committee of the State Bar in one year, which year I do not recall exactly. But I do recall that I came north to meet with the Northern California members and I met with Earl Warren in his office as district attorney of Alameda County. And that was my first connection with him. Victor Hansen was a Los Angeles attorney, and I did not know him particularly until after the war, and then I met him in Los Angeles, the first time, because he had been the adjutant general of the state [National Guard] under Earl Warren, and was a brigadier general in the National Guard. I was interested in the National Guard. We participated in Earl Warren's campaign for governor . . .

Q: What year was this? Not his first campaign, was it? His first campaign was 1942, so the next campaign would be 1946 or 1950.

DAVID: The campaigns that I took part in were in both those years. I became a member of the Republican Assembly in Los Angeles, with Ed Shattuck, with whom I had been associated in the Junior Chamber of Commerce, before the war, before I outgrew the age of thirty-five. So I was the

vice president of the Los Angeles Republican Assembly. And interestingly enough, one Edmund G. Brown was vice president of the Republican Assembly in San Francisco at the same time.

Q: I just wanted to make a note here that you weren't misquoting or mis-speaking yourself, because, in fact, Edmund G. Brown, Senior, was at that time a Republican. Is that correct?

DAVID: That's right, yes. I ran and was elected to the County Central Committee of the Republican Party, and I was elected twice to that committee and I got very handsome votes, because at that time, we were listed alphabetically, and I ran out in the Santa Monica area. We had some other legal lights who were in that operation, and I was still a member of the County Central Committee when I was called to active duty. So I had that background, at least, in the political scene. And I came back in 1945 and 1946. In the 1950 campaign, I was asked whether I would go and be a speaker in the [Warren-for-Governor] speakers bureau, and there was where I first came in contact with Victor Hansen.

Q: Was Louie Burke on that speakers bureau with you?

DAVID: I don't recall that he was. He may have been. That was the campaign of 1950, it comes to my mind now, because when Governor Warren phoned me and told me he would appoint me to the municipal court, he said, "Of course, I'm sorry to do that because I'm losing one of my best speakers."

Q: When were you appointed to the municipal court?

DAVID: In October of 1950. That was a rather interesting operation, anyway. It had been suggested to me, long before that time, that I should go and let my friends put me up for a position on a court. That was even before the war. In fact, one or two municipal court judges at the time suggested that. The salary didn't attract me.

Q: But at that time you were still assistant city attorney in the City of Los Angeles.

DAVID: That's right. And furthermore, I sat in the office next to the chief, and it was generally assumed that I was aiming to be the next city attorney of Los Angeles. When the initial suggestions were made, the municipal courts weren't making very much money, and the city attorney of Los

Angeles was making at least \$10,000 a year, which was pretty good in those days. Cabinet members in the U.S. Cabinet didn't get much more at that moment, as I recall — \$12,000 or something like that.

Q: But that was considerably more than what judges were making at the time?

DAVID: Yes. So anyhow, be that as it may, a number of my friends after the war were concerned about what I was going to do — whether I was going to take a regular Army commission and go out that way. But in the City Attorney's Office another situation had arisen. Here I was away for practically five years. When I went away, I was a crown prince, and when I came back, there were a lot of others who had their mind set on that office and had spent their time working.

Bill Neal was in our office, one of the old timers and a very fine lawyer, who had been the advisor to the City Council over the years, although I'd been his substitute when he was gone and had generally worked on the opinions that went to the city officers. Bill had been in Sacramento as part of the city lobby for many years and knew the governor quite well. The governor offered him an appointment to the municipal court and told Bill that he was capable and deserved more, and would be advanced at the proper time, but Bill turned him down. So one day, before we went to lunch, Bill Neal and Ray Chesebro and perhaps one or two others were all seated in his office discussing things, and he told Bill he thought Bill had made a mistake in turning this down. But Bill didn't think so. And actually, of course, he was well entrenched in the city government and looked forward to retirement under the city plan. And then I said, "Well, I wonder what I'd do if the governor made me an offer." "Oh," Ray Chesebro said, "don't be silly — you'd take it." Well, I got back from lunch earlier that day than the rest, and lo and behold, here's a call from Governor Warren. He wanted to know if I'd accept an appointment to the municipal court. I could have plenty of time to discuss it with my associates and with my wife, and I said, "Well, Governor, I won't take that time, but I accept your invitation right now." So, they came back from lunch. I went in and saw Ray, and Bill was there, and I said "Well, that man called while you were away." He said, "What do you mean?" I said, "The governor called me and asked me if I'd accept an appointment to the municipal court, and I told him 'yes.'" "You

did what!” The net result was that I did, and I was inducted into the municipal court. Governor Warren expressed to me again that he was quite confident of my ability, and that in the course of time, if things went well, that I might make superior court.

Q: So you were on the municipal court when? October . . .

DAVID: Of 1950.

Q: All right. Then, in September of 1953, you were appointed to the superior court. I think that the largest group of judges ever appointed at one time was appointed by Governor Warren. I think that through legislation and other reasons, there were some nineteen vacancies.

DAVID: Eighteen. The Legislature increased the number of judges to eighty in the superior court. The appointments were made by the governor in September.

Q: September of 1953?

DAVID: Yes. At that particular time, I had been serving on the superior court by assignment for two years or a little less. I served in the Brunswick Building [843 S. Spring Street, Los Angeles], and in September 1953, I’d spent six months being the Criminal Department in the Long Beach branch of the superior court.

Q: Just to jump ahead a minute — something very drastic happened in October of ’53. The chief justice of the United States, [Fred] Vinson, died. And shortly thereafter, Warren became chief justice. So you were among the last of his appointments.

DAVID: That is correct. As a matter of fact, he had to chase me around. At that particular time, I was the assistant commandant of the United States Army Reserve School at Fort MacArthur. And he caught me at Fort MacArthur and told me he would be pleased to appoint me, and I said I would be very happy. And I congratulated him on his prospective appointment to the U.S. Supreme Court. I saw him on occasions after that. I remember he came and talked to the L.A. Bar Association one day. He came by and said, “Well, Leon, how do you like this business of judging we are in?” So I had to tell him it was going well. He said, “I’ve had good reports on you.” I said, “That’s fine.” Then, of course, he came for the dedication of his portrait in the Los Angeles courthouse. After that ceremony, when I chatted

with him, I asked, "Would you autograph photographs of your portrait for all of the judges that you appointed?" So I got the photographs, and I got them all autographed, and I have mine hanging up upstairs. That was the last official contact I think I had with him. I had other informal contacts, which were a surprise, because of my son. He met the daughters down on the Santa Monica Strand and sparked around with them, and brought them to our home where we had lunch together.

Q: According to some notes that I have, you served in the Appellate Department of the superior court for two years.

DAVID: That's right. I went in and served with Ed Bishop and Frank Swain for those years. When Ed Bishop retired, Harold Huls joined the Appellate Department. After retirement, I served on a further appointment.

Q: Well, I don't want you to be unduly modest, but who was the better author of trivia, you or Frank Swain?

DAVID: That's a sad story, my friend, and I'll tell you why. Frank Swain and the other two of us (Ed Bishop and I) for a long time before we had the judges' lunchroom in the new courthouse used to meet in a little cubbyhole and eat our lunches. And at every lunch, Frank would say, "Well, when I was coming in this morning a little rhyme occurred to me, and it goes like this." And so he would rhyme it out. And then the next time, I'd come in and give a rhyme, in competition with him. I didn't realize that maybe that was a little irritating because he thought he was pretty good. Then, one rhyming occurred which was connected with our Christmas celebration. You remember, three judges, namely, Swain, Huls and David, came up and sang a ditty, called "The Man on the Flying Trapeze," where we talked about the man above us and where the end result was a quatrain with "ninety day flitting, they all call old Witkin and our judgments go floating away." Well, the Chief didn't like that very much. He thought that was disrespectful to the Supreme Court. The judges and lawyers thought it was great. Anyway, I was not reappointed and A. Curtis Smith took my place after that.

Q: That was in 1960. When did you actually retire from the Superior Court?

DAVID: On July 1, 1967.

Q: And you didn't stay retired from judicial activity very, very long, did you?

DAVID: I may have told you how rapidly Louise and I became pedestrians, had our house sold out from under us, so to speak, and came north. Shortly after that, I had a call to go down and sit in San Luis Obispo County. The situation was this: there were three judges on the court, but they had Cal Poly in San Luis Obispo, the whole student population. They also had the California Men's Institution there, and they were deluged with writs for habeas corpus and everything else. They got so far behind, they wanted help. I found Justice A.P. Bray on the appellate court had been down there sitting pro tem, and I followed him for a month. The judges down there were very canny. They tried through their supervisors to get another judge and they couldn't. They had to rely on Judicial Council assignment. So anytime anybody offered a disqualification, they automatically accepted it. So the result was that there was a whole flock of divorce cases that hadn't been tried because one or the other or both had disqualified himself from hearing it. And so, I went to work on them. That was assignment number one. Then, again, out of Berkeley, where I was temporarily, I was assigned to sit in Napa County. And I sat up there for a spell. Louise and I moved over here to Danville, and then I was the impartial visiting judge who could be called in to hold all the hot rocks for the Martinez Court. And I did.

Q: How about on the Court of Appeal?

DAVID: In the Court of Appeal, my assignment came from a compound of various circumstances. One was that I had been recommended for the Court of Appeal appointment, and it actually had been carried up from the State Bar. And at the last moment, in a political move, I didn't get appointed. But the chief justice, Roger Traynor, knew it. I'd known him when he was working on the State Board of Equalization. And then, A.P. Bray, presiding judge of the First District and whom I had followed down into San Luis Obispo, spoke a good word for me. I had made his acquaintance down in Los Angeles where he served on appointment down there. So, I came in to the First District Court of Appeal to temporarily fill the vacancy of Byrl Salsman, who had been elevated to that court from Santa Clara County, and had retired. Byrl Salsman, incidentally, had been the thirteenth lawyer to hit Palo Alto when I practiced there and was pounding the pavement when I left. So, that was the start. Then a succession of events happened in the First District where Justice [James R.] Agee was incapacitated, and

I served then and after he died in office because of cancer. I temporarily filled that vacancy. Then Justice [Daniel R.] Shoemaker retired. The net result was, I spent three years on that court. Also, retired Justice Bray had been assigned and was serving, helping out, up in the Sacramento District. I don't think he liked to make the long trip from Martinez, he not driving. So he suggested that I be assigned up there, and I was. I spent a month there, and I was assigned down to Fresno, when a vacancy occurred there. Then back again to the Sacramento District.

Q: Again, on the appellate court?

DAVID: Again, on the Court of Appeal.

Q: A printout shows that you wrote some fifty or so opinions. Is that substantially correct?

DAVID: I haven't stopped to count them, but I don't know whether you have all the printouts. Anyway, I served down in Fresno and I went back to the Sacramento Court a second time for another month. Frank Richardson, who went to the Supreme Court, was then the presiding judge, and I served under him at that particular time. In each of those instances, particularly in Fresno and Sacramento, I had some very involved cases.

Q: Tell me about what you consider one or two of the most important for which you wrote opinions.

DAVID: Well, importance is in the eyes of whoever is concerned.

Q: Well, what do you consider important?

DAVID: In Fresno, we had a very interesting case involving timber rights and the transfer of timber rights down the line in a series of alleged powers of attorney. Parties, relying upon an opinion of the title company, went in and took out \$50,000 worth of timber on a particular timber claim, and the heirs of the original owner came in and wanted it. And so in *Jay v. Dollarhide*, in 1969, which is 3 Cal. App. 3d 1001, I went through the whole thing. Its ramifications were so involved that I had to diagram them on a blackboard and explain them to my fellow justices. My research assistant was a Mrs. Leonard at that time, who now is on the very court she served, the appellate court in Fresno. The result was that I found more points than the appellants, and I got in the David habit of retrying the case. So having raised up all these points, we called for a second hearing, whereupon these

new points were presented for argument. The net result was that the title company had to pay \$50,000 on their title policy. But *Jay v. Dollarhide* is still remembered by the people who were there. The presiding justice at that time, after the death of his predecessor, which was the reason I was sent there, was Fred Stone, and he also had been active in our conference of judges at the time.

We had another case, in 1970, in San Francisco, called *Sousa v. Freitas* (that's in 10 Cal. App. 3d 660), that has been embedded in some textbooks before we met palimony of live-in spouses. Mr. Freitas lived in the Azores, and he came to Oakland. And his wife in the Azores wouldn't follow him. So, in the course of time, he got a divorce from her in California, and married again, and then died. But in the meantime, his son by the first marriage had known of the second marriage and no doubt advised his mother of it. After Freitas died, the first wife came in with her claim for the estate. And the second wife claimed under the putative spouse doctrine. So, it really got involved because Mrs. Sousa, back in the Azores, apparently knew what was on. In fact, she wouldn't go to the post office to draw down registered mail which was sent to her in constructive service in the divorce suit.

Then we had another case in Sacramento, which involved taxation. And the case involved taxation of computers which had been rented to the State of California. They, having been rented for about ten years, the valuation at the end of ten years had become minimal because of technical obsolescence, so the owners claimed. But the Board of Supervisors refused their claim, and it went to a Board of Tax Appeals. And the Board of Tax Appeals was advised by the county counsel, who also advised the Board of Supervisors that there wasn't anything to it. Some of the members from the Board of Tax Appeals said, "That's not so. We're independent. We're going to decide this on our own." And so they went out and hired counsel on this question of valuation. So this taxation went on for about three years, as I recall it. And the nub of the opinion was that the Board of Tax Appeals is not an agency of the county government; it's an independent quasi-judicial body which is entitled to have its own attorney, since there was a conflict of interest where the county counsel was concerned. Therefore, I had to do justice without any particular precedent by ordering the whole matter to go back to the boards of appeal for three different years, and they were to pass on the assessments, and the assessors were to conform accordingly.

Well, it was so complicated, I had to diagram it on the blackboard and explain it to my fellow justices. The opinion went up and it was affirmed on appeal.

Q: How about when you were on trial court? Were there any trials that stand out in your memory as being particularly interesting or significant?

DAVID: Well, I think the most interesting one was where the insurance company came in and tried to recoup their insurance on the ground there had been deliberate burning of the boat insured.

Q: It was while you were an attorney that you were responsible for legislation that set up a time schedule for filing tort claims against a public entity?

DAVID: That went to the Legislature, I guess, in 1931.

Q: What was your role in that legislation, or what led up to it?

DAVID: We had this case of *Black v. City of Palo Alto*, wherein the lady had sued the city officials of Palo Alto for alleged injury at a railroad crossing. A complaint was filed on the last day of the statute of limitations, and the summons was filed on the last day it could have issued.

Q: You're talking 364 days after the accident?

DAVID: Summons wasn't taken out at that particular time, I don't think. But the net result was that the city officials and the railroad company were faced with a \$100,000 lawsuit for alleged injuries for Mrs. Black. And it came up on trial almost three years after the event. In the meantime, the witnesses, such as there were — the flagman at the crossing — had disappeared and had to be found. The membership of the Board of Public Works had changed. Circumstances and the physical condition had changed because the Railroad Commission had finally granted permission to open the Embarcadero [Road] as it passed Palo Alto High School, across the tracks at that time.

Q: You got a trip up to Idaho out of that, though, didn't you?

DAVID: I didn't go to Idaho, but the Southern Pacific finally found their flagman up in Idaho, and I went down to Santa Monica to check up on a previous lawsuit that the plaintiff instigated and pulled out of; and threw away a crutch after an alleged injury in a department store in San Francisco. So we were just mad about it, and knowing about claim statutes, we

said, “Well, anybody who wants to make a claim such as this should do it in a timely fashion.” And one of the main points of timeliness is the ability to go out and find the facts of what happened. That’s particularly true with sidewalk injuries, where somebody says, “I hit a one-inch dip in the sidewalk and I fell down, I did all of this, that, and the other thing.” So, the attorneys section of the League of California Municipalities went to work on that. I was a draftsman of the 1931 statutes and I think Earl Sinclair, of Berkeley, and I collaborated on it. It went to the Legislature and was enacted. The General Laws, I think 5618, 5619 and 5621 were the claims statutes that resulted because of it. We did something else. We went to San Francisco and hit the underwriters. If we’re going to be subjected to liabilities like this, why can’t cities and counties get insurance against defects, like any other landowner? So we dealt at length with Mr. Cleverdon, representing the underwriters. The net result was that the first insurance policies against such tort liabilities were made available to municipal corporations.

Q: Prior to that time there were no insurance policies?

DAVID: There were no insurance policies.

Q: My memory seems to say that there was a doctrine of sovereign immunity that took care of most of the situations then. Is that really correct?

DAVID: In 1923, the Legislature enacted the Public Liability Act which was based upon a case called *Chafor v. Long Beach* [174 Cal. 478 (1917)] involving the auditorium of Long Beach, where the court drew the distinction between proprietary and governmental functions. Defects in public property could be the basis of liability if two things occurred: one, that the officials in charge had notice of the condition and had reasonable time to repair, and the funds were available to do it. Those were the conditions. Then, when it came to the liability of the individual officers, practically the same conditions were stated. It wasn’t until much later, you see, that the present general public liability act was drafted by the California Code Commission, I believe, and adopted after the California Supreme Court negated the sovereign immunity doctrine, forcing the Legislature to spell out the bases of liability or limited immunities.

Q: In the sixty years that you have been associated with the practice of law, I think it would be fair to state that the changes in tort liability have been

greater than any other field. And in the field of tort liability, the field of tort liability of municipalities and other government agencies is certainly far different now than it was then.

DAVID: Well, it's the same story with the municipal corporations, let's say, as it is with other corporations. When we first established that they could be insured, that was not an unmixed blessing. Because now, with insurance for automobiles or anything else, jurors say, "Well, the municipality is insured." The courts also began to get that way. In other words, they are down to this business of expanding liability and spreading the "social cost" of injury. In workmen's compensation, the idea of fault disappears there. But the relationship there is enough to satisfy liability as part of the cost of doing business. So then others turn around and say to the public agency, "These kinds of accidents are inevitable, and therefore, as part of your cost of doing business, why not be subject to the liability?" And courts have had that idea. You will find in one of my law review articles, the alternative to municipal tort immunity and liability is more or less based on that principle. And judges, trying cases, have no doubt the juries have the same idea. I remember one case I tried, arising down in one of the residential subdivisions of Los Angeles. There were streets and banks up alongside it. A lady was driving about ten or fifteen miles an hour through a subdivision, keeping a good watch out, because she thought there might be children at play. And sure enough, up on the bank there was an infant of one or two years who was playing, who came rushing down the bank and ran into the rear wheel of the automobile. So they sued. And we tried the case.

Q: You mean the parents of the child sued?

DAVID: Yes, they sued. That jury got hung up interminably. And I gave them the instructions two or three times. And finally I called them in and said, "This jury has heard my instructions. Is there any instruction I can give, or is there any clarification I can make that will help you reach some verdict, because I think by now you should have reached one." Well, one lady hesitantly put her hand up and said, "Judge, if we follow your instructions, does it mean we can't give this little baby something?" And that was true, although in some cases — a criminal case — I don't know about the jury. I got prejudiced a bit. But I'd always kept, in my cases, a little guess under the blotter of what the jury might award in a given case. And

I accumulated those over some seventeen years. And I found out actually that high verdicts weren't given in Los Angeles. If I had decided the jury cases, on the average, the verdicts did not exceed my estimate more than ten or fifteen percent.

I found out something else, though. When I was out in the branch court in Inglewood, we tried some liability cases. And the jurors were largely the wives of people who worked down at the airplane factories where a good wage was, say, \$500 a month. An attorney would come out there in that court and come in with all kinds of claims of injury and so forth, and you could just see that the staid ladies sitting around there were figuring, my old man doesn't get so much for pain and suffering for each of these days that the plaintiff took healing up. So they came out with a conservative jury. Normally attorneys wouldn't set the case for trial there. They did set one, though, that I remember very well. The case was brought by a man who was working down in the foundry and claimed that he lifted a heavy casting and, what happened, way up and down? He was all broken up. Plaintiff's attorneys brought in their expert witness and put the plate on the screen. He pointed out this little white spot, and that little white spot, and so forth. "That's the injury." Then one of our perpetual defendant doctors came on, whose name you might recall. And he testified, "There's no such thing. What they pointed out are the normal cartilages, the intercostal cartilages and so forth on the chest." That particular jury was largely made up of women. The habit at that particular court at that time was to try to qualify a jury at least by the interrogation in the morning so attorneys could go to real trial in the afternoon. So, they meticulously went down, qualifying the jurors, and they got down to juror number eleven. "What is your occupation, ma'am?" "I'm chief nurse at suchandsuch hospital." "Do you always follow the directions that doctors give you?" "We do." "Would you discount the testimony of one of the doctors and prefer it to one of another? Or could you differentiate between these two doctors?" Well, she allowed as how she could, but they excused her. Then they got to juror number twelve. "What are you?" "I'm a housewife." "Where do you live?" "I live in Torrance." "Are you presently employed?" "No." "Have you fixed any opinion of the merits of this case at all?" "No." Passed juror number twelve. It turns out that juror number twelve is a retired nurse in the very same hospital. But that was not the point. The attorneys got down

to argue this case. The argument was that all plaintiff's injuries were real. The defendant's attorney was young [William C.] Wetherbee. And like the plaintiff's attorney, he thanked the jurors by name in the usual fashion. He said, "Ladies and gentlemen, my argument is very short — a single sentence. All I have to say is 'city slickers.'" The basis for that was that he had shown in evidence that this particular lawyer and doctor had appeared together in sixty-nine personal injury cases in our court inside of a year and a half.

Right away, motion for mistrial. "I won't deny it, I'll hear your motion." So they came in to argue the motion. And the argument was that this really was very highly prejudicial conduct on the part of the attorney, and then plaintiff's attorney made an impassioned pitch to me. "Oh, the judge is always the thirteenth juror, and the judge can give his independent judgment and we think your independent judgment will show that we were prejudiced and that we ought to have a new trial." And so I said, "Well, you think that the statement was prejudicial, do you?" "Yes, we do." "Well," I said, "yes, I can rule a mistrial but I must confess that the judge, or the thirteenth juror, was thinking the same thing!" It was right after that that I was transferred to the Civic Center and went up to the Brunswick Building. The first day I went to my courtroom, I looked into an adjacent courtroom and here was the same doctor, same attorney in another personal injury case.

The very first case I tried was an interesting one about the jury, too. Max Gilmore in Hollywood was suing for his fee in the famous case in which the furrier Teitelbaum was found to have robbed himself by taking stuff out the back door and collecting insurance on the loss. Gilmore, was suing for his fee. Well, the attorneys started to impanel that jury and it wound up, I think, with eleven women and one man. Any woman with any business experience or who had a husband engaged in business received a peremptory challenge. So we ended up with eleven women and one man. So, Max Gilmore came in and brought in bigwigs from the Bar Association who testified his fee was quite reasonable and that, in fact, he was entitled to more in this criminal defense. So it went, and we came down to the jury argument. The argument began and, of course, the defense attorney got up and said, "You know, ladies and gentlemen, how these lawyers stand together. You've listened to this man and that man and that man, and they're

all testifying to give their fellow lawyer this amount of money. But I want to tell you, ladies and gentlemen of the jury, I'm sure the judge will instruct you that out of your own experiences you can fix the value of these services." Now, when he said, "out of your own experiences," eleven ladies just laughed out loud. I never forgot that.

But anyway, another of the interesting cases involved a woman from Camarillo. She filed habeas corpus to get out from the mental institution, which she could do, and have a jury trial as to her competency and release. So, she came before ME! and testified, and she was quite an imposing lady, you could say of the "grand dame" type, and very precise in her English and very accomplished. The doctors from Camarillo said, "Mrs. soandso has made great progress, but we are afraid she might not hold up under any little strain. She needs to continue treatment." Well, they finished all the arguments about this, and I was looking at my notes. All the time I was looking at my notes, she was looking at the judge, me, and all of a sudden, she burst out in a great tirade. She began to think the judge wasn't going to let her out. That triggered the outburst and defeated her bid for freedom.

In another trial, a very prominent attorney, later a member of the Board of Governors, represented the plaintiff. Every time I made a ruling against him, he would make an aside to the jury. My stenographer was Trudy Jankey. Trudy used the stenotype, but she and I worked out a deal where she also tape recorded all the testimony and the arguments. So, I wanted to get a hold of this lad and I called him in, and said, "This must stop. You know that's contempt of court, and you should know better than to do all of that." "Judge, I haven't done anything," I called in Trudy who brought in the tape recorder, and out it comes, loud as can be, everything he said. After that, he always was good and he always was my friend. So I found that very handy. When one talks about tape recording, I think it's excellent, providing the stenographer can make a differentiation between the parties that speak. If she herself, or he himself, transcribes it soon, they can do it well, because they remember the names. If they have to do it cold, it's something else.

I had another trial up here which also took the cake. It involved a libel suit against a prominent subdivider, for telling around that a man who claimed to be a joint venturer and partner was a liar, and wasn't entitled to a share in the profit, and all that sort of thing. We went the whole round in

that case, and the defendant's attorney began a course of conduct I'd never seen the likes of before. Every time I made a ruling, he would say, "An offer of proof, Your Honor." I said, "All right, we will meet at an appropriate time and decide your offer of proof." Well, during the course of the trial, he did it a hundred times. So, I took him out in the anteroom and followed a practice of Judge Joe Vickers. When he made his offer, I said, "You have to offer to prove by a certain witness that he is going to testify to a certain thing. So we are going to have the witness right here, and you make your offer of proof; you ask the witness if he would so testify. If he will so testify, we will then allow you to restate it in court." So, we did that. And, of course, practically every one of those offers of proof went down the drain. But then five years, five years, almost, after all this had been decided, and an appeal taken, the defendant came back "because there were gaps in the transcript." And by gosh, the way the reporter wrote it up, there were gaps in the transcript. Every one of these offers of proof showed that it had been denied, all right, but didn't say what the offer was. So defendant came in and wanted to revise the transcript. This was the one time that I got a "Bird call" back to duty. After much deliberation on the Judicial Council, they called me back, because I always kept an almost verbatim copy of answers and everything else in my own type of shorthand. And all the stenographer did was put a paper clip on the tape when she typed it up, it didn't show what the question was. So I went back to my paper notes and refilled all these missing parts. But that sort of stalling procedure I thought was worthy of being reprimanded except that the case was on appeal and I had lost jurisdiction in reference to counsel's obstructive comment. It seemed apparent that the defendant had a lot of money and was trying to wear out the other attorney who was on a contingency basis. So, that kind of behavior on the part of the counsel was so noteworthy that I remembered it. Ordinarily, it was evident the minute a counsel tried to take advantage of the judge, the jury were on the side of the judge. And the judge didn't have to do anything. If he was courteous and still tried to keep counsel harassment down, by and by the jurors would try to react to it. Our juries would, anyway.

The only jury I got hung up with in Los Angeles was one where two colored men, I should say black men, were called on the jury. And the jurors took a ballot to elect a foreman, and one black man who thought he

ought to be elected wasn't, and the other one was. The one who wasn't elected went over to the corner and said he would have nothing more to do with it. And by and by, one of the other jurors thought to tell the bailiff, so I had to discharge the jury.

Q: Well, we have come to the end of a very wonderful day.

DAVID: It has been a pleasure to recall the events of my rather varied life, with you to spur on my recollections and to patiently listen to them.

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ORAL HISTORY

RUTH CHURCH GUPTA

(1917-2009)



RUTH CHURCH GUPTA
(1917-2009)

Oral History of
RUTH CHURCH GUPTA
 (1917–2009)

EDITOR'S NOTE

The oral history of Ruth Church Gupta is one of four oral histories conducted by the former California State Bar Committee on History of Law in California in 1987. These were the final oral histories conducted by the committee, and they are published for the first time in the present volume of *California Legal History* (vol. 6, 2011). The interview was conducted on September 28, 1987, by committee member Rosalyn Zakheim on behalf of the committee (which she chaired in 1988-89) and the Women Lawyers Association of Los Angeles (of which she was president in 1983-84).

The oral history has been reedited for publication. The spelling of names has been corrected wherever possible, and explanatory notations in [square brackets] have been added by the editor. The sound recording and original transcription are available at The Bancroft Library, UC Berkeley. The oral history is published by permission of the State Bar of California.

Gupta served as president of the Queen's Bench Bar Association in San Francisco in 1953, and Ruth Rymer, who served as president in 1976, agreed to prepare the brief reminiscence of Gupta that appears below.

— SELMA MOIDEL SMITH

RUTH CHURCH GUPTA

RUTH RYMER*

I was admitted to practice in 1971. Everything in law school had been part of a male-oriented paradigm and at first glance the Bar appeared similar. Suddenly, when I joined Queens Bench, I was surrounded by sympathetic sisters-in-the-law and aunts-in-the-law. One of my new aunts was Ruth Church Gupta who had been admitted the year before I graduated from high school. We developed an immediate rapport when we discovered that we had both attended Mills College.

Ruth and her husband, Kamini, had a general practice in the Marina District in San Francisco where they served their clients through decades, if not generations. In one case, Ruth represented a widow who was a life tenant in a condominium. The remaindermen incessantly harassed her to release her interest. Ruth not only restrained the bad guys but obtained damages for the client's psychological trauma.

In the early 1970s, the California Legislature was host to a multitude of new bills which demanded a major change in the way women were treated by the law. Both Ruth and I frequently appeared before its committees to represent organizations in support of this proposed legislation. Chief among the bills was the Equal Rights Amendment. Our opponents insisted that equal rights would prohibit gender-separate toilets. Ruth convinced the Legislature that the concept of privacy would prevent that disaster.

A major women's focus was to eliminate the husband's management and control of community property and his right to "designate any reasonable place and mode of living, and the wife must conform thereto." Until no-fault divorce this statute had often been used by the errant husband who abandoned his wife, demanded she join him in a place where he knew she would not, and then petitioned for divorce on the grounds of desertion. We thought that even after no-fault, the statute should go. It did, partly through Ruth's efforts.

*Ruth Rymer (formerly Miller), JD, PhD, served as chair of the Family Law Advisory Commission to the Board of Legal Specialization, State Bar of California, (1977–1982), and is the author of the historical novel, *Susannah, A Lawyer* (2009).

The male legislators were astonished that there could be such a thing as a woman lawyer, or that she could make logical arguments. Ruth was particularly effective as a lobbyist for women. On one occasion, a legislator asked Ruth an irrelevant question and she, a good actress, replied, “Well, Your Honor . . .” She pretended to be flustered, but Ruth had so charmed him that he voted for our bill.

Ruth was a wonderful mentor to me. It was my privilege to have known her.

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*Oral History of***RUTH CHURCH GUPTA****(1917 – 2009)**

Q: Thank you very much for allowing us to interview you. We really appreciate it.

GUPTA: I'm certainly glad to be a part of history.

Q: I'd like to start asking you something about your childhood and your background. I think you were born in California, weren't you?

GUPTA: Yes, I'm one of those strange persons that was born in California. So were both my parents in the 1880s, and both my grandfathers in the 1850s.

Q: What part of the state did you grow up in?

GUPTA: I grew up in Northern California. I was born in Orland. Went to school in Yuba City. Then I went to college at Mills College.

Q: Were either of your parents attorneys?

GUPTA: Neither of my parents were attorneys. In fact, neither of them had a college education.

Q: How then were you inspired to go into law?

GUPTA: I had no intention whatever of going into law when I was in college. I was inspired to go to college by my parents who insisted that I have

an education. And I went into the business world out of college. When I married my husband, he was a law student at Hastings. He was drafted and went off into the Army. I was working for a lady who was an attorney in the business world. She inspired me. One day I marched into her office and said, "I quit. I'm going to law school," because I saw there was no future for me in that particular business world and decided to go to law school, just out of the blue.

Q: You said you went to Mills College. That's a women's college, isn't it?

GUPTA: That's correct.

Q: Did you receive any special encouragement for yourself, either in the business world or towards the professions at Mills?

GUPTA: Yes. I give Mills a great deal of credit for inspiring me to do whatever I wanted to do. Many of our class, although we graduated in 1938, which was before the women's revolution, were all encouraged to use our talents to the greatest of our ability. We had a really marvelous inspiration there.

Q: What was your major in college?

GUPTA: I had a double major of math and economics.

Q: Do you think that helped you at all, later on?

GUPTA: I think math is a marvelous preparation for law, because you learn logic and reasoning, the solution of problems, and it's quite similar to the law in many ways.

Q: Have you kept in touch with any of your classmates from Mills or from high school?

GUPTA: I kept in touch with Mills classmates. In fact, we have our fiftieth reunion coming up, and I'm the one who is supposed to be raising the money and organizing it. My college roommate and I have kept in very close touch, although she lives in Washington, D.C.

Q: What did your mother and father think when you decided you wanted to go to law school?

GUPTA: They were very pleased and very proud. When my husband came home from the Army I caught up with him, and we did the last two years

of law school together and graduated together. And when his mother and my parents were at the graduation, they were bursting with pride.

Q: If it isn't too personal, how did you meet your husband?

GUPTA: At a political meeting. We both were active in politics and involved in the Young Democrats.

Q: Once you graduated from law school, did you immediately begin your practice together?

GUPTA: We opened our office right here, where we still are. I continued to work for a few years and spent only part time in the office. My husband was keeping the office going. But we've been here at this same address since January 1949.

Q: For the record, that's 2237 Chestnut Street in San Francisco. Did you have any brothers or sisters?

GUPTA: I had two brothers, both of whom died in their twenties.

Q: Did your mother work outside the home?

GUPTA: Yes, she was a pioneer woman. In fact, she grew up in Mariposa and came down to San Francisco, went to secretarial school, got herself a job up in Quincy in the country, and that's where she met my father. She was very independent, in 1910 or so.

Q: I think we're finding in these interviews that lots of the women had very independent mothers. When you were in school — in grammar school and high school — did you have favorite subjects and things that you thought were especially interesting to you?

GUPTA: I was generally an A student, valedictorian in high school. I enjoyed Latin, Spanish, geography — everything, I think, was special. I wasn't an officer in any of the student organizations in high school. It was during the Depression and I spent some of my time working, as I did all through college.

Q: What kind of jobs did you have?

GUPTA: Anything I could get — babysitting, hashing, whatever.

Q: What years did you go to law school, and what was it like at that time?

GUPTA: When I started law school, it was during the war and it was a very small class of about twenty-five, of which there were about five or six women. Then the veterans came back and merged with our class, and we were then about a hundred. We didn't add any more women, so we were still only about four or five women in a class of a hundred. The class was in the mornings, and I would work in the afternoons. My husband would work from midnight to six, driving a truck for the newspapers. He would come home, we'd have breakfast together, go to class, have lunch together, he'd leave me off at work, he'd go home and go to bed, he'd have dinner ready when I got home, we'd study a bit, I'd go to bed, he'd go to work — for two solid years! We often joked that that's why we didn't have time to have a fight after he came back from the Army.

Q: Do you remember who the other women were in your law school class?

GUPTA: Jean Johnson, who later became Mrs. Jesse Carter, was one who finished, and Joel Brand, who I think practiced in San Bernardino for some time — I've lost track of her. And I don't remember any of the others.

Q: How were the five women in your class treated?

GUPTA: Well, some of the professors sort of ignored us. I personally didn't really feel any discrimination, as such. I think they didn't try to make it easy for us, but Dean [David E.] Snodgrass was the dean and he was notorious about making it tough for everybody. And I think that everybody felt they were being discriminated against, no matter who they were. He just felt that if you couldn't take that kind of bad treatment, you wouldn't get along very well in the law, so he was preparing us for it.

Q: What did employers think of women law students at that time?

GUPTA: Women law students and women lawyers had a very difficult time getting any type of job involving the law. They were always shuffled back to the back room or the library or something, and it was just almost out of the question to be treated equally.

Q: Was that one reason why you decided to open your own practice?

GUPTA: Yes, I felt there was no other way to get involved than to open our own practice, and I liked being independent, anyway, and being our own bosses.

Q: Did your practice start out as a general practice?

GUPTA: Yes, we opened our office here in the Marina District, which is a neighborhood, almost like a small town type practice, and we took anything that came in the door, although it was practically all civil. And it's remained pretty much a civil practice, although now I've gotten where I do nothing but probate, because I don't have time to do other things, and I'm able to turn away other kinds of work.

Q: Why did you choose Hastings?

GUPTA: I chose Hastings partly because that's where my husband had gone before, and also because the classes were all held in the morning, and it was possible to work part of the time and go to school part of the time, rather than to work all day and go to night law school.

Q: Do you have any particular memories of influential teachers you had at Hastings, Mills, or even at high school?

GUPTA: I had a marvelous high school teacher of Latin that I've always been grateful for, for helping me have a good vocabulary. All of my professors at Mills were very influential, I think, because we had a very good ratio of student to faculty, a very small student body, and we had a chance to communicate well with our professors. At Hastings, Dean Snodgrass started his "over sixty-five club," where he drafted many of the top professors throughout the nation who were required to retire at sixty-five, and he brought them to Hastings. So we had some really superb professors at Hastings.

Q: Do you remember who some of them were?

GUPTA: There was [Arthur] Cathcart, [Lawrence] Vold on Sales, [Edward] Thurston on Torts — those are the ones on my mind specifically.

Q: What did you like and dislike about your law school?

GUPTA: I can't remember anything specific that I liked or disliked. It was a very rough grind. Having been out of college for ten years before going back, it took a little while to get used to studying again, but once I got in the groove, that wasn't too difficult. And my husband and I had our own built-in briefing trust — we'd type our briefs up in duplicate, and take turns each week doing the different courses, so it helped on the homework.

Q: During the ten years between college and law school, you met your husband during that period of time with the Democratic Party. Were you active in the party with politics at that time?

GUPTA: Only with the Young Democrats. Later I became more active, when I ran for the Legislature in 1958.

Q: Was that for the Assembly from your district?

GUPTA: Yes.

Q: Tell me something about that race and how it went.

GUPTA: At that time, women weren't used to being candidates and people weren't used to giving a lot of money to women candidates, so it was a bit of a pioneering effort. It was the last year of the cross filing in California, which meant that in the primary, irrespective of which party you were registered in, you could vote for whomever you wished. I won the Democratic nomination. Milton Marks, who later went on to the Senate, won the Republican and beat me in the finals. It was a very interesting experience, since as I say, people weren't used to having women candidates at that time, in 1958.

Q: What were the issues that were talked about in that campaign, if you remember?

GUPTA: One of the major issues that really brought the vote out was the right to work, which was an anti-union measure that brought organized labor out in great quantity, and you had to take a stand on that one. There was also a big issue about water, which is still an issue — Southern California wanting Northern California's water. Those were the two big issues.

Q: Was your husband supportive in this campaign?

GUPTA: He has always been very, very supportive. In fact, whenever I falter, he gives me a swift kick and says, "Go on and do it."

Q: Did you take the bar exam right after law school, and what was the bar exam like at that time — was it three days, essay, what kind of test?

GUPTA: It was all essays, and three days.

Q: Were there bar preparation courses then?

GUPTA: Yes, I took the Witkin.

Q: Did Witkin himself teach them?

GUPTA: Yes.

Q: And did you immediately start practicing after passing the bar exam?

GUPTA: Yes, where I was working I was assigned some legal duties and their legal counsel was Pillsbury, Madison & Sutro, and I worked with them in anti-trust matters, and also took a few independent clients. But mostly I worked at night here at the office, working on briefs and helping out on things that my husband was working on, until, in 1954, I quit my job and worked full-time in the law practice.

Q: What were the attitudes of your clients towards you, as opposed to your husband, perhaps, as a woman attorney?

GUPTA: I don't think there's ever been any problem, although I suppose if someone didn't want a woman attorney, they'd stay away in the first place, so, it's hard to say whether or not I was discriminated against. I had a great many men clients, always have had. Originally I did a fair amount of divorce work, and I seemed to represent more men than women in the divorce cases. I often thought it was because they felt they needed a woman to fight the other woman.

Q: What were the attitudes of judges when you first began appearing in court?

GUPTA: There were a few old-fashioned judges that seemed to not be too receptive to women in court. Now, of course, most of the judges got out of law school long after I did, so they're quite used to having women appearing before them.

Q: What do you see as your biggest successes, and perhaps failures, in your law practice over the years?

GUPTA: Well, I think I've had some success in pioneering on behalf of women in getting them accepted. For about twenty-five years I was a part-time lobbyist, legislative advocate for the California Federation of Business and Professional Women's Clubs. In that capacity I worked on a lot of legislation on equal pay for equal work, legislation that revised the inheritance tax laws to eliminate some of the discrimination that widows had, and I'm particularly proud of the work that I did in that regard. I think I paved

the way, being the first woman on quite a number of various boards and commissions, and opening doors and making it perhaps easier for other women to step into these without so much discrimination.

Q: Now, of course, equal pay for equal work is part of our law. What was the attitude when you first started it in the Legislature?

GUPTA: You'd be surprised how many loopholes there were in the law, even then. It was a real uphill fight. It was almost unbelievable that there was so much discrimination. In such things as factory work, they'd always bring up the issue of all the special legislation. For example, there was weight-lifting legislation that said women couldn't lift more than twenty-five pounds, and there wasn't any such restriction for men. So that was always a nice excuse, whether or not any woman actually lifted twenty-five pounds. I always pointed out that it seemed whenever a man had to pick up a typewriter or something like that, he always managed to get a dolly or something like that to haul it, that he didn't actually carry it himself. Also, the hours legislation — there was an eight-hour law that said women couldn't work more than eight hours, and no such restriction on the men. This was supposed to be primarily against factory workers, but was applied beyond, into the offices. Again, that was an excuse — that women couldn't get beyond the middle management stage because they'd always say, if we get into a jam we have to work at night, and the women can't work, so that was a good excuse not to promote them into middle management.

Q: Aside from being the lobbyist for the Business and Professional Women's Clubs, weren't you a president of that organization?

GUPTA: Yes, I was the president of the State of California Federation, and I was active on the national level in political action. I was vice chair and helped organize the political action committee for the National Federation.

Q: Can you describe what that group has done?

GUPTA: The California Federation was the first one to have a political action committee, and collected money to help women candidates for the State Legislature. Then on the national level, it did the same kind of thing, and formed PAC — a political action committee, qualified under the national regulations for PACs — and collected fairly substantial sums of money to give to women candidates for the U.S. Senate and Congress.

Q: How did you become the lobbyist for the state group?

GUPTA: Well, I was always interested in legislation, and I guess that was sort of a natural thing to get involved in, and I was appointed advocate shortly after I had joined and stayed in office for all those years.

Q: Do you think being a lawyer helped in that position?

GUPTA: Oh yes, no question that it was extremely helpful.

Q: Do you think being a lawyer helped in the other positions you held with other groups?

GUPTA: I think there's no question that the legal education opened doors for me that don't get opened so easily for other people. Whether or not you practice law, I think a legal education is an outstanding kind of education and background to have.

Q: I see from your résumé that you were also active in various conservation kinds of causes. Can you describe those?

GUPTA: After the 1958 election, Governor Pat Brown appointed me to the Water Pollution Control Board for the [San Francisco] Bay Area. There had never been a woman on that board before. So that was another door opener. I kind of gravitated from that into air pollution, and the Lung Association which worked on air pollution. I've served on the State Water Quality Control Board, and on the Lung Association's National Air Conservation Commission. So I got involved in both water and air pollution.

Q: Can you tell me how the practice of law in San Francisco has changed, and perhaps how the city has changed over the years, since you've started?

Q: I'm reminded of the old story about the old man who said he'd seen a lot of changes and he'd been against every one of them. I think law practice has changed considerably in that it's not as friendly as it used to be, and is much more mechanized. Of course the whole computer age has made a difference, and the Judicial Council and their darned required forms have made a difference. And there have been many, many changes in the law. I think the law in virtually every area has changed from the time that I studied in law school, so it's a constant question of taking courses to keep up with all the changes, particularly in the field in which you have specific interest. There are many, many more women, of course, practicing.

Now, many times you'll be in court and the entire cast of characters will be women — the judges, the clerks, the reporters, the counsel.

Q: That really has been a big change. When you first started practicing here in San Francisco, did you know most of the lawyers in town?

GUPTA: It seemed like it, and that's another one of the differences. In the probate area I see pretty much the same lawyers all the time. It used to be I knew virtually all the lawyers who were active in the practice, I knew all the women lawyers, I was president of Queen's Bench. There were only about two hundred members of Queen's Bench at that time, and that took in the entire Bay Area. I think there are some eight hundred or so now.

Q: What was Queen's Bench like, aside from the number of members? What kind of meetings did you have, what kind of issues did you explore?

GUPTA: We tended to stay away from the controversial issues. Most of the speakers that we had would talk on various aspects of the law that we were trying to get more information about, more education about. It was also a very social group, the idea being that we found a lot of support from our fellow practitioners, and we could always call them up and ask them questions, where we might be too timid to call up a man to ask the same question.

Q: Were you president of the Lawyers Club of San Francisco after or before Queen's Bench?

GUPTA: About fourteen years afterwards.

Q: And what led to your interest in that organization, what were its activities like, and how did it feel to be the first woman president?

GUPTA: It was kind of exciting to be the first woman president. I'd been on the Board of Governors for six or seven years, and there had only been one other woman on the Board of Governors at that time. Ed Towers invited me. By that time, women were being pretty much treated equally. There just weren't that many around who were ready to move in, or had the experience and exposure to be in a position to take leadership roles. They were pretty experimental in the field.

Q: Did your colleagues address the issue, currently very hot in the women's community, of private clubs and discrimination by private clubs against women and other minorities?

GUPTA: No, those weren't issues at all.

Q: When I look at your résumé and consider your really outstanding legal career, I think that if you had been a man and interested, you would have been a judge. Is that something that interested you, or something that was possible for you?

GUPTA: I really never wanted to be a judge. The one thing I don't think I'd like is to punch a time clock, which judges have to do, and account for the amount of work they have to do. It's more interesting to be independent. If I hadn't been independent, I couldn't have had all the experiences I've had at the Legislature, and on the various boards and commissions I've served on. I've had a lot of freedom to do these things because of being in independent, private practice. We sort of have an expression, that we practice just enough law to support our hobbies, and we're not trying to get rich, so we don't count the hours that you have to when you're working for somebody else.

Q: Ruth, did you have any children?

GUPTA: No.

Q: Was that a decision based partly on the practice?

GUPTA: It just worked out that way.

Q: That's something that I'm finding takes a great deal of time. I would like to get into your activities with the State Bar. Could you describe your activities with the State Bar of California?

GUPTA: I think my first committee assignment was on the Family Law Committee that I served on for three years. I had attended the Conference of Delegates, almost every year since about 1951 or '52, so I'd always been interested in the activities of the Bar and the Conference. And because of my legislative activities with Business and Professional Women, and because of my activities with the Conference of Delegates Executive Committee, I got to working fairly closely with the Board of Governors, appearing at most of their meetings on behalf of the Conference Executive Committee, and then at a time when the State Bar's legislative advocate resigned to take another job, I served as a part time legislative advocate for the State Bar. And it was after that that I decided to run for the Board of Governors, and was elected unopposed, fortunately.

Q: How were you appointed to the [Conference of Delegates] Executive Committee?

GUPTA: The Executive Committee is elected by the districts. I was the candidate from District Four, which is in San Francisco.

Q: Had you served on the Resolutions Committee before that?

GUPTA: No, I hadn't.

Q: Was that unusual at that time? I know now most of the people come from the Resolutions Committee to the Executive Committee.

GUPTA: Yes, I think it was unusual.

Q: What was it like to chair that conference? I was there, and was really proud of how you did. It was really exceptional. I'd been to a few conferences before then, and it was really very special to watch you in action.

GUPTA: Thank you. I couldn't have done it if I hadn't had my experience of women's organizations, and specifically Business and Professional Women, where I presided over some pretty tough situations, and learned my parliamentary law, and a sense of competence. I really enjoyed it. It was very challenging. I'd seen some top people preside at prior conferences and always admired them, and I guess without realizing it, I probably aspired to it for a long time.

Q: Was it particularly fun to have your husband be one of the delegation chairs and to have to control him as far as the proceedings?

GUPTA: I remember, I think I ruled him out of order twice. One time, he started to speak without giving his name, and I asked him to state his name, and he said, "The same as yours, Madam Chair."

Q: I recall that. Are there any other things you want to do in the legal profession at this time?

GUPTA: I've been attending the meetings of the International Bar Association; I'm on the House of Delegates of the American Bar [Association]. The American Bar is about where the California Bar was twenty or thirty years ago. There are very few women in positions of power in the American Bar, and they are just starting to get there.

Q: When you were on the State Bar Board of Governors, what were the issues that the Governors were addressing for those years?

GUPTA: They were mostly administrative problems of the usual crunch of not having enough money to do all the kinds of things that we wanted to do. Specialization was a big issue. I had opposed specialization. In our third year on the Board, Dale Hanst appointed me chair of the Committee of Professional Standards which dealt with specialization and I assured him that even though I lost out on the vote, that in reality I wanted to make it a good program as much as possible. That was quite a challenge. Also mandatory legal education was an issue, and there was legislation pending. I also opposed that and was successful in getting that headed off for the time being, convincing the author of the legislation that it didn't guarantee competence and that there were better ways to guarantee competence, which we all agreed was the objective.

Q: I know that many women in the state were hoping that you would be the first woman president of the State Bar. What led to your decision regarding running for the presidency?

GUPTA: Mainly, I didn't have the votes.

Q: And how did you determine that?

GUPTA: The person who was elected president had been lining up his votes well in advance and I had not. He apparently had them all convinced that he was prepared to do the job. The fact that I was virtually a sole practitioner, at least in a small office, meant that I might not have the same amount of time to devote as someone coming from a large office. The fact that the president would, in effect, have to take off a year to devote to the State Bar may have had something to do with it. Although in the following year Burke Critchfield was elected president, and he was a sole practitioner and he proved that it could be done.

Q: Maybe the time just wasn't ripe. Have you been active in any groups we haven't discussed yet? You have such an extensive résumé. I'd like you to look at it and describe some of the activities that we haven't discussed directly.

GUPTA: Oh, yes. I was on the Constitution Revision Commission, which was a very interesting assignment, appointed by the Legislature, to make proposals for revision of the State Constitution. That was quite a blue ribbon commission — we worked for almost ten years, proposing various changes which were taken to the voters.

When I was appointed by the secretary of state, March Fong Eu, to the State Board of Control, I was the only woman ever to serve on that. That was a three-person board, composed of the state controller, the state director of General Services, and a public member. I was appointed by the governor on that one, not March Fong Eu. And I was also removed by the governor. The appointment was at the pleasure of the governor, and it no longer pleased him when I voted for a per diem raise for state employees when they travel. The governor didn't like that, and removed me. After that, the Legislature then changed that term to be a term appointment, rather than serving at the pleasure of the governor. March Fong Eu appointed me to the Fair Political Practices Commission. I served on that for a while. I had to resign that when I became a member of the Board of Governors of the State Bar because that was a conflict of interest.

I was on the advisory board of the California Highway Patrol. When the issue came up regarding the hiring of women officers, women's organizations such as NOW [National Organization for Women] and others had filed a lawsuit to compel the Highway Patrol to hire women. The Patrol was very dead set against it. So the Legislature appointed a committee. It was composed of both men and women who worked for a year, developing a good deal of research. Judge Joan Dempsey Klein chaired that committee. There was a particular group who were picked at first, and we monitored how they managed in all the various tests that they had to go through in the training school and their performance on the job.

Then the Equal Rights Amendment became an issue, and I was lobbying for it as a professional. At that time we got California to ratify the Equal Rights Amendment to the U.S. Constitution, and the Legislature then appointed an advisory committee to go over various codes of the State of California to eliminate the references to discrimination on the basis of sex. In other words, eliminate the sexist language, take out the "he" and "him" and so forth — change all those words so they were non-sexist. Yes, I was on that committee. It was composed of legislators and lay people.

I was president of the San Francisco Council of District Merchants' Associations. Here in the Marina District there's a Merchants' Association as there is in each of the various some twelve or so districts in the city. The local merchants were having problems trying to get their point of view over at City Hall at the Board of Supervisors, often coming up against the

Chamber of Commerce in various issues that affected the small merchant. So I was instrumental in helping to organize the Council of all the various local merchants' associations throughout the city, and we got to be a fairly strong voice in City Hall representing small business. So I served on that and I still am a delegate to that, but I served as president for one year.

I was also president of the Northern California Service League, which was an organization that was organized by Justice [Raymond] Peters to help county jail inmates, and we did a lot of work trying to get educational opportunities and rehabilitative opportunities for the county jail inmates. We studied the conditions of the jail and were instrumental in getting a change in the person elected sheriff of the City and County of San Francisco because of the way the jail had been run at that time.

Mayor [Dianne] Feinstein appointed me to the Parking Authority of the City and County of San Francisco. I guess I was the only woman who had ever served on that also. That was an outgrowth of my work with the District Merchants' Associations.

I also served one year as secretary of the Alumni Association of Hastings, and in 1981 I was named Alumnus of the Year from the Alumni Association.

Q: I know that many of the lawyers in California look up to you as a role model. Who were your role models as a lawyer?

GUPTA: The woman that I worked for, that I mentioned, is a lawyer — Hazel Harvey. She had gone to night school while she worked. She was the purchasing agent and personnel director, and I worked for her for a number of years. She was a role model for me, although she was not a practicing lawyer. Many of the lawyers I had gotten acquainted with at Queen's Bench had been very helpful to me as mentors in many ways. I can't mention anyone particularly because there were any number of them who were very helpful.

Q: Can you think of any advice you'd like to give young women who are thinking of law as a possible profession?

GUPTA: I think it's a marvelous profession for women, because I think a woman's sensitivity makes her particularly capable of working with people when they are in a time of need and have problems. I think we have to be careful not to overemphasize the fact that we are women. We are lawyers,

whether we are male or female. And I think that most of the women who are practicing now are very professional. I am very proud of the way they conduct themselves. Fresh in my memory is the recent Conference of Delegates that took place in Los Angeles. I think the women who spoke out on the floor were just outstanding, the way they handled themselves. I was thinking back to thirty years ago, when I first started going to these conferences. Very few women dared to speak on the floor and when they did, they had none of the same professional attitude that the women do now. I think it is really gratifying to see what has happened.

Q: What direction would you like the State Bar to take?

GUPTA: First, to survive. I think the integrated Bar may very well be on its way out and I think it would be a terrible mistake, because the Bar could never accomplish the things that it does if it didn't have the financial support of all the lawyers. I think lawyers have a professional obligation to serve the general public. A great many lawyers who practice law take no part in activities at all in the profession and spend all their time just earning a living. I think it's unfortunate if the integrated bar goes down the drain because of what the Legislature's attitude is these days. A voluntary bar in no way could accomplish the things we've done. We'd end up with a plaintiffs' bar and a defense bar and a this bar and a that bar and we wouldn't have the cohesiveness that we were able to get through the State Bar, and in particular the Conference of Delegates, where the various local bar associations can get together. The small bars would be just left out and the whole thing would be dominated by the large county bars that are very active and well organized now. So I hope that the State Bar is able to survive this onslaught that the Legislature seems to be after the Bar, trying to put them down.

Q: With your experience as a lobbyist, do you have any advice or tactics to use in this?

GUPTA: I think lawyers have to get more political and better acquainted with members of the Legislature. I think they should take part in political campaigns so that when they pick up the phone to call a legislator, the legislator knows who they are and will feel somewhat obligated to them for possibly having some influence on a certain number of voters. It's not just the financial contributions that legislators need; they also need the bodies

and names of people who will be helpful. And if we were more active politically as individuals, not as an organized Bar, but as individuals, I think we would have more respect in the eyes of the legislators.

Q: Looking back at your career, is there anything you wish you'd done differently?

GUPTA: I probably wouldn't do anything differently than I did, because every move that you make seems to be brought on in part by your own volition, and part on where you happen to be at the time. Opportunities come up; you either take advantage of them or you don't. I would like to have been president of the State Bar, but the timing was not right. That's just one of those things. I know there will be a woman president very soon, because women are getting there and that's great. As far as different decisions I would have made, I can't think of any.

Q: Is there anything you'd like to add?

GUPTA: Just that I'm proud to have been a lawyer and to have been a part of what's happening in the almost forty years now. I look forward to continued improvement in the status of women because of the quality of the women who are coming up and taking an active leadership role. I'm very proud that we're going to have another woman chair of the Conference of Delegates next year. To me, that's a tribute to what's happened and it's very exciting news.

Q: Thank you again for taking your time. With all you have to do, we really appreciate the time you've taken this afternoon.

GUPTA: Thank you. It's been a real pleasure.

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ORAL HISTORY
SHARP WHITMORE
(1918-2001)



SHARP WHITMORE
(1918–2001)

Oral History of
SHARP WHITMORE
 (1918–2001)

EDITOR'S NOTE

The oral history of J. Sharp Whitmore is one of four oral histories conducted by the former California State Bar Committee on History of Law in California in 1987. These were the final oral histories conducted by the committee, and they are published for the first time in the present volume of *California Legal History* (vol. 6, 2011). He was interviewed by committee member Raymond R. Roberts on January 9, 1987.

The oral history has been reedited for publication. Citations have been verified or provided, and the spelling of names has been corrected wherever possible. Explanatory notations in [square brackets] have been added by the editor. The sound recording and original transcription are available at The Bancroft Library, UC Berkeley. The oral history is published by permission of the State Bar of California.

Whitmore was a senior partner at Gibson, Dunn & Crutcher, a member of the State Bar Board of Governors, president of the Los Angeles County Bar Association, and County Bar delegate to the ABA Board of Governors. Two of his fellow partners at Gibson, Dunn agreed to prepare the brief reminiscence of Whitmore that appears below.

— SELMA MOIDEL SMITH

SHARP WHITMORE

KENNETH W. ANDERSON AND WILLARD Z. CARR

Strikingly and elegantly handsome in appearance, with a mellifluous baritone voice. One of our colleagues nicknamed his voice the “golden fog.” Never has a person looked and acted more in consonance with his name — Sharp. His influence in shaping the labor law environment in Southern California, particularly in the region’s most important economic activity at the time — the aerospace industry — was enormous. In an often contentious field, he always had the respect of the “other side,” a value he passed on to all of those who worked in the same area.

When Bill Carr came to Gibson, Dunn & Crutcher in the early 1950s, he joined an established Labor Department. Two of the stalwarts of the Department were J. Sharp Whitmore and William French Smith. Each had the distinction of having served as an officer in the U.S. Navy during the war and joining the firm in early 1946. One of the most appealing elements of Labor Law at that time was the involvement in real time issues affecting the dynamic growth of a postwar economy with all of its messy human aspects. Carr particularly remembers Sharp including the younger lawyers in the dynamics of the practice, meeting with clients, on the picket line, in negotiations and NLRB proceedings as well in court. We feel greatly indebted to Sharp for the substantive start he gave us in our practice.

Moreover, it was not all work and no play. Gibson, Dunn used to send a couple of associates each year to the annual meeting of the State Bar. In one earlier year, both Sharp and Bill Smith were sent. Each, of course, was given a modest personal expense account for the trip and meeting. At the end, Sharp found himself with a tremendous bar tab. The future U.S. attorney general, Bill Smith, had virtually no tab, having signed Sharp’s name for nearly all libations at the meeting, including those consumed by partners who were also attending the convention.

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Oral History of
SHARP WHITMORE
(1918 – 2001)

Q: This is January 9, 1987. I am in the office of Sharp Whitmore of Gibson, Dunn & Crutcher to get his reminiscence and views on his involvement with the State Bar and law in California. Sharp, I'd like you to start with a little bit of your background of where you were born and when. if that's not too embarrassing.

WHITMORE: Well, I was born in Price. Utah. I came with my family to California in 1925 and after a few months in Berkeley moved to Piedmont. I went to grammar school in Oakland, California, high school in Piedmont, California, undergraduate school at Stanford University in Palo Alto and law school at the University of California, Berkeley, Boalt Hall.

Q: When did you go to Stanford?

WHITMORE: I graduated with the class of 1939.

Q: And did you immediately go to Boalt Hall?

WHITMORE: I immediately went to USC law school which I attended for one year.

Q: Why?

WHITMORE: Because I wasn't sure at that stage that I wanted to be a lawyer, and I had a job with the Shell Oil Company, and I knew relatively soon after entering law school that this was what I wanted to do, and the tuition at Boalt Hall was \$17 a semester, so I quickly transferred to Boalt Hall and completed my legal education there.

Q: Were any members of your family involved in law?

WHITMORE: No members of my family were involved in law or ever have been, to my knowledge.

Q: So your firsthand adventure into law or with law was when you went to law school.

WHITMORE: Yes, I think I had met one lawyer. I knew no judges. I think I had met one lawyer before I went to law school.

Q: In '39 you started at USC and lasted there until the Spring of '40 — is that correct?

WHITMORE: Yes, and then in the Fall of '40 went to Berkeley and continued there until March of 1942. I would have continued until the end of May of 1942, but World War II began in December of 1941, and I was very lucky in having at Boalt Hall two others who had commissions at the time, were in the same boat as I, and who had orders to report for active duty in March of 1942. I also had three professors who were very understanding of our situation, who stayed over Christmas vacation in 1941 and gave us our classes for our last semester over Christmas vacation and up until the 6th or 7th of March of 1942, when each of the three of us took our final examinations and completed our legal education and got our degrees and were able to report for active duty at the time our orders prescribed.

Q: Do you remember any of your professors at Boalt?

WHITMORE: I certainly do. Max Radin, for one, was certainly one of my favorites. He was a very approachable professor. Professor [Henry Winthrop] Ballantine.

Q: Let's stay with Max a minute. Do you remember the occasion when Max Radin was nominated by Governor Olson to be on the Supreme Court?

WHITMORE: That occurred while I was at USC Law School.

Q: Oh, right. So it was past history by the time you went to Boalt.

WHITMORE: It was past, and because it was past, I didn't get an opportunity to get to know Roger Traynor then, because it was Roger Traynor, as you remember, who was nominated when Max Radin's name did not clear.

Q: And both of them were teaching at Boalt?

WHITMORE: They both were professors at Boalt the year before I went there, and of course, Roger Traynor was gone when I entered.

Q: What did Max teach?

WHITMORE: I took a course in Jurisprudence from him. He didn't teach any first-year courses, to my knowledge. He taught Jurisprudence, Roman Law, and I'm sure other courses — but Jurisprudence was the only course I took from him.

Q: You mentioned Ballantine?

WHITMORE: Professor Ballantine, in Corporations, yes.

Q: Before he wrote the book [*California Corporation Laws*, 1932] or after?

WHITMORE: After he wrote the book. He was a distinguished and recognized authority on corporation law, particularly California corporation law, when I took the corporation law course from him at Boalt Hall.

Q: Any other professors that you remember?

WHITMORE: "Captain Kidd" [Alexander Marsden Kidd] was the acting dean my last year. He was a Commercial Law, Bills and Notes professor. To a greater extent than anybody else at the law school, he was the Professor Kingsfield type — a most interesting and pleasant, but somewhat unapproachable, individual. Professor [William Warren] Ferrier was the Property professor. I remember Professor Ferrier well. I admired him a great deal, although he was a little more aloof than some of the others I've talked about. Barbara Armstrong.

Q: Before she wrote the book [*California Family Laws*, 1953]?

WHITMORE: After she worked on the Social Security Act, and I guess, before she wrote the book, but her field was family law at that time — at least that was her primary field. She was very approachable and I thought the world of her. She, I thought, was a fine professor.

Q: Did you actually graduate in 1942? Were you given a diploma then?

WHITMORE: By mail. I was at Harvard Business School, taking my Navy Supply Corps Training at the time my class graduated. But I had completed my finals in early March. And so, yes, I got my degree with my class.

Q: And what was your frame of mind so far as taking the bar exam in 1942?

WHITMORE: Well, I knew that I wouldn't be able to take the bar examination with my class. I was terribly occupied at Harvard with my Navy training, and then in June or July of 1942, I reported aboard my first ship, The USS Gridley, a destroyer. And once I was aboard that ship, we immediately went to the South Pacific, and I thought only intermittently about the bar examination and how nice it would have been, had I been able to take it. I did take the bar, finally, after completing my tour on the Gridley. I took my examination in the fall of 1944, about five weeks after getting back to the United States. I got thirty days' leave. I spent virtually every one of those days in the Boalt Hall library, because I was reporting to the Mare Island Navy Yard for duty next. And I took the examination — a free ride, really, because I had no idea that the war would be over in a year, or five years, or how soon, if at all, I'd be able to practice law. But I took the examination and passed it in 1944, some considerable time after I'd started law school.

Q: Do you remember when it was that you heard of the Legislature in California allowing law students whose study was interrupted, to be passed on motion?

WHITMORE: The Waters Enabling Act? Yes, I'd heard about that Certainly, I didn't hear about it until after I'd taken the bar examination. I was stationed on Midway Island for the Navy when I did hear about it. And I had heard by then, of course, that I had passed the examination, so it didn't make as great an impression on me as otherwise it might have, until I reported, after World War II, to Gibson, Dunn. I had worked two summers at Gibson, Dunn before World War II. When I reported aboard to begin my legal practice. I learned that Homer Crotty, who had been chairman of the Committee of Bar Examiners during a portion of World War II, felt so strongly about not hiring people who had not passed the bar examination, that to the best of my knowledge, the firm during that period, even as a result of the Enabling Act to which you referred, never

did hire anybody who didn't pass the bar examination. So I felt lucky, of course, that I had taken it.

Q: I know one of your colleagues from many, many years ago — [Charles] DeSantis — actually took his bar exam aboard ship during the war. The only case I know where somebody took it outside the jurisdiction of California.

WHITMORE: I didn't know that. Chuck was one of five of us who started with the firm after World War II. Chuck DeSantis had gone to Loyola Law School, Henry Lippitt from Harvard, Bill Smith — William French Smith — from Harvard, Julian von Kalinowski, from Virginia, and I started as soon as the war was over.

Q: Some time prior to that, and after you started law school, you got married, didn't you?

WHITMORE: I got married after I finished my first year at USC Law School and before I moved up to Berkeley to attend Boalt Hall. In August of 1940 I got married. My wife, then Frances Dorr, was at Stanford with me — two years behind me. She attended seven quarters, dropped out of school, and we were married. So I spent my last two years of law school married. And, incidentally, the situation was so different then than it was when my son, who went to Stanford Law School, married at the end of his first year of law school. Half of his class were married. When I was at Boalt Hall, Franny and I were one of two married couples in a class of 120, during my second year of law school. The other married couple was Dick and Charlotte Hayden. You know Dick Hayden — he was a superior court judge in Los Angeles County. But that second year of law school, Dick and I were the only married members of the class. No, I take that back. We had one woman in the class — Doris Brin Marasee Walker and she was married. So I guess there were three of us instead of two — not half the class, as I guess is the situation now.

Q: Why did you choose Boalt, other than economics, in preference of Stanford, or continuing at USC?

WHITMORE: Well. I didn't know that I was going to go to law school when I got out of school. My undergraduate grades were such that my admission to Stanford Law School was not something that was assured. I didn't apply.

I might have been admitted; I might not have been admitted. I recall talking to Sam Haskins at the firm, after I had finished my first year of law school. I had done rather well at USC Law School, and I was talking to Sam Haskins — he was a member of the Board of Regents for the University of California. He asked if I had any interest in going to Boalt Hall. And I, for a number of reasons, only one of which was financial — I was raised in the San Francisco Bay area and I thought very highly of Boalt — I indicated my interest and he arranged for me to make application, and I was admitted during the summer of 1940.

Q: You said that for two of the summers that you were in law school, you worked at Gibson, Dunn & Crutcher. How did that come about?

WHITMORE: I had met John Cobb Macfarland, a senior partner at Gibson, Dunn, while I was at Stanford. And he asked me on one occasion, if I was going to law school, to stop by and see how a large law firm operated, that he'd enjoy introducing me around.

Q: What was a large law firm at that time?

WHITMORE: There were three law firms — one with 20 lawyers, one with 21 lawyers, one with 22 lawyers, as I remember, in Los Angeles. One was O'Melveny and Myers, one was Gibson, Dunn & Crutcher. The other was Loeb and Loeb. A large law firm then was a firm of between 20 and 22 lawyers.

Q: How did that compare with some of the firms in San Francisco?

WHITMORE: I don't know that I had knowledge at that time of the size in San Francisco. I'd be surprised if Pillsbury, Madison & Sutro was not larger than those three law firms at that time, although I don't have any specific recollection of that. I recall what was a very humorous episode to me, when I interviewed at Gibson, Dunn in the summer of 1940, or perhaps it was the Christmas before that — it was while I was in school. In any event, at Mr. Macfarland's invitation, I came down to the Banks Huntley Building in Los Angeles, where the firm was then housed, and I got in the elevator and I went up ten floors, to where the senior partners were officed, asked Miss Alexander, who was the receptionist — she'd been with the firm since 1902, or thereabouts — if she'd announce me to Mr. Macfarland. She did, Mr. Macfarland came out, we talked for a few minutes. He took me around

and introduced me to Mr. Gibson, Mr. Haskins, Mr. Crotty and perhaps several others. We went back into Mr. Macfarland's office. I thanked him very much. I left, I got in the elevator, I went down ten floors, found myself on Spring Street, and realized I hadn't asked the question I came to ask. So I got back into the elevator and went back up ten floors, and asked Miss Alexander to announce me again to Mr. Macfarland. And I went in and I said, "Mr. Macfarland, I forgot to ask you: Have you got a job for me this summer?" He laughed, excused himself, went around and talked to the lawyers with whom I had spent a few minutes earlier, came back and in substance said, "Yes, when can you start?" That was my introduction to Gibson, Dunn & Crutcher. Oh, there's one additional aftermath. I thanked him, indicated that I would come to work the first of June or thereabouts, got in the elevator, went down ten floors, found myself on Spring Street — without a nickel, without a wallet — and my dad's car in a parking lot across the street. So, I got back in the elevator, went up ten floors, had Miss Alexander announce me to Mr. Macfarland, I borrowed a dollar — or maybe it was only fifty cents, I've forgotten — got in the elevator, went down, got in my father's car and drove home. That was my introduction to Gibson, Dunn.

Q: I trust that sometime or other you repaid the money?

WHITMORE: I have asked myself that question many times, and I can assure you, I assume I did, but I'm not entirely certain.

Q: In your summer work at that time, there were no such things, or at least no title of paralegals, were there?

WHITMORE: No.

Q: What type of work did you do?

WHITMORE: I was housed in the library of the firm, along with a number of other lawyers — Fred Sturdy, George Jagels, Van Nivens, Walter Ely and George Whitney — and we did legal research for other associates and for partners in the firm.

Q: You did that type of work during the two summers?

WHITMORE: Yes, I did.

Q: And then, sometime or other, the war was over. Let's briefly discuss where you were in the South Pacific.

WHITMORE: Well, I'd spent over a year — I've forgotten exactly how long — on the USS Gridley in the South Pacific. It was ordered back to San Diego sometime in the fall, I would guess, or maybe the early winter of 1943. I was relieved of duty on the Gridley and reassigned to Mare Island Navy Yard. I was in Mare Island Navy Yard until December of 1944, when I was sent to Midway Island to the submarine base, and I spent the rest of the war there in that capacity. When the war was over, I got as far as Pearl Harbor. Honolulu, and found a tremendous traffic jam, and it took me maybe six weeks to get transportation from Honolulu, Pearl Harbor, back to California. Very soon after arriving in California I retrieved my wife who, with my son, was living with my wife's mother in Washington, D.C. We returned to California, and I started at Gibson, Dunn in January of 1946 as a lawyer.

Q: And at that time you had a son.

WHITMORE: I had a son who was born in October of 1942, who is now practicing in Palo Alto, California, with the firm of Whitmore, Kay, Stevens. It's a firm of, roughly, twenty lawyers that specializes totally in public sector labor law work.

Q: Now, I'll jump the gun a little bit and have to ask you about your daughter.

WHITMORE: My daughter is now thirty-two years old. She has a bachelor's degree in Psychology, a master's degree in Education, teaching the deaf. She has completed her first semester at law school, at Stetson University in St. Petersburg, Florida. And the reason she is there is that her husband, a college physics professor, teaches in St. Petersburg.

Q: So there is very little chance of the three of you practicing together in one firm.

WHITMORE: Well, there is absolutely none because I have retired from practice. Gibson, Dunn has a total no-nepotism rule, and my son loves Palo Alto, and my guess is he's going to stay with the firm he founded up there, and stay in Palo Alto.

Q: Now let's go back for just a moment, and test your memory — and this is not a test in that sense of the word — but your familiarity with Gibson, Dunn & Crutcher leads me to ask you the reason or reasons why it became one of the largest law firms in Southern California when it did — I mean, prior to World War II.

WHITMORE: Well, it was a large law firm prior to World War II. Its substantial growth, of course, has been since World War II. The firm was formed in about 1903 as a result of a merger of two firms — Gibson, Bicknell & Trask [sic; Bicknell, Gibson & Trask], and the firm of Dunn & Crutcher — two firms that represented different interests of Mr. Huntington and his railroad and other interests. Mr. Huntington requested that the two firms merge and in 1903 they did. He owned national railroad interests as well as interests in the Pacific Electric Line and Inter-Urban Railway Line in and around Los Angeles, and I believe at one time the Los Angeles Railway. When I joined the firm, we had what we called the Railway Trial Department. There were probably eight or ten lawyers who did very little other than represent the streetcar system in personal injury litigation — defense litigation. So I think a good part of the growth of the firm can be attributed to the interests of Mr. Huntington, but I think we were just very fortunate in getting some excellent litigators, like Norman Sterry and Henry Prince, and excellent corporate lawyers like James A. Gibson and Homer Crotty and Sam Haskins, and a very fine probate lawyer. Elmo Conley — lawyers who were what today we call rainmakers. Because of their abilities, they did develop substantial practices as the result of recommendations of their clients to their clients' friends.

Q: I remember reading that Gibson, Dunn & Crutcher, or at least the partners in Gibson, Dunn & Crutcher, played a major role in the reorganization of Richfield Petroleum Company. Do you remember some of the stories you heard about oil companies in Southern California?

WHITMORE: Well, I do remember hearing about Richfield Oil receivership, which the firm handled. We represented Mr. McDuffy, who was the receiver. And I know that I remember hearing stories about the part played by Herbert Sturdy, another of our very able corporate lawyers, and Homer Crotty and Norman Sterry, and I'm sure, others in the firm. That was, however, in the early thirties. I first showed my head in Gibson, Dunn in 1940, so I was never involved in the Richfield receivership, but I'd heard a good bit about it from the firm and also from Mr. McDuffy, the receiver, who I met through his son, who was a classmate of mine in undergraduate school.

Q: Well, subsequently, Richfield became one of the clients of Gibson, Dunn & Crutcher.

WHITMORE: Yes, I'm sure it did, but not to the extent of our being primary outside counsel for them. My guess is we're still doing some work for Richfield, but it has a substantial-sized legal department, as it has for some years, as I'm sure you can guess.

Q: You mentioned a name that brings back a lot of memories to some of the trial people in Los Angeles — Norm Sterry. You mentioned that he was one of the outstanding trial lawyers in Los Angeles, but he was noted for things other than his ability inside a courtroom.

WHITMORE: Well, he was our big, old, gruff bear. He was one of the most conscientious case preparers I've ever run across. He kept ledgers, and everything he read and every note he made, he had in a bound ledger. Norman was a very difficult taskmaster when he assigned a research project to you.

Q: Would he allow you to digest a case, or did he just want the name of the case and would read it himself?

WHITMORE: He wanted you to digest the case and to summarize it, and he read the whole of every case ever cited to him in any memorandum that he received from any lawyer in the firm.

Q: And, at least immediately after World War II, he was probably the dean of trial lawyers in Los Angeles. Couldn't you characterize him like that?

WHITMORE: Oh, I would certainly characterize him that way. He and Irving Walker — there were two or three of them, and certainly Norman was one of them — were, I think, generally considered to be the deans of trial lawyers.

Q: I've heard stories that sometimes when Norm Sterry was involved in a lawsuit with co-counsel, they used to send notes to each other, rather than to try and socialize in the hallway or have lunch.

WHITMORE: Norman was, by nature, all business. There was relatively little socializing in Norman's nature. He also had a personality that made it difficult for him to commend or compliment young lawyers who did work for him. I remember I never did get a compliment from him in all of the years I was at Gibson, Dunn. But I remember, also, he knew my wife and her family prior to my marrying my wife. And we, over the course of my early years at Gibson, Dunn, always went to one Christmas party in

common. Again, Norman would see me, and would be very civil, very nice, say hello — probably wouldn't remember my name — but he would get my wife, take her over in a corner and tell her what a good job I was doing. But he wouldn't tell me that.

Q: Let me go back then, on another tack. Just before World War II, in the thirties, there were a lot of labor problems in Southern California. And the L.A. Railway was involved in some of those. There was at least one major strike of the railways. Do you remember when that was?

WHITMORE: Well, I wasn't at the firm at that time, and this is the lore of J. Stuart Neary, the first lawyer in the firm to perform labor work, and the senior member of the firm under whom I began the practice of labor law. I believe it was after Roosevelt became president, and before the Wagner Act was passed in 1935. In other words, during the one- or two-year period that the N.R.A. was in effect. There was a strike at the L.A. Railway. Stuart Neary, a marvelous lawyer and a very gregarious guy, born and educated in Head, South Dakota, was at the firm and through Mr. Haskins, who I believe was then president of the Los Angeles Railway, was asked to handle, as the lawyer, the labor matters for the L.A. Railway. There is a story — I certainly was not there to see it, and I cannot certify it to be true, though I believe it to be true — that after the strike had been underway for some time, without substantial prospects of early settlement, the railway decided it would begin operations again from the railway headquarters at 12th and S. Broadway or thereabouts, up to the City Hall and back. The conductor on that first run of a streetcar up Broadway was J. Stuart Neary, who then weighed perhaps 300 pounds, had a shock of gray hair, was a very impressive and significant guy, who looked the part, as was the case, of being an ex-football player. Stuart had wires strung around the underpinnings of the streetcar — he stood in the motorman's spot, opened the front door with several steps between the street and the level of the streetcar, and if somebody was about to cause any trouble, his right foot was available to eject that person, I'm told, from the streetcar. And he got the name, then, of Slugger Neary. He was a very likable person, and I'm sure there was probably nobody, in years following that, who was more admired and better liked by union people and union representatives and their counsel in Southern California than Stuart. Stuart played football at Creighton

University, where he went to law school. He had a most unusual way, again, the lore of J. Stuart Neary — and I'm reasonably certain it's true. He worked his way through Creighton Law School by being freshman football coach.

Q: I've heard it said that J. Stuart Neary actually wrote the Blue Eagle Pact, or whatever they called the guidelines for the N.R.A., so far as street railway transportation for the whole United States. Is that correct?

WHITMORE: That could be so. I can't assert that it's so. I don't recall ever hearing Stuart, himself, refer to that.

Q: Now, going back to the time then that you joined the firm, after the war, what is your impression, or memory, so far as labor law and labor law firms in Southern California, or in the nation, for that matter.

WHITMORE: Well, there were relatively few labor lawyers, and all of them had begun their practice in that field after the passage of the Wagner Act in 1935. There were one or two management labor lawyers at the O'Melveny firm. There was Stuart Neary, Dave Evans, and Fred Field at Gibson, Dunn, practicing in that area when I returned to the firm in January 1946. I have no present recollection of any other management labor law practitioner in the Los Angeles, or Southern California area. I do have a recollection of a number of labor lawyers representing labor organizations, however, at that time.

Q: Who were some of the outstanding firms in that area?

WHITMORE: Well, I guess the one I saw most of was John Stevenson, who was attorney for the Teamster's Union. There were several lawyers at the firm of Margolis, McTernan & Tyre, who represented labor organizations. I had forgotten one management labor lawyer, who had been regional director of the National Labor Relations Board in Los Angeles. His name was Leonard Janofsky and he was practicing in the labor field at the end of World War II. Now, the other management, the other union lawyers — I remember a lawyer named Lou Wolf, who represented the United Auto Workers Union and several others. I remember one in San Francisco, who I had occasion to deal with on a number of occasions, named Mathew Tobriner, who subsequently went on the California Court of Appeal and the California Supreme Court. But I limited myself to the period immediately after World War II now. I'm sure there are others I have not thought of, but those are all, at the moment, that come to my mind.

Q: Going back then to when you joined Gibson, Dunn & Crutcher, after the war — you said that there were a number of lawyers engaged in defense work for the railway. And that was, I presume, personal injury and property damage.

WHITMORE: Yes.

Q: Was the firm, at that time, departmentalized? Was there a tendency for lawyers to specialize?

WHITMORE: Yes. I think not to the extent that it is presently departmentalized, if that's the proper word, but at that time all of the lawyers that represented the streetcar company were on the eighth floor of the Banks Huntley Building. With the possible exception of Max Eddy Utt, all of the work done by the lawyers on the eighth floor was streetcar defense work. There were perhaps eight or ten of them — I don't remember. Max Utt did streetcar defense work, but in addition he did do some work with the City Council in connection with municipal ordinances and city government. Other than that, departmentalization was not terribly formal. There were corporate lawyers. There were probate lawyers. There were the three labor lawyers that I mentioned. We then had no tax lawyers at the firm until Bert Lewis came at the end of World War II. He was the first tax lawyer we had at the firm. And to the extent that their practice was separate, there was departmentalization, although every lawyer worked far more closely with every other lawyer than is possible in a firm the size of Gibson, Dunn today.

Q: In the trial department, those of you who represented the railway — did you handle both municipal and superior court cases?

WHITMORE: Well, those of us who were new — like I was at the end of World War II — handled municipal court cases. The answer to your question is yes. The firm handled both, although there were relatively few of us who handled municipal court cases, and it was perhaps six or eight months with the firm during which I tried municipal court cases before I was given a superior court case to try.

Q: Do you remember the jurisdictional limitation in municipal court at that time?

WHITMORE: My recollection was that it was \$2,000.

Q: Do you remember if on any occasion you actually tried jury cases in municipal court?

WHITMORE: I tried jury cases against some of Los Angeles's fine plaintiff lawyers in the municipal court.

Q: Do you remember any of them?

WHITMORE: I remember trying one municipal court case to a jury against Lowell Dryden, who was then certainly one of Los Angeles's most significant plaintiff trial lawyers and others, but that's the one that comes to my mind right off.

Q: It's hard to realize or appreciate the fact that there were jury trials in a jurisdictional amount of less than \$2,000.

WHITMORE: That's right, there were. And there were enough involving the streetcar company to keep three, perhaps four, lawyers quite busy.

Q: Do you remember any of your colleagues in your junior trial department when you first started?

WHITMORE: I remember Ernie Zack. Ernie came at, I think, just before the end of World War II, after having spent some time in the FBI. He came to work with Gibson, Dunn. My recollection is that he was there when I got there at the end of the war. Ernie and I shared an office and we did very little other than try municipal court cases — jury and nonjury — involving the streetcar company. John Binkley is another young lawyer, a fine trial lawyer, who tried streetcar cases with Ernie and me. John did that for several years with Gibson, Dunn, and then together with Bill Gray, now a senior federal district judge, and Morris Pfaelzer, now deceased — the three of them formed the firm of Gray, Binkley and Pfaelzer, Pete being the corporate or business lawyer and John Binkley being a labor lawyer and litigator and Bill Gray being primarily a litigator.

Q: Now, getting back then to the manner of conducting a trial in that era, were you and all law firms essentially on a five-day week then, or was it a little bit different than it is today?

WHITMORE: Well, during the two summers I spent with the firm prior to World War II and for a number of years after — I returned in 1946 — the normal schedule at Gibson, Dunn & Crutcher was the five weekdays plus

Saturday morning until 1:00 P.M. But my recollection is that all lawyers didn't work every Saturday. We worked most Saturdays, but periodically took off a Saturday morning.

Q: The courts weren't open on Saturday, so what was the primary purpose of being open or having an office open on Saturday?

WHITMORE: Case preparation.

Q: I presume, then, that a lot of depositions were handled on Saturday?

WHITMORE: I don't have the recollection that any great number of depositions were scheduled on Saturday. My recollection of that period, in the time I spent, was doing research for other lawyers, or preparing my own case for that next Monday morning if I knew about it on Saturday. Occasions did arise then, as far as municipal court cases are concerned, where a lawyer would be ill or for one reason or another a case was being called and the lawyer who had prepared the case was not available. I would be given a file at 8:00 in the morning by Philip Sterry, Norman's brother. Philip was in charge of the railway trial department. I'd be given a file at 8:00 and be told that the investigator would meet me in Division 1 with the witnesses. I would read the file, I would go up and spend what time there was waiting for my case to be called, talking to the investigator, reading written statements he'd taken and hopefully, spending some time talking to the witnesses who I would be calling. We don't operate that way now. We did operate that way then, but we had a lot of tools to help us. I remember being given, soon after I started trying municipal court cases, railway cases, a book that had citations for virtually every proposition that might arise in a streetcar case in the law of evidence or tort law that would be applicable to cases of that type. When I started trying superior court cases for the railway, I had available to me a second book, called a jury book, which gave me biographical and vital information on prospective jurors. So I had that information in front of me, to assist me, when selecting or challenging prospective jurors.

Q: How long did you stay in active trial work?

WHITMORE: The Taft-Hartley Act was passed in April of 1947. Bill Smith was approached by Stuart Neary at the same time that I was approached by Stuart Neary. Bill was doing corporate work; I was doing litigation. Stuart

had a very substantial overload of labor law work. Dave Evans had just left the firm to start his own.

Q: Incidentally, he continued to specialize in labor law after he formed his own firm.

WHITMORE: Yes, he did. Fred Field was doing less and less labor work and so Stuart needed help, and Bill Smith and I and John Binkley in about April of 1947, indicated to Stuart that we would be happy to help him with his temporary overload which never disappeared, incidentally, and entirely as a matter of choice, Bill and I stayed in the labor area.

Q: Tell me a little bit about Bill Smith.

WHITMORE: Well, Bill Smith joined the firm the same week as I did, in January of 1946. He had worked the summer of 1942 in the office as a clerk, prior to taking the bar examination in the fall of 1942. He had gone to Los Angeles High School where I understand he graduated first in his class. He then went to UCLA for his undergraduate training where, I understand, the same was true. He then went to Harvard Law School, graduating in the class of 1942, and he returned to Gibson, Dunn, after having spent that 1942 summer there, as he was released from active duty in the service. That's basically Bill's background.

Q: Tell me, then, about the transition, or rather, the development of what eventually became the labor law department.

WHITMORE: When Bill and I joined Stuart we, at that stage, thought we had a labor department. We three — plus John Binkley — we four — were it. And our workload, the amount of labor law work available to the firm continued to grow until now, I'm guessing, we have perhaps forty-five lawyers who practice.

Q: Essentially what did you do in the field of labor law? What were the nuts and bolts?

WHITMORE: Well, the bottom line, Ray, is that what we did in 1946 and for quite a number of years thereafter is really quite different from what labor lawyers at present are doing. Our time, in 1946, and for quite a few years after, was spent negotiating collective bargaining agreements, consulting with employers and preparing personnel policies and practices, trying cases — unfair labor practice cases or representation cases before the National

Labor Relations Board — handling litigation, whether injunction matters, contempt matters, or a variety of things, before state and federal courts, and handling arbitration cases under collective bargaining agreements for our clients. In addition, we counseled and worked with unorganized employers to assist them in connection with the personnel policies and practices. I think today the practice has changed a great deal. Considerably less time is spent in negotiating collective bargaining agreements. Basically, corporate personnel directors do most of this and they consult with lawyers by telephone or otherwise. Some collective bargaining agreements are still negotiated, however, by lawyers in the firm. The amount of unfair labor practice and representation case business has diminished substantially over what it was in the earlier days of the forties and the fifties and the sixties when a very substantial percentage of employers were unorganized or were in the process of being organized. Today, with class action, with Title VII of the Civil Rights Act, with our substantially expanded discovery procedures in the state, and under the federal rules, a considerably greater amount of time is spent by labor lawyers handling discrimination matters, handling class action lawsuits, preparing for complex, substantial, protracted, litigation. Far more time is spent doing that than was the case when I started practice. Other than Title VII of the Civil Rights Act, the recent development of the law with respect to termination at will or termination of employees — which results in an incredible amount of litigation — that was handled by arbitration or not handled at all. During the early days it was assumed an employer, absent a collective bargaining agreement providing otherwise, or an employment contract providing otherwise, had a right to terminate employees at will. And now so many terminations of organized or unorganized employers result in the courts. It's difficult for someone who has been away from it for a little while as I have to realize the extent of the practice in that area.

Q: Can you remember or pinpoint some of the difficult labor negotiations or strikes that were involved soon after World War II?

WHITMORE: When one does this, he tends to emphasize, because of his recollection and its limitations, his own activity. The most significant strike I recall was in the summer, fall and early winter of 1963, involving the employees of what was then known as North American Aviation, now Rockwell, Inc., at its plants in Southern California and Columbus, Ohio.

It was an 83-day strike. It involved virtually every aspect of the practice of labor law you can imagine — negotiation, litigation, substantial labor board activity, unfair labor practice cases, and even decertification petitions filed against the United Auto Workers at the company's plant in Columbus, Ohio, that involved me in Ohio for a substantial period of time. That was the largest in terms of thousands of people getting involved. The first very large case which I handled by myself — I remember a number of cases where substantial violence was involved. I remember developing a substantial distaste for representing employers with largely female working forces because my experience was strikes involving organized women were bitter, sometimes more violent than strikes involving a predominantly male work force.

Q: Were you involved in any of the Jergens matters?

WHITMORE: I was not. John Binkley and Stuart Neary, if my recollection was right, handled the bulk of Jergens matters. That was a client of Stuart's and not one that I have any recollection of being particularly close to.

Q: Any other cases or incidents or involvement that you had that you can recall at this time?

WHITMORE: Well, it's terribly hard to single any out. I remember scores of strikes — of my clients, of Bill Smith's clients, of Stuart's clients. I remember strikes at American Potash and Chemical Corporation, for example. I remember strike settlement negotiations. I remember an arbitration where I was a member of the arbitration board. The company, after an illegal or unauthorized strike, had terminated a number of employees who were largely responsible for the strike which was in violation of the agreement. And I remember spending many weeks in Trona, California, in connection with that strike.

Q: You don't go back there to vacation, do you?

WHITMORE: I have been there since I have become of counsel to my firm, but it surely is not what you would call a vacation, although it is certainly historically, geographically and geologically a very significant area. I thoroughly enjoyed the time I spent in Trona and I will enjoy my visits back there.

Q: The era beginning 1946, following World War II — is it fair to say that among the major law firms in Los Angeles, or California for that matter, that there were very, very few women lawyers?

WHITMORE: The first woman lawyer of whom I was aware was a woman named Helen Kemble who was a partner of Chuck Beardsley, who was then president of the State Bar. There had been a woman at Gibson, Dunn & Crutcher during World War II. I was not aware of any women lawyers at any other law firms other than Helen Kemble, with Chuck Beardsley and later with the firm of Beardsley, Hufstedler and Kemble. And the one who was at our firm during the war. I was not aware of any other women lawyers until well into the fifties.

Q: Did the acceptance, for instance, of women lawyers — was it a gradual process or does it seem precipitous so far as your observations?

WHITMORE: Well, it certainly was not precipitous. The lawyer who had been with our firm the longest, Marsha McLean Utley was hired because she was a truly outstanding person. She was editor-in-chief of the *UCLA Law Review* and clerked for Chief Justice Roger Traynor. I'm sure her work at Gibson, Dunn was very helpful in getting more women into the firm. She was accepted by her clients, she was a litigator, she has been a very, very successful practitioner. We, of course, now — I'll bet forty to forty-five percent of new lawyers we hire are women.

Q: But it's been a gradual process from Marsha's hire until today. And I presume that the reflection of this firm is a reflection of society as a whole at that time as far as hiring minorities of any kind.

WHITMORE: We like to think that we were involved in the forefront and hired women and minorities a little faster than most other firms. But yes, I would certainly say that what's happened since 1964 when Marsha was hired until today, our situation is reflective of what's happened in society and what's happened in the legal profession in Los Angeles and Southern California.

Q: In the ten or fifteen years that you were directly or involved in state court trial work and up until, say, 1964, do you remember any women trial lawyers?

WHITMORE: I remember the name of Gladys Towles Root, primarily or exclusively a criminal lawyer. I had no occasion to oppose her or to be involved in any professional dealings with her.¹

¹ See, in this issue, Richard A. McFarlane, "The Lady in Purple: The Life and Legal Legacy of Gladys Towles Root."

Q: How about in the field of tort litigation. Do you remember of hearing of any woman lawyer in that era?

WHITMORE: I don't recall any at the moment. Can you think of some that might refresh my recollection?

Q: No, not at all. I had heard at the time that women were — even women lawyers — were reluctant to try jury trials because they felt there was a prejudice on the part of the jury against women lawyers because they were going into a man's field where they didn't belong.

WHITMORE: I do remember during that period after World War II a female superior court judge named Georgia Bullock, but I didn't ever appear before her. My recollection was that she spent her work largely in Adoption Court and matters involving juveniles, but since I had no dealings with her, I could be incorrect in that respect.

Q: Did you ever appear in front of May Lahey?

WHITMORE: Oh, that's another name I know. No, I never did appear before her. But I remember the name.

Q: I will gratuitously throw in that she's one of the finest judges that I have ever known.

WHITMORE: There was also a woman judge appointed sometime in the fifties named Ernestine Stahlhut who had formerly been an employee of the State Bar of California and I had known her in her State Bar capacity. I didn't ever appear before her, but I knew her during her period of time on the bench.

Q: Do you remember when you first were aware of the fact that a Black was hired by a major law firm?

WHITMORE: Well, let me digress just a moment, and say that I do remember quite well in the early fifties when the bylaws of the Los Angeles County Bar Association were changed.

Q: I want to come back to that in a minute. But I'm just talking about hiring practices now.

WHITMORE: I don't ever remember hearing of a black applicant for employment at our law firm or any law firm in Los Angeles until Sam Williams

was hired by Chuck Beardsley and Seth Hufstedler. And I can't tell you when that was, but my guess is that it was twenty-five years ago.

Q: Did you or do you remember any black law students at either USC or at Boalt Hall?

WHITMORE: When I was at Boalt Hall, there were no black law students. There had been one who would have entered with me in the class of 1939 had I gone directly to Boalt in 1939, but if my recollection is right, by the beginning of the second year of law school he was at Hastings. My recollection of Boalt Hall when I was there was that there were no black students. There was one Asian in my class and there were two women. At Stanford, for example, I don't remember any black students or in USC Law School the year I was there. No, there were just very few women applicants, and fewer blacks.

Q: I guess, in reflection of the times, is the fact that you're old or young enough to remember when it was quite a phenomenon to talk about a black football player, even at a state university.

WHITMORE: That's true. If my recollection is right, there were no black undergraduates at Stanford when I was an undergraduate. I recall some of the fine black athletes at UCLA who were there when I was an undergraduate at Stanford, among them, Kenny Washington, Jackie Robinson, Tom Bradley, that I recall.

Q: Woodrow Wilson Strode.

WHITMORE: Yes, Woody Strode, that's right. But I remember none at Stanford and very few at other schools. I'm sure there were fine black athletes at Berkeley at that time. I don't have the recollection of them as I do of the group at UCLA.

Q: Now, I want to go back and talk about the development of law firms with the bar. Was it a fact that most major law firms felt an obligation to encourage some of the juniors in the firm to participate extensively in state and local bar activities?

WHITMORE: Well, I can tell you it was the policy of Gibson, Dunn & Crutcher — I don't know about other firms — to encourage participation in state and local bar work. I recall in 1947 when the State Bar Convention was held in Santa Cruz. Homer Crotty, I think, was largely responsible for the firm determining to send two young lawyers from Gibson, Dunn

& Crutcher to that convention. The two lawyers were myself and William French Smith. I recall the convention very well, and I recall the interest that Bill and I rather immediately developed in the group then known as the Junior Barristers, or the Junior Bar of California — lawyers under 35 — now known as the Young Lawyers. I recall that the next year after that 1947 convention, of the four officers of the Junior Bar of California, Bill Smith and I were both vice presidents — we were two of them.

Q: At that time, and I presume that it's basically true today, the bar conventions and Conference of Delegates met alternatively in the northern or southern part of the state, and I presume that it was more pronounced at that time — the switching back and forth.

WHITMORE: Yes, it was, just as it was during that period after the war. The rule was followed without fail, which was the president of the State Bar was one year from the north, and the next year from the south. And it rotated, and that continued until the late sixties or early seventies.

Q: Now, when you went to the State Bar in 1947, you went as delegates?

WHITMORE: I just went as a member of the State Bar, not as a member of the House of Delegates to the convention. I recall that the Taft-Hartley Act was in the process of being considered, or just had been. I recall that President Truman vetoed it but it passed Congress over his veto, and Senator Robert Taft was one of the speakers of the Santa Cruz convention. I recall the picketing of Senator Taft outside the building at which he spoke. I recall the speech he gave. I have no recollection of attending the Conference of Delegates at that convention, although my guess is that I did. I was a delegate from the Los Angeles County Bar Association for many years starting soon after that, to the Conference of Delegates, but I have no recollection of the 1947 session of the Conference of Delegates.

Q: As I recall you and a fellow by the name of William French Smith were instrumental in changing the bylaws so far as the election of the officers of the Junior Bar was concerned.

WHITMORE: Well, I recall that we were instrumental in accomplishing a number of things. I'm not a bit sure I understand exactly what you have in mind.

Q: Let's talk about your involvement, formally, with the Young Lawyers. Were you ever an officeholder?

WHITMORE: Yes, I went through the chairs, starting, I believe, in about 1948, and I was chairman or president of the California Junior Bar in about, I would guess, 1950.

Q: At that time, was there an age limitation of the Junior Bar?

WHITMORE: Yes, it was quite a different organization than it is presently. The age limitation, and I guess it is still the case, was thirty-five years. You had to be thirty-five years or younger. One of the jobs of the president of the Junior Bar was going before the State Bar Board of Governors, requesting a budget for our activities. And for all of the activities of the Junior Bar in that year, I asked for and received a budget of \$2500. That covered travel to meetings of the Council of the Junior Bar, to the Convention — the annual meeting of the State Bar — and for whatever other purposes or activities the Junior Bar was involved with. I recall that the members of the State Bar Board of Governors before whom I appeared were Chuck Beardsley, Herman Selvin, Joe Ball, a group of people whom I knew well and had great respect and regard for and who I saw much more of after that appearance than before.

Q: Was Homer Crotty on the Board at that time?

WHITMORE: Homer had been president of the State Bar shortly after World War II and was no longer on the Board of Governors.

Q: He certainly remained active in the State Bar activities until his demise.

WHITMORE: And activities of the American Bar Association, where he was a member of the Council of the Section of Legal Education and Admissions to the Bar, having been chairman of the Bar Examiners Committee in California as well as president of the State Bar, had a continuing interest in legal education, admissions matters, and related subjects. But, Homer was not the politician that most people assume the president of the State Bar would be. Homer was more interested in issues. As you know, he didn't smoke, drink, drive a car, swear. He never drove an automobile. And Homer's interests were in the profession and in particular issues, and he was a very persuasive individual and a very hard worker for causes that he felt strongly about.

Q: I presume that you were, of course, a member of the State Bar at the same time that you were active with the Young Lawyers or the Junior Bar-risters. When is the first time that you got involved in any particular committee work or other work with the State Bar as such?

WHITMORE: A year or two after I had completed my term as chairman of the Junior Bar, I was appointed to the Committee of Bar Examiners. If my recollection is correct, that was in 1952 or 1953.

Q: Before we get on to some more reminiscences and talk about the Board of Bar Examiners, I want to read you a little excerpt from a book called "Lawyers of Los Angeles," and this will be by way of background for some more questions that I want to ask you. It was talking about the institution of one of the first law schools in California. It says at page 270:

At this time and for long years before and long years after, applicants for admission to practice in all the courts of the State had only to go before California's Supreme Court and be examined orally. The Justices of this court made semiannual visits to Los Angeles for the benefit of southern California applicants. Instead of seeking a law school, the young man who wanted to be a lawyer got a job in the best law office he could as clerk or stenographer and "read law" there preparatory to going before the Justices of the Supreme Court. Or, lawyers who came to California from states where admission requirements were even easier than California's, or perhaps nonexistent, their quick entrance into the legal field in California was, from the present day viewpoint, scandalous. Written examinations as a prerequisite to Bar admissions were not required by law until 1918. The "diploma privilege" of certain California law schools whose graduates were admitted to the Bar without examination was abolished by statute in 1917. Not until January 1, 1918, were California applicants required to submit proof of having studied law for a definite period, and not until 1919 was the Board of Bar Examiners created. The Examiners themselves were first appointed in 1920 by the Supreme Court. When the integrated State Bar was created in 1927, the present Committee of Bar Examiners was set up. Since then, admissions and requirements year by year had been tightened.

That's the end of the quotation. I take it from that that Homer Crotty must have been one of the foremost people, right from the beginning, in bar examinations. Is that correct?

WHITMORE: I would certainly assume so. He was a very bright, conscientious and hardworking individual. And that was one of the areas of his interest. He served a full term on the Committee of Bar Examiners in California during the late thirties and early forties, and was chairman of the Committee.

Q: He wrote extensively, didn't he, articles for the bar journals?

WHITMORE: I've read a number, and I'm sure you're correct in that respect, yes.

Q: There was an organization that grew up during this period called the Breakfast Club. Are you familiar with it?

WHITMORE: I was chairman of the Breakfast Club for a while.

Q: And what was its relationship to the selection of officers in the State Bar?

WHITMORE: The function of the Breakfast Club, when it was formed and initially chaired by Frank Belcher, was to make certain that at least one qualified person was nominated for each vacancy from Los Angeles on the Board of Governors of the State Bar.

Q: And in time their importance or their prestige was almost enough to make it tantamount that if nominated, they would be elected.

WHITMORE: I don't recall any opposition to the Breakfast Club candidate until sometime in the late 1960s. For example, when I ran for the Board of Governors, Gus Mack from Los Angeles and I were the two nominees that year. We were elected, each of us, without opposition, although I was a little distressed to find when I heard the vote results that in my case — although, being a lawyer I shouldn't have been too surprised — Jimmy Hoffa got four votes, and Caroline Kennedy, who had just been born, got one.

Q: I take it that for good reason you thought Jimmy Hoffa's votes were antagonistic to yours. In any event, the Breakfast Club was sort of an extra-legal adjunct of the State Bar, at least for the purposes of seeing that candidates were nominated.

WHITMORE: Well, yes, and a number of candidates decided to run on their own. But the only function of the Breakfast Club was to make certain that there was, at least in the estimation of the members of the Breakfast Club, at least one qualified candidate nominated for each position in Los Angeles County.

Q: Was Homer Crotty a member of the Breakfast Club?

WHITMORE: Yes.

Q: Any other members of your firm or other people that played an active part that you remember?

WHITMORE: Well, I was in the Breakfast Club from the late forties on. I was chairman for several years. I would guess that would have been in the middle sixties or the early sixties. There were other lawyers from our firm other than Homer Crotty who were members and active in it. I remember Bill Smith, Bob Warren, and I'm sure there were others. I just at the moment cannot think of them.

Q: Coincidentally with your membership in the State Bar, you were active in the Los Angeles County Bar Association, were you not?

WHITMORE: Yes.

Q: Beginning in 1948, the Los Angeles County Bar Association was a volunteer bar association, is that correct?

WHITMORE: It still is.

Q: At that time, was there either formally or at least a de facto policy of exclusionary rules so far as membership is concerned.

WHITMORE: Black people, as I understand it, were not eligible for membership until the late forties or early fifties. I'm not sure of the year. I do remember those who, I believe, carried the ball in getting the bylaws amended to exclude that.

Q: The notes that I made indicate that the first vote to permit Negroes, as the word was used then, to the L.A. Bar, was in 1945 and at that time, the vote was 768 "no" and 604 "yes." And then there was a further plebiscite in 1947 and a third plebiscite in 1950. And by 1950, the vote was almost two to one "yes." Now the period from 1946 to 1950 was a period in which you were quite active in the L.A. Bar, were you not?

WHITMORE: Not as much in the Los Angeles Bar as I was in the State Bar, because of my work with the California Junior Bar, an entity within the State Bar of California.

Q: Do you remember any of the background, or incidents, or anything else about this feeling of exclusion.

WHITMORE: Well, I recall several people who were very active in getting this discriminatory exclusion provision changed — three in particular. I remember hearing Herman Selvin speak before the Association very eloquently and very persuasively.

Q: Have you ever heard Herman Selvin when he wasn't eloquent and persuasive?

WHITMORE: No, certainly not. But he felt very strongly about this situation and was very persuasive in his arguments to change. Grant Cooper was another Los Angeles lawyer active in the Association at that time and thereafter president of the County Bar who was very active. I have a lesser recollection of hearing Joe Ball speak, but I know he was actively involved to get it changed, also. The reason, and probably the only reason that I remember Joe's participation as being somewhat different from Herman and Grant's was that Joe was a lawyer in Long Beach and not in downtown Los Angeles where Herman and Grant and I and most other lawyers who were involved in that vote were involved.

Q: The number of people voting indicated that there was an increase in membership between 1956 and 1960, and I heard it said that there was a movement in which a lot of people refused to join the L.A. Bar in protest because of the black exclusionary rule. Were you aware of the fact that there was such a dissension?

WHITMORE: Vaguely, and I'm not a bit surprised by it. I'm sure there was a significant number who felt sufficiently strongly about it to manifest their displeasure by resigning from membership, or not joining.

Q: I want to throw in a personal note to see if you'll agree with it. I remember I refused to join the L.A. Bar Association for that reason, and you and a fellow by the name of William French Smith persuaded me that the only way to ever change the rule was to join and vote.

WHITMORE: Vote from within, that's right.

Q: At that time, were there women members of the L.A. Bar?

WHITMORE: There were, but certainly not in significant numbers, as is the case today.

Q: And certainly, I guess it would follow that to your memory there were no officers of the L.A. Bar as such who were women.

WHITMORE: Helen Kemble might have been chairman of the committee, but no, I don't remember any officers. When I was on the Board of Trustees of the County Bar Association in '57 or '58 or thereabouts, there were no women.

Q: The first time you were elected to the Board of Trustees of the L.A. Bar, do you remember who the president was?

WHITMORE: Grant Cooper was president one year, Steve Halsted and Hugh Darling, if my recollection is right, were those that I served under when I was a member in the fifties. Then I went back as an officer in about 1968. I served with different presidents then.

Q: Early on, it appeared to be the practice that people were elected to the L.A. Bar on the Board of Trustees and served a period of three years and from the senior class, a president was chosen. And I've heard it said that because of the tremendous talent that was available, a lot of people thought that it was just a shame that people had to go off the Board when they were first becoming extremely useful. And one of the first people that I think was reelected and primarily for the purpose of electing him president was Walter Ely — isn't that true?

WHITMORE: I have some recollection of that.

Q: So was Walter Ely before your time?

WHITMORE: Walter Ely was president before I was president and he went on the Board, if my recollection is right, at about the time I was first on it, or shortly after that.

Q: Now, how many years did you serve on the Board of Trustees on the L.A. Bar?

WHITMORE: Well, I served that term in '57, '58 or thereabouts. I assume that was three years. I then went on in 1968 as a junior vice president and

then served as the senior vice president and the president. So I guess I served two three-year periods, if my calculations are correct.

Q: Do you remember any of the other names other than those that you mentioned? Steve Halsted was on with you, wasn't he?

WHITMORE: Yes, I served with Steve on both the State Bar board and the L.A. County Bar board. When I returned to the Board of Trustees, Ira Price was president. Ed Shattuck had just been president. Glen Tremaine had just been president. Leonard Janofsky succeeded Ira Price. Seth Hufstедler succeeded Janofsky. I succeeded Seth. Stuart Kadison succeeded me.

Q: When did Sam Williams become active in the L.A. Bar?

WHITMORE: Well, I'm sure Chuck Beardsley and Seth Hufstедler persuaded him to become active upon his entry into the practice of law in Los Angeles. He was president of the County Bar — I can't tell you the year. Well, it was in the seventies, I'm sure, because after serving as president of the Los Angeles County Bar Association he served on the Board of Governors of the State Bar and as president of the State Bar. And that was some years ago — five or six years ago, at least.

Q: Do you recall any of the other names of people that served with you on the L.A. County Bar?

WHITMORE: Well, I recall the four of us who went on the board when I went on in '57 or '58 who were Loyd Wright, Jr., George Harnagel, Paul Hutchinson, and myself. At the end of our three-year term, Loyd Wright, Jr., was nominated to be the junior vice president. The next year, or maybe it was two years later, Loyd Wright became very ill and died. He was either replaced or would have been succeeded by Paul Hutchinson, who was in my class on the board.

Q: Well, tell me a little bit about Grant Cooper, because I think that he is one of the few people who specialized in criminal law who became quite active in State Bar work.

WHITMORE: Yes. He had been a prosecutor in the D.A.'s office and he went into practice, largely a criminal defense practice. He suffered under a great disability when he was president of the Los Angeles County Bar Association. He was, during most of that time, trying the Finch case. Dr. Finch, as you recall, was charged with murdering his wife, I think. In any

event, that case, if I recall correctly, was tried three times. Grant tried it the first two times, and his partner, Ned Nelson, tried it the third time. And I must say I admired Grant more than you can imagine, because trying a high publicity, lengthy, complex case like that is at best difficult, and Grant did it, and in addition presided over meetings of the Los Angeles County Bar Association Board of Trustees and served in a most commendatory way as president during the period of time when he was occupied morning, noon, night and weekends, with the Finch case.

Q: Not only that, but I think Grant Cooper does not have a large backup firm or other lawyers

WHITMORE: But he had one thing that a lot of lawyers with a lot of normal backup didn't have. He had a wife who was a lawyer. His wife, Phyllis, was a lawyer, and was very helpful to him, and he had a partner during this period, Ned Nelson, who I'm sure was helpful to him. But if my recollection is right, that was the extent of his law firm.

Q: By way of background, so that people can appreciate it, can you tell me about the work of the Board of Trustees of the L.A. Bar — how often do they meet and what occupies their time, at the time that you were active?

WHITMORE: During the fifties when I was on the County Bar board we concerned ourselves with matters as you would suspect — financial matters, personnel matters involving the staff of the Association. We spent a good bit of time on resolutions which we would propose, support or oppose before the Conference of Delegates of the State Bar. We concerned ourselves with the work of the committees of the Association. Among the other things that the L.A. County Board of Trustees did during the fifties was to take appropriate action with respect to recommendations of committees of the Association. That, of course, was before the Association had sections. At that time it did have active committees.

Q: Do you remember how many affiliate associations there were at that time?

WHITMORE: In the fifties, I don't have a recollection that formal affiliations existed. I do recall that the name of the Association was changed from the Los Angeles Bar Association to Los Angeles County Bar Association during the incumbency of Walter Ely as president of the Association. And if my recollection is right, the formal affiliation of the seventeen or

twenty associations presently associated with the L.A. County Bar Association came about after the name change.

Q: Well, there were at least geographical associations. You mentioned Joe Ball.

WHITMORE: Oh, the Long Beach Bar Association existed; the Pasadena Bar Association existed; the Beverly Hills Bar Association existed; I'm sure there were a number of them. I'm sure that participation as a result of affiliation of these other associations in Los Angeles County has become greater as time has passed. I don't have a distinct recollection of the nature and extent of the participation with the Board of Trustees of these associations in the fifties.

Q: Now there are affiliate associations other than geographic, are there not?

WHITMORE: Well, there's a woman's association [Women Lawyers Association of Los Angeles], and there are some ethnic associations that I understand are affiliates here.

Q: Now, do you remember, or do you have any recollection as to the percentage of lawyers in Los Angeles County that belonged to the L.A. Bar?

WHITMORE: I don't have a recollection as to the percentages of those in the county. I do recall that in 1970, when I was president, we got our 10,000th member of the Los Angeles County Bar Association. And my recollection, and it's certainly indistinct, was that there were at least twice that many lawyers practicing in Los Angeles County.

Q: So far as volunteer bar associations are concerned, by the time that you were a member of the board, the Los Angeles County Bar Association had a delegate to the American Bar Association. did they not — or do you remember?

WHITMORE: I think the answer is "yes." I know that I filled that position for six years, and I had several predecessors, among them Gus Mack, who was the delegate from the Los Angeles County Bar Association for six years. I'm sure there were others.

Q: So far as membership in the American Bar Association, of bar associations, it is only the very, very large volunteer bar associations that have delegates — is that not true?

WHITMORE: That's correct. Well, there are also delegates from state bars.

Q: Yes.

WHITMORE: Whether voluntary or integrated, and from city and county local bar associations, they only have a delegate in the House of Delegates of the ABA after they achieve a certain size of 2,500 members or something like that.

Q: Tell me something of the work that you did with the American Bar Association. What committees were you on, or what did you do as a delegate?

WHITMORE: Well, my first exposure to the American Bar Association was when I was elected chairman of the National Conference of Bar Examiners. Because of that office, I was a member of the House of Delegates of the American Bar Association for one year. That was in 1957 or thereabouts. I thereafter was on the Professional Grievance Committee of the Association and in the early seventies I became a member of the Council of the Section of Legal Education and Admissions to the Bar in about 1972, during which period I was also the delegate from the Los Angeles County Bar Association to the ABA House of Delegates. And I believe I held that delegate position from about 1968 to 1974.

Q: You missed the two conventions in London, then.

WHITMORE: I attended the one in 1957 in London. I missed the next one. Then I attended the last one in 1985. I did go over for that. In 1957 I recall being at one of the Inns of Court at dinner when the American lawyer at the head table was called upon for a response, and instead of speaking extemporaneously, he pulled a ten-to-fifteen page speech out of his coat pocket and it seemed, under the circumstances, at least to me, to be quite inappropriate. Well, to go on with my ABA activity. I was in the House of Delegates to the ABA from '68 to '74 as the delegate from the Los Angeles County Bar Association. Starting in 1974, I became the delegate from the Section of Legal Education and Admissions to the Bar. A most interesting position because that section is the entity in the United States that is responsible for the accreditation of law schools and the establishment of standards for the accreditation of law schools. And we had many fights in the House of Delegates, as you can imagine, over matters involving the standards for approval. In 1985 I was elected to the Board of Governors of the American Bar Association, a position I presently hold and it's a three-year term. I will be finished with that in August of 1988.

Q: Then, as a prelude to that particular work with the American Bar Association, you were active with the Committee of Bar Examiners in California, were you not?

WHITMORE: Yes. I was a member from, I believe from 1953 through 1958. I do recall the term of office on the committee was four years and mine was extended one year because I was elected chairman of the National Conference of Bar Examiners.

Q: Would you tell us, if you can, a little of the inside of the work that is done by the Committee of Bar Examiners — how they go about getting questions or graders.

WHITMORE: I can tell you how it was handled when I was on the Committee. And it's done in a far more sophisticated and, I believe, efficient way today than it was in the 1950s. The questions that are used in the bar examination are solicited from out-of-state professors in each subject. They are paid to prepare questions and an analysis of each question. These questions and the accompanying analyses were then considered by the seven-person Committee of Bar Examiners in a three- or four-day meeting.

Q: Was this done by staff?

WHITMORE: It was done by the Committee. And the Committee went over the questions and the analyses, and we always got maybe twice as many, or two-and-a-half times as many questions from professors as we needed for use in the examination. We would then compose the examination. If we found duplication in one question and another question submitted by another professor, we would change one of the questions to eliminate the duplication. We also, sometimes, expanded the question or restricted it if we felt that it was too narrow or too broad. That was done by the seven members of the Committee. And, I must say, with the advice and assistance of George Farley who was then secretary of the Committee of Bar Examiners, later a superior court judge in Los Angeles County. The examination was then given and after the examination was completed, the Committee — each member — would read about a hundred books to help determine if there were grading problems.

Q: You mean you would read every answer submitted in those hundred books, or a hundred answers?

WHITMORE: Well, let me start out and put it a little more clearly. The reader which the Committee had for each question, and I was on the Committee when there were sufficiently few applicants to make it possible to have only one reader for each question — the reader would read a hundred books, the staff would take the grades given by that reader in those hundred books, would chart the grades by number and then you'd be able to compare for different questions how each reader graded that applicant's paper. The Committee of Bar Examiners, then, would take those hundred applicants and their books. And my recollection is not clear that we read all of one hundred applicants' books for each of the questions. But I do recall spending many, many days reading in preparation for that meeting with the readers. We would sit down for three or four days and spend a couple of hours with each reader for each question, determining upon grading problems, ambiguities — any problems that existed in connection with the grading, or any variation from what appeared to us to be an appropriate norm for grading of one reader as against another. For example, if one reader graded everything and averaged out at about 60, and another averaged out at about 80, we went into that very, very carefully to make certain that there was a justifiable reason or necessity for it. After this meeting with the readers, the graders then went ahead with their work. The one hundred books were initially tentatively graded, in order that we could have our meeting regarding grading problems, ambiguities and the like, and when that three- or four-day meeting was over, then the readers or graders went off and engaged in their grading process. Then all applicants whose grades averaged between 65 and 70 percent, as I remember, had all of their books reread by a Board of Reappraisers to determine if, overall, they met the minimum requirements and should be determined to have passed or failed. When the reappraisal process was all completed, then for the first time, the code, the numbering system that was on the books was broken, and the identity of the people whose books were being read was established. And thereafter, of course, notices were sent out to the applicants as to who passed and who failed. That was the process we went through then. There was no practice or lawyering skills component to the examination as there is now. We had a degree of consistency from examination to examination, in order that it not be justifiably said that standards were being raised or lowered. It seemed a very simple way of conducting a

bar examination then, when you consider the nature of the problems and the extent of the studies that are conducted to make certain that it's appropriately done now.

Q: Were you active when the criticisms first started that the bar exam might be tilted in favor, well, not tilted in favor of, but tilted against, certain ethnic or cultural groups because they weren't as familiar with the language or idioms or things of that nature, as the middle-class American would be?

WHITMORE: To the best of my recollection that came considerably after my term on the Bar Examiners Committee. We had relatively few women or minorities taking it. I don't remember any substantial criticisms at all of the examination or our grading process, or anything in connection with the examination based upon race or ethnic background or sex.

Q: Were you subject to any criticism from any source concerning the fact that the Bar Examiners created a closed union shop and only allotted a certain percentage to pass each year?

WHITMORE: I read that in the paper: I heard it stated by people as far back as I can remember. I was so totally persuaded, however, as a result of my time on the Bar Examiners Committee that this was not the case, I answered questions about it in a very forceful way. I have no recollection that this was a prevalent feeling during the time I was on the Bar Examiners Committee. But I remember reading stories that in other states, as well as possibly in California, there were too many lawyers, and so the Bar Examiners Committee was tightening up in the grading process. I didn't pay much attention to it because I knew the extent to which we went to make sure that wasn't the case.

Q: I want to go back and talk to you for just a couple of minutes about another subject. And that is that certainly the bar association as such or the legal profession, or perhaps society in general has been criticized for their actions or exclusions in the forties and fifties, and certainly before that. Now, at the same time that the bar association was excluding Blacks and doing a lot of things that certainly are condemned now, I think that we forget that they were doing a lot of laudable and notable things that are no longer necessary. For instance, do you remember who took care of the representation of indigents in the federal courts? Do you remember how those were handled before there was the regular public defender?

WHITMORE: I know the Bar Association was always very active in doing what it could to encourage its members and others to perform that type of function, not only in the federal courts but elsewhere. Also, I recall the activity of the L.A. County Bar in connection with representation through the Legal Aid Society or otherwise of indigent people in civil cases. This has always, at least during my lifetime in the Bar, been one of the great concerns and activities, and I think one of the activities most constructively carried out, of the Los Angeles County Bar Association.

Q: I want to bring up the name of a colleague of yours in that regard — Maynard Toll. Do you remember some of the activities he had?

WHITMORE: Maynard Toll was a senior member of O'Melveny and Myers, and a very good friend of mine for many, many years and still is. He was always active in connection with the representation of the poor. If I remember correctly, he was chairman of the ABA's committee dealing with legal aid and indigent defendants' representation. He was president of the American Bar Foundation. Yes, Maynard was certainly one of the leaders, as I consider Joe Ball to have been, in connection with provision of legal services in both the criminal area and the civil area to indigents in our area.

Q: Another couple of names I'd like to mention just so that we can get things in the proper perspective is Lou Elkins and Stan Johnson. Can you tell me their roles?

WHITMORE: Well, Lou Elkins was the secretary, the paid head, of the Los Angeles County Bar Association for many years prior to my becoming a member of the Los Angeles County Bar Association, and Lou Elkins, upon his retirement, was succeeded by Stanley Johnson, who continued on as secretary of the Association, until about 1972 or '73 when, if my recollection is correct, he was replaced by Andrea Sheridan Ordin who had worked in the Attorney General's Office, who, again, is now in the Attorney General's Office, working in one of the first or second slots under Attorney General John Van de Kamp.

Q: The Los Angeles Bar Association, then, early on, was a completely organized bar association with a paid staff and was — correct me if I'm wrong — but I'm led to believe that they were one of the foremost volunteer bar associations in the country to be organized and to conduct the activities they did on that scale.

WHITMORE: I think that's right. I recall the first office of the L.A. County Bar Association of which I was familiar, in the Security Building at 4th or 5th and Spring Street in Los Angeles. Lou Elkins was there. There were, I guess, at most a half-dozen other employees, secretaries, and otherwise. When I was president of the County Bar, Stanley Johnson was secretary and we had moved over to a building on the south side of Pershing Square in Los Angeles, and we had a lunchroom for our members, and my estimate is that we had forty or thereabouts paid staff, handling lawyer reference service matters, arbitration matters, membership matters — all manner of things — for the Association. And my guess is, although I don't have the number, is that the number of paid staff of the Association is now several times what it was in 1970. But, yes, the Los Angeles County Bar Association, among local bar associations, has always, together with the Association of the Bar of the City of New York, and the Chicago Bar Association, been the innovator and the leader in the profession. I should include the San Francisco Bar Association in that, too. They have made many, many valuable contributions.

Q: You talked about the work that you did with the Committee of Bar Examiners and the various offices you had with the State Bar, and the local bar associations. Were there any other activities that you had with reference to the organized bar that we haven't talked about?

WHITMORE: One thing you might be interested in is the change in the work of the Board of Governors of the State Bar over the early sixties when I was a member of it and today. From 1962 to 1965 when I was on the State Bar board, the Board of Governors itself conducted the investigations and evaluated all prospective nominees to state and appellate court positions in California. Now, as you know, it's a separate statutory body which conducts the investigations and makes the evaluations. In addition, when I was on the board all discipline matters were finally argued before the Board of Governors and the determination was made directly by the Board of Governors. Now, as you know, there is a State Bar Court. There are thirty or forty or more lawyers who represent the State Bar in presenting matters, discipline matters. It's handled in quite a different way. The function of the Board of Governors has changed a great deal. The legislative matters before the board have become more significant and I guess occupy a good bit of more time of the State Bar than they did when I was on the board. There

really has been quite a change. The staff of the State Bar from '62 to '65 under Jack Hayes as the top staff person has increased in size and in the scope of the work they did by so many times that it's difficult for me to realize the extent of the change. I recall when I was first involved with the State Bar. Its offices in Los Angeles were in the Rowan Building, and relatively few square feet were devoted to their activities, and in San Francisco they were also in rented quarters. They then in San Francisco moved to what was then the State Bar Building on the corner of McAllister and Franklin Streets in San Francisco, which they still occupy, but a building three or four times that has been built next door to take care of their staff and activities in San Francisco, and in Los Angeles the same is true. They built a building on West Third Street which amply took care of their staff and their activities when I was on the board, and now a building next door to it which is three or four times the size of the original building has been added, and I understand that the State Bar is at this stage again wanting for space. One interesting story in connection with the acquisition of the building next door — the land next door in San Francisco on which the addition was built, and the land next door on West Third Street in Los Angeles where the addition was built. In San Francisco when I was on the board we realized we were running out of space and attempted to negotiate with George Davis, a prominent San Francisco lawyer who owned the space and we had difficulty, considerable difficulty, in our negotiations, and while I was on the board never did succeed in arriving at a price agreeable to Mr. Davis and to the State Bar.

In Los Angeles it was quite different. When Grant Cooper and several others — Herm Selvin, if my recollection is right, Frank Belcher, if my recollection is right, probably Joe Ball, although I have no specific recollection of that — realized that when the West Third Street State Bar office was built that the State Bar would be expanding and would need more space. So those gentlemen or some among them bought the property next door, and when the State Bar needed it they sold it at the price they bought it, with a very small, if any, addition to the purchase price. In fact, I'm told they bought the property initially so it would be available to the State Bar when they needed it. So the problem of acquisition of adequate space was quite different in the south than what it was in the north.

Q: I guess we've covered most of your activities. I know that you are too modest to volunteer it but certainly you have been recognized for some of

those activities, so will you tell me some of the times that you have been so recognized.

WHITMORE: Well, other than election to positions on the board of the state and local bar associations in which I was active and in the ABA, I must say the one thing that comes to my mind which was most satisfying to me was when I was selected as the recipient of the Shattuck-Price award being given by the Los Angeles County Bar Association each year. That was recognition that I was very proud of, and it was a very significant thing to me. [See photo, next page.]

Q: I remember at least one occasion in Sacramento when you were honored in a different type of activity.

WHITMORE: Yes, I have received an honorary degree from McGeorge Law School in Sacramento.

Q: That was in recognition of the work that you did with the Committee of Bar Examiners, wasn't it?

WHITMORE: Well, in connection with legal education and admission to the bar — work I had done in California and with the ABA.

Q: You mentioned at the beginning of our talk today that when you joined Gibson, Dunn & Crutcher there were, I think you said, twenty-two members.

WHITMORE: My recollection is that the three firms I mentioned each had between twenty and twenty-two lawyers.

Q: I think that it was the practice in those days that every member of the firm, in fact every lawyer in the firm, was named on the stationery.

WHITMORE: Either above the line or below the line. That's right. The line was important.

Q: What sort of a letterhead would be required today to list the names of every member of Gibson, Dunn & Crutcher?

WHITMORE: Well, as of today, January 9, 1987, I do not know how many lawyers there are at Gibson, Dunn & Crutcher. I have been of counsel at the firm for five years now and have not been on the executive committee of the firm or involved in hiring for that period of time, but I would guess we have about 600 lawyers or maybe slightly in excess of that number. A

letterhead obviously listing all lawyers would be impossible — that's the growth that's occurred in our firm and certainly in many of the other significant firms in California over the period of my time and prior.

Q: With 600 members, how does it compare with the larger firms in the United States?

WHITMORE: Well, I can't be sure of this but I believe I heard one of our active partners indicate that Gibson, Dunn & Crutcher is now the fifth largest firm in the country.

Q: And how many offices do you have? Well, let's go back, how many did you have in 1948?

WHITMORE: In 1948 we had one, on South Spring Street in Los Angeles. We had had during World War II a temporary office in the San Fernando Valley for use by several lawyers in working with defense contractors and subcontractors located there, but about the time of the end of the war that temporary office was closed. We opened our second office, which was the first permanent office away from Spring Street, in 1962 in Beverly Hills. Six of us went up to Beverly Hills to open that office. I can't tell you in what order we opened subsequent offices but our third office was in Orange County in Newport Beach. We now have offices in Saudi Arabia, London, Paris, Washington D.C., New York, Dallas, Denver, San Diego, San Francisco, San José, Seattle; we have 13 or 14 offices now.

Q: You mentioned to me previously that you had a list of the 1986 class of hires (or those who were hired). How many people did the firm hire in 1986?

WHITMORE: Overall, all of our offices, it's about 80 for 1986.

Q: Have you any sort of an educated guess as to the total number of employees that the firm has?

WHITMORE: I guess it would approximate two non-lawyers for every lawyer, but, no, I don't have any exact figures.

Q: The growth in at least geometric proportions since the time that you joined the firm is mildly fantastic. To what do you attribute the fact that not only this firm but other firms have grown in such huge numbers?

WHITMORE: The nature of the practice of law has changed. Our clients in the 1940s, for example, were largely local — California companies,

companies doing business in California. That isn't the case now. Gibson, Dunn has opened offices in new areas when our existing clients had need for legal services in those areas. As our clients have become involved more in nationwide or worldwide activities the availability of lawyers to them from Gibson, Dunn & Crutcher had to be expanded, so we had lawyers



SHARP WHITMORE RECEIVES THE 1982 SHATTUCK-PRICE MEMORIAL AWARD OF THE LOS ANGELES COUNTY BAR ASSOCIATION, WITH (FAR RIGHT) U.S. ATTORNEY GENERAL WILLIAM FRENCH SMITH, HIS FORMER PARTNER AT GIBSON, DUNN & CRUTCHER, AND WHITMORE'S SON, ATTORNEY RICHARD SHARP WHITMORE, AND DAUGHTER, ANN WHITMORE — AT A NOON LUNCHEON ON MAY 21, 1982, AT THE BILTMORE HOTEL IN LOS ANGELES.

elsewhere in the United States and outside of the United States to take care of the expanded activities of our clients.

Q: The last thing that I'd like you to comment on is the fact that at least this firm, through William French Smith and others, has produced in recent years lawyers who have been on loan to the government or governmental activities. Can you comment on all that?

WHITMORE: Well, certainly there have been a number of others from Gibson, Dunn & Crutcher. We had a fine lawyer in our litigation department who is now a member of the Securities and Exchange Commission. Her name is Aulana Peters. We have had Frank Wheat, one of the senior members of our firm in the early seventies, serve a full term as a member of the Securities and Exchange Commission. Ted Olson, a partner in our Washington office, was director of the Office of Legal Counsel of the Department of Justice. Ken Starr, who served as counsel to the attorney general of the United States and then was appointed to the United States Court of Appeals for the District of Columbia, is presently serving in that capacity. We've had a number of people at the Washington level from the firm who have performed significant federal service, and certainly the same is true of our firm and others with respect to positions in state government such as activity in the corporation commissioners' offices and the like.

Q: How about Warren Christopher, did you know him?

WHITMORE: Oh I've known Chris since he first got out of Stanford Law School, and certainly few people have made a greater contribution to our federal government than Chris has. He has served as the deputy attorney general of the United States, and he also has served as the under secretary of state in the Department of State, and as I'm sure you remember, Ray, was our chief negotiator for the release of the hostages from Iran during the latter days of Jimmy Carter's administration.

Q: I guess then that you and I, among others in the legal profession, can still be proud of the fact that the legal profession donates or makes possible the fact that a number of lawyers can contribute and without regard to the compensation that they get.

WHITMORE: Well, I certainly think it's true that lawyers, probably more so than members of any other profession or activity, lend themselves,

certainly at financial cost to themselves, to further the constructive activities of the state and local governments. Yes, that's not only true of our firm and Warren Christopher's firm but certainly of many others. I remember, for example, Dana Latham from the firm of Latham & Watkins taking time away from his activity as one of the two senior members of that fine and large law firm to be commissioner of Internal Revenue in Washington, and Charlie Walker was involved in the Treasury Department in the significant policymaking position who left the firm for a significant period of time to go to Washington to perform that function, and I'm sure there are many other examples.

Q: Any other memories or anything else that comes to mind that you want to preserve for posterity?

WHITMORE: Certainly, one other member of the Los Angeles legal community who has made a very, very significant contribution to our country is Shirley Hufstedler, who is presently a partner in the firm of Hufstedler, Miller, Carlson & Beardsley. Shirley was a superior court judge, a judge in the United States Court of Appeals for the Ninth Circuit. She resigned from that life tenure position to serve as secretary of education, the first secretary of education, in the Jimmy Carter administration. She is now back practicing law in Los Angeles. There are few people, I'm sure, who could compare with Shirley in the contribution they have made and are still making. And I'm sure there are others; I just at the moment can't think of them.

Q: On behalf of the Committee on History of Law in California I want to thank you for taking the time to tell us about these experiences because I think that these insights will be a great means of looking back and analyzing what happened during this period in the progress of the law.

WHITMORE: I've rarely done anything that I enjoyed more than reminiscing as we've had a chance to do today.

ORAL HISTORY
GEORGE YONEHIRO
(1922-2001)



GEORGE YONEHIRO
(1922-2001)

Oral History of
GEORGE YONEHIRO
 (1922–2001)

EDITOR'S NOTE

The oral history of George Yonehiro is one of four oral histories conducted by the former California State Bar Committee on History of Law in California in 1987. These were the final oral histories conducted by the committee, and they are published for the first time in the present volume of *California Legal History* (vol. 6, 2011). Yonehiro was interviewed by committee member Raymond R. Roberts on January 21, 1987.

The oral history has been reedited for publication. The spelling of names has been corrected wherever possible, and explanatory notations in [square brackets] have been added by the editor. The sound recording and original transcription are available at The Bancroft Library, UC Berkeley. The oral history is published by permission of the State Bar of California.

As an introduction to Judge Yonehiro's life and career, the obituary published by *The Auburn Journal* at the time of his death in 2001 is reproduced below.¹

— SELMA MOIDEL SMITH

¹ Gus Thomson, "Former Placer County Superior Court Judge passes away," *The Auburn Journal* (March 28, 2001), p. A5.

GEORGE YONEHIRO

Former Placer County Superior Court Judge George Yonehiro is dead at age 78. Yonehiro, who spent 21 years on the municipal and justice court benches before serving as superior court judge from 1985 until his retirement in 1988, died Sunday in Auburn.

A native of Placer County's Gold Hill area, Yonehiro graduated from Roseville High School and what was then Sacramento Junior College.

After the bombing of Pearl Harbor in 1941, Yonehiro and his family joined other Placer County Japanese-Americans who were relocated to Tule Lake, California. During 1942-43, 119,803 men, women and children of Japanese descent were placed behind barbed wire.

In early 1943, the secretary of war announced a decision to form an all-Nisei combat team and Yonehiro enlisted. Yonehiro fought in Italy and France as an infantryman. He served with the all-Japanese 442nd Regimental Combat Team — one of the most decorated American units of the war. Yonehiro was awarded the Bronze Star medal but didn't find out about it until the mid-1980s when he requested a new copy of his discharge papers. By then a colonel in the California State Military Reserve, Yonehiro was presented the award by Gen. Donald Mattson, commander of the California Military Reserve. During the war, Yonehiro also received a Purple Heart medal.

Following the war, Yonehiro entered the John Marshall Law School in Chicago. He practiced law in Chicago for seven years.

Moving back to Placer County, Yonehiro was elected Colfax Justice Court judge in 1964, a position he held until 1980, when he headed both the Auburn and Colfax lower courts. In 1982, he was elected to the newly created municipal court by garnering 23,638 votes to his opponent's 8,674.

When Gov. George Deukmejian appointed then-attorney Jackson Willoughby to a Placer County Superior Court seat in 1984 over Yonehiro, the veteran jurist quickly announced that he would challenge the appointment in the June primary. Yonehiro won easily and was sworn in early the next year at St. Joseph's Parish Center with 300 people present.

Yonehiro is survived by his wife of 47 years, Miyoko; daughters Melissa Yonehiro Caldwell of Sacramento and Alison Dee Miller of Seattle; a son, Marcus Yonehiro [U.S. naval officer on active duty in the port] of Yokosuka, Japan; a sister, May Sagara of Granada Hills; and three grandchildren.

Oral History of
GEORGE YONEHIRO
(1922 – 2001)

Q: It is January 21st, 1987, and I'm in the chambers of Judge George Yonehiro. He has consented to give us a few of his thoughts and reminiscences about the practice of law as it pertains to him. So, let me start off by asking when your earliest ancestor came to the United States or to California.

YONEHIRO: Initially, my dad was a newspaper reporter for an Osaka, Japan, newspaper. He got sent to the Hawaiian Islands to cover the Japanese immigrants there. He so loved the climate and geographic area of the islands, he resigned from the Osaka, Japan, newspaper and took on employment with a Hilo, Hawaii, newspaper.

Q: When was that?

YONEHIRO: This was 1912. He stayed in the Islands for seven years, doing newspaper reporting work. Also, during the course of seven years, he joined the United States Army. In that way, he was one of the few Asiatics who became automatically eligible for naturalization.

Q: When he joined the Army, was that the regular Army or the reserves?

YONEHIRO: The regular Army. He was stationed at Fort Shafter, just before the early part of 1918. He must have got in shortly before the declaration of World War I by the United States. I think that was the early part of 1918. America was involved in the World War for only a short time — a year or less — and during the '19, possibly '17 or '18, period he was with the regular U.S. Army — infantry.

Q: Stationed in Hawaii?

YONEHIRO: Yes, Fort Shafter. After he concluded his service with the U.S. Army — around 1919 — he came to the mainland. While he was in Hawaii, he held a close friendship with a person who had a gambling den. His buddy and he came over in 1919 to the mainland, and he urged him to join in gambling activities in the city of Sacramento. By that time my dad had gotten married. He felt that he couldn't raise a family in a gambling atmosphere, connected with a gambling enterprise, so he decided to become a farmer. He always felt that the rural atmosphere was most conducive to raising children. He was a very poor farmer, always a good newspaper man. He always maintained contacts with various newspapers. During the course of his career, he one time held paid correspondence with five newspapers and he did work for various newspapers until he was seventy years of age.

Q: Where did your mother come from?

YONEHIRO: My mother also came from Japan. During the period my father was in Hawaii he had visited Japan two times. On the second visit, just before he left for the American mainland, he married my mother. They were both from the Honshu Island. There are three major islands in Japan. The middle Island is Honshu. They are both from the Hiroshima area.

Q: And when were they married?

YONEHIRO: They were married in 1917.

Q: So they evidently met in Hawaii?

YONEHIRO: No, sir they did not meet in Hawaii. On one of my dad's visits back to Japan, he met my mother.

Q: I see. And where were they married?

YONEHIRO: In Japan, sir.

Q: Your mother, then, was never eligible for naturalization. Or was she, by virtue of her marriage?

YONEHIRO: No, sir, she was not. There was an Asian Exclusion Act which was not repealed until the early part of the 1950s. And then Asiatics became eligible for citizenship. At that time my mother, of course, made application and was subsequently naturalized.

Q: Could your father own any property for the purpose of farming when he moved to California?

YONEHIRO: Yes, he could, because he was a citizen. But the Asian Exclusion Act precluded Japanese nationals from owning property.

Q: Sometime during the marriage, you and your brother were born.

YONEHIRO: Yes, I have an older brother who was born in 1919 and a younger brother was born in 1925, and a sister was born in 1923. I was born in 1922.

Q: Were your parents living in the Sacramento area at the time you were born?

YONEHIRO: Yes, we were living in Gold Hill. I was enrolled in Placer County. During that period, hardly anybody was born in hospitals — they were mostly born at home, attended by midwives and physicians. I was born in the [inaudible], so actually the Gold Hill area was the closest post office. The address was Newcastle. I am registered as being born in Newcastle. My mother was attended by Dr. George Barnes. I suppose in lieu of fees he had the honor of me being named after him.

Q: You were then originally registered and baptized by the name of George. That is not an anglicized version of a Japanese name?

YONEHIRO: No. My younger brother was named Earl. That is on his birth certificate, as is my sister May, whose name appears as May on the birth certificate.

Q: How about your older brother?

YONEHIRO: The older brother, Horace, was actually named Hohei. Later, he adopted the name Horace before he went into graduate school.

Q: Gold Hill is the nearest post office to Newcastle?

YONEHIRO: Gold Hill at that time did not have a post office. Newcastle was the closest post office to Gold Hill, sir.

Q: Newcastle is directly south of Auburn — I guess about halfway between Auburn and Roseville.

YONEHIRO: Yes, about three or four miles west of Auburn.

Q: And your early schooling — you went to high school in Roseville, was it?

YONEHIRO: Yes, I graduated from Roseville High School in 1940 and attended then Sacramento Junior College. It is now City College. I graduated from Sac JC in 1942. I was relocated.

Q: We're getting ahead of the story now. I want to go a little bit slower. Sometime when you were in high school or college, did you take up flying?

YONEHIRO: Yes, when I was attending Sacramento Junior College I enrolled in the Civilian Pilot Training Program, which was a federally funded program. After World War II broke out, it was . . .

Q: You're talking about the war in Europe?

YONEHIRO: Yes. When World War II started. There was a department called the Aeronautics Department which was affiliated with Curtiss-Wright, an aeronautics engineering institute. The affiliation was such that a two-year course of studies in the aeronautical department qualified for two years of aeronautical engineering credit. Aeronautical engineering was not too complex in those days and usually the required course of studies entailed three years of application for an engineering degree in aeronautics.

Q: How did you find out about the bombing at Pearl Harbor?

YONEHIRO: By radio on Sunday afternoon, December 7, I believe.

Q: Where were you at the time?

YONEHIRO: At home, sir. We were outside, hoeing around the yard — cleaning the yard. And one of my brothers or sister came running out, stating what she or he had heard on the radio.

Q: And who was at home at that time, do you remember?

YONEHIRO: The whole family was home, sir.

Q: Including your brother who was in the Army?

YONEHIRO: No, he was on active duty. I'm sorry. It was just my younger brother, my sister, my father and I.

Q: And what was the first effect that Pearl Harbor had upon you or any member of your family?

YONEHIRO: My dad came from a long line of warriors — samurais. Also, his short military stint with the U.S. Army had given him that type of posture. So from the earliest childhood we were always counseled, trained and instructed to grow up and face life as a soldier — not in the sense of doing active duty as soldiers, but philosophically and morally and physically to always be a soldier. Whenever we cried as children, my dad would say, “A soldier would never cry,” or, “What are you going to do when you get into the Army or when you grow up and become a soldier?”

Q: And what was his reaction then to the news of Pearl Harbor?

YONEHIRO: His reaction to the news of Pearl Harbor was actually, I felt, one of mixed emotion, concern for his older son, who was already in service and could become involved in warfare and concern for his possible immediate or future safety. I discerned that very strongly, sir. My father loved his children very closely.

Q: I want to jump ahead to another character that we're going to talk about later. Your future wife had occasion to visit Japan in the summer of 1941, didn't she?

YONEHIRO: She visited Japan after graduation from high school in 1940. In September 1940 she went to Japan and she came back to the United States in June of '41. So she just made it back on one of the few last boats coming back to the United States.

Q: Were you ever in Japan prior to World War II?

YONEHIRO: No. I have never been west of San Francisco, sir.

Q: Have any of your brothers or sisters been to Japan?

YONEHIRO: Yes, all of my brothers and sister have visited Japan a number of times.

Q: Were they there before the war?

YONEHIRO: No, sir, except my older brother, who was born in Japan.

Q: I see. He is Horace. And he is the older one who was on active duty on December 7?

YONEHIRO: Yes, sir.

Q: Let's talk a little about Horace later on. We're not going chronologically. Did he stay in the Army?

YONEHIRO: Yes, he stayed in the Army and he was discharged around December, 1945.

Q: And where did he serve in the Army?

YONEHIRO: A substantial amount of time was spent in the continental U.S. He went through the military intelligence school at Fort Snelling, Minnesota, and then he got assigned to the Pacific Theater as a military interpreter.

Q: Do you know what outfits he served with?

YONEHIRO: I believe I recall the 7th Cavalry.

Q: And the 7th Cavalry saw active duty, at least in the Philippines?

YONEHIRO: Yes.

Q: I know that you're far too modest to volunteer these things, so I'm going to suggest that you tell me if your brother was awarded any particular citations or medals for his service in the Army.

YONEHIRO: I don't think so. I really don't know. I haven't really discussed that too much with him, and he has never volunteered that.

Q: At the occasion of an award to you, it was said by one of the generals from California that your brother was awarded the Silver Star.

YONEHIRO: That was my younger brother, Earl.

Q: Oh, I've got the brother mixed up. I'm sorry.

YONEHIRO: My younger brother, Earl, and I were members of the 442d Regimental Combat Team, and he was awarded the Silver Star.

Q: Immediately after December 7, you said that the first effect upon you was that you were grounded. How were you told that?

YONEHIRO: I was advised that by a Signal Corps lieutenant who had taken over the then Sacramento Municipal Airport. The Signal Corps took

over the Municipal Airport and were in control of the airport, and I was advised by the lieutenant that I was grounded and also advised by the CAA authority man at the Sacramento Municipal Airport, that I was grounded.

Q: What other things affected you immediately after December 8?

YONEHIRO: A few weeks after December 8, we received public notice that our travels were restricted.

Q: That was a public notice in the papers?

YONEHIRO: A public notice in the papers that people of Japanese ancestry were restricted to about a fifty-mile travel radius, which did not restrict me from attending classes at Sacramento Junior College.

Q: But other than that, there were six members of your family, and five of them American citizens, but all of you were placed under that travel restriction?

YONEHIRO: Yes, sir.

Q: Did you notice any particular problems with relation to your education at Sacramento College.

YONEHIRO: No, sir.

Q: Was there any immediate reaction one way or another so far as the students in general were concerned towards Asiatic students?

YONEHIRO: No, sir.

Q: About how many students were there at Sacramento College, if you remember, who were of Japanese ancestry?

YONEHIRO: I would say about fifteen percent.

Q: Was there a tendency of those of Japanese ancestry to stay together for mutual comfort?

YONEHIRO: No, sir. I did not notice any prevalence for people of Japanese ancestry to congregate together for mutual comfort. You must remember, sir, that we were all of college age, late teens. And although I graduated from Roseville High School, by that time there were a lot of students from the Sacramento area I had made friends with. Younger people's emotions didn't run as rampant as adults'.

Q: Now we're covering the period of perhaps January and February of 1942 where your travel was restricted. Did anything else affect you as far as governmental actions were concerned at that time?

YONEHIRO: Well, those governmental actions that affected all Americans, such as rationing of tires, rationing of gasoline. Although because we were farmers, we had unlimited amounts of gasoline. But those who lived in the more urban areas were restricted, I believe. But I never realized the limitations because we were in agricultural pursuits.

Q: I notice on the wall of your chambers a framed copy of a newspaper poster. Can you read it for me?

YONEHIRO: "Headquarters Western Defense Command and Fourth Army, Presidio of San Francisco, California, May 7, 1942. Civilian Exclusion Order No. 47[:]"

1. Pursuant to the provisions of Public Proclamations Nos. 1 and 2, this Headquarters dated March 2, 1942, and March 16, 1942, respectively, it is hereby ordered that from and after 12 o'clock noon P.W.T., of Thursday, May 14, 1942, all persons of Japanese ancestry, both alien and non-alien, be excluded from that portion of Military Area No. 1 described as follows" (and it gives a popular description of a portion of Placer County).

2. A responsible member of each family, and each individual living alone, in the above described area will report between the hours of 8:00 A.M. and 5:00 P.M., Friday, May 8, 1942, or during the same hours on Saturday, May 9, 1942, to the Civilian Control Station located at: Loomis Union Grammar School, Loomis, California.

3. Any person subject to this order who fails to comply with any of its provisions or with the provisions of published instructions pertaining hereto or who is found in the above area after 12 o'clock noon P.W.T., of Thursday, May 14, 1942, will be liable to the criminal penalties provided by Public Law No. 503, 77th Congress, approved March 21, 1942, entitled 'An Act to Provide a Penalty for Violation of Restrictions or Orders with Respect to Persons Entering, Remaining in, Leaving, or Committing any Act in Military Areas or Zones,' and alien Japanese will be subject to immediate apprehension and internment.

4. All persons within the bounds of the established Assembly Center pursuant to the instructions from this Headquarters are excepted from the

provisions of this order while those persons are in such Assembly Center. (Signed) J.L. DeWitt, Lieutenant General, U.S. Army Commanding.”

Q: Thank you. Just as a note in passing, do you remember who was governor of the State of California at that time?

YONEHIRO: Yes, sir. Governor Warren.

Q: And the president was Franklin Roosevelt, of course. Did some member of your family attend that general assembly in the Loomis area?

YONEHIRO: Yes, my father. He received instructions. I was at school at the time this notice was posted. If I recall correctly, it was about six days before the actual exclusion date — the actual date we were subsequently ordered to depart from the area. So, I received a telephone message from my dad asking me to either come home that day or the next day, because of the posted notice.

Q: And what instructions was your father given, so far as leaving the area was concerned?

YONEHIRO: My father was given instructions in a printed form and also verbal instructions to prepare to be moved to the assembly center area, that the only properties that could be taken would be that that could be hand-carried.

Q: Was any provision made so far as the Army or the government was concerned for relief from taxes on your property, or someone to look after it in your absence?

YONEHIRO: No, sir.

Q: About how much time was your father given from the date of that notice to the time that he had to leave?

YONEHIRO: About five days. He advised me six days prior to our leaving. He attended this meeting, I think the next day — I was home by then — and he left about five days later.

Q: You were required, then, to finish up as much as you could with your school work?

YONEHIRO: Yes, sir.

Q: Was any provision made for you to continue your work at some other place, or continue it by correspondence?

YONEHIRO: No, sir.

Q: What did you and your father and rest of your family do in the next succeeding five or six days?

YONEHIRO: We prepared to move. We assembled as much of our movable household goods as we could. We moved them to our tank house. We had a three-story tank house. Bigger items, like pianos, like refrigerators and ranges, we just left in the house. We were all under the impression that we would be back in a few weeks or a few months. Livestock — we took the chickens and the turkeys over to a Caucasian friend — told him to take care of them, or eat them up, or whatever he wanted to do. The one horse we had left we moved to a pasture owned by another Caucasian. The horse was quite elderly, and I think my younger brother, who assisted my dad in moving the horse — I guess they had tied the horse behind the truck and towed the horse and made the horse run too fast. Anyway, they later reported that as soon as they got to the pasture, the horse keeled over and died of a heart attack.

Q: When you said that each person could take as much personal property as he could carry, was that in the form of a suitcase or a trunk?

YONEHIRO: Yes, a suitcase.

Q: And how many of your family were in this relocation plan?

YONEHIRO: The five of us — my father, my mother, my sister, my younger brother and myself.

Q: Then the only one not immediately affected by this was your older brother.

YONEHIRO: Who was on active duty in the Army.

Q: Then sometime in the middle of May, 1942, you were required to relocate. What happened? Where did you go?

YONEHIRO: We assembled at one of the fruit sheds in Loomis. A bus — Greyhound, or whatever the bus line then was — took us to what is now the Camp Beall area and there was an assembly center where we stayed for

about a month and a half before we were further transported by train to Tule Lake, California, in Modoc County.

Q: When you went to what is now Camp Beall, were you put in barracks, or tents?

YONEHIRO: Barracks, sir.

Q: And were you put in as a family unit, or did they separate you?

YONEHIRO: Family unit, sir.

Q: During that period of time, how were you served meals?

YONEHIRO: In mess halls.

Q: Cafeteria-style?

YONEHIRO: Yes, sir.

Q: And the family would go together?

YONEHIRO: Yes, sir.

Q: Were there any restrictions on your activities while you were at that first relocation center?

YONEHIRO: No, sir. There was a type of curfew — I can't recall the hours — but, actually, there was nothing to do after the sun went down.

Q: Were there any restrictions on the news that you received — newspapers or radio?

YONEHIRO: There were no newspapers admitted to the camp. Some of the people had hand-carried, as did our family — radio sets. The only outside news we got, was over these radio sets.

Q: Were you permitted to send any letters out or send any packages out from that camp?

YONEHIRO: Those letters were initially submitted for censorship and then sent on.

Q: And then, we're to April or May?

YONEHIRO: We went in the latter part of May, and I think, in the early part of July we were sent by train up to Modoc County to Tule Lake, California.

Q: Tell me what Tule Lake is like as far as the weather is concerned and the general geography.

YONEHIRO: Tule Lake is an old dried lakebed surrounded by barren hills out in the desert — more or less, sagebrush. Tule Lake Assembly Center consisted of some seventy-odd barracks, I believe.

Q: Were they constructed for the purpose of interning the Japanese, or were they used for some other purpose before that?

YONEHIRO: They were constructed for the purpose of interning the Japanese. Interestingly, there were remains of older, decayed structures — a few buildings that were remnants of detention centers for Italian and German nationals who had been detained there during World War I.

Q: To your knowledge, was there any mass internment of Italians or Germans during World War II?

YONEHIRO: No, sir.

Q: What was it like when you were at the war relocation area at Tule Lake?

YONEHIRO: Life was like in any assembled area where you had limitations. The camp proper were military, tar paper covered barracks.

Q: How many people were allocated to each barrack?

YONEHIRO: Each barrack was divided into about four apartments. And a family occupied each apartment unit, or a number of people occupied each apartment unit.

Q: In each apartment unit, was there a division for bedrooms and living areas?

YONEHIRO: No, sir.

Q: It was just one room?

YONEHIRO: Just one big room, and if you wished to do so, you could scrounge around — there was scrap lumber, or lumber that you could possibly purchase at the exchange. From pieces of lumber you could make your own partitions.

Q: Were you able to take money out of a bank account, if you had a bank account?

YONEHIRO: If you had a bank account, you could send for it, yes. You could send for it, withdraw money.

Q: Other than that, was there any source of income for any of the people at Tule Lake?

YONEHIRO: Yes. If you wished to work, there were three classifications of work. Professionals, were paid \$19 a month; clerical and blue collar were paid \$16 a month; unskilled labor was paid \$12 a month.

Q: What type of labor did the professionals do?

YONEHIRO: Doctors, lawyers did the usual type of work that they would have done on the outside.

Q: I don't know if you remember or not, but was it possible for a citizen of Japan living in California to be a lawyer prior to World War II?

YONEHIRO: No, sir. I believe you had to be a citizen of the United States to take the oath at that time.

Q: Were there any entertainment facilities available at Tule Lake?

YONEHIRO: Those that you made for yourself. There was no such thing as a theater or other place of entertainment. It's what any group of people would facilitate for themselves.

Q: What language was commonly used at Tule Lake?

YONEHIRO: English for the younger people, and, of course, Japanese for the older people.

Q: Could you give an educated guess as to the percentage of people at Tule Lake who were American citizens?

YONEHIRO: I would say about two thirds.

Q: How long did you stay at Tule Lake?

YONEHIRO: I stayed there off and on for about seven or eight months.

Q: What was the occasion on which you could leave?

YONEHIRO: Work furlough, sir. There was a bunch of young fellows going to Idaho to work in the fields and I took that opportunity, and I think I was able to leave camp for approximately four months that way.

Q: And while you were in Idaho on this work furlough, were there any restrictions on your activity?

YONEHIRO: None other than that type of restriction that applied to any civilian of Japanese ancestry. Some limitation on travel. Idaho is still in the Western Defense Command Zone.

Q: Would you give me your impression of being confined and in camp?

YONEHIRO: My impression as to those of older Japanese — I could only surmise — but I had a lasting impression, very moving, of how younger, especially those of tender years, felt about confinement. Even at the assembly center where we were located, near what is now Camp Beall, after the first few days, after the first week or two, after the excitement and the novelty of meeting new people, seeing new things, experiencing new daily routines, the youngsters, the very young children started to whimper. All over camp you could hear little kids crying. They wanted to go home and they couldn't understand why they couldn't go home. They wanted to go home, I guess, to their familiar house, their toys, pets, or whatever they left behind, and they really couldn't understand. It's like when you take younger children out for an evening, and after they get tired of visiting, they want to go home. And you can give them relief on the outside by taking them home. But there, the mothers and fathers could do nothing but tell them, "You can't go home."

Q: Did your father or your brothers or sister take advantage of the opportunity for work furlough, or was it offered to them?

YONEHIRO: It was offered to them. In the meantime, my younger brother, who had received a scholarship to Antioch College in Ohio, got the opportunity to leave. After a few months, after scrutiny and clearance by the FBI, you were free to leave the relocation center and get out of the Western Defense Command Zone, which extended as far east as Ogden, Utah, if you were engaged in lawful activities — employment or school.

Q: And did your brother then attend Antioch College?

YONEHIRO: Yes, he did, sir.

Q: And how did he support himself while he was there?

YONEHIRO: He had a full scholarship from a firm of lawyers named Lowell Brothers, here in Auburn. They gave him full scholarship tuition and dorm fees and he also got a further grant from the school itself. Antioch was one of those progressive schools that believed in classroom attendance one semester, work experiences one semester — the kids got paid for work experience. He took pre-med and I think he worked in some hospitals every other semester.

Q: Where is he now?

YONEHIRO: He is in Minneapolis, Minnesota. He is one of the few physicians to have a PhD in surgery. He and twenty other physicians formed a medical center about twenty-five years ago. Now they have over 300 physicians in their medical group.

Q: I've got to go back then and ask you, how much education did your father have?

YONEHIRO: My father had what is in Japan called a central school, or mixed school, that is, high school — three years of central school. My mother had approximately the same.

Q: How about your other brother and sister and your father — did they leave the Tule Lake Relocation Center?

YONEHIRO: Eventually. My brother, like I said, went to school; my sister stayed with my folks. They were transferred to another relocation center in Amache, Colorado — in southeastern Colorado.

Q: Were you with them at that time?

YONEHIRO: No, sir. I had already left the Tule Lake center. I left in the mid part of '43, and I had gone to the Chicago area.

Q: Your mother and father and your sister May were relocated to Colorado at what time, do you remember?

YONEHIRO: In 1943 — the end of '43.

Q: And did they stay there till the end of the war?

YONEHIRO: Yes, they did.

Q: And, after the war?

YONEHIRO: May I correct that. My father left several times on these work furloughs — he went to work on a farm in western Nebraska several times while my sister and mother stayed at camp.

Q: And is it true that your mother and sister fell in love with Colorado?

YONEHIRO: Yes.

Q: How long did they stay there?

YONEHIRO: Forty years, sir. Almost forty years, until my father expired in 1982. Then about, six months later, my mother left Colorado to live with my sister in Southern California.

Q: You said that you left the relocation center permanently in the middle of 1943.

YONEHIRO: Yes.

Q: And where did you go?

YONEHIRO: I went to Chicago, sir.

Q: And for what reason? Why did you pick Chicago?

YONEHIRO: Because the Chicago area was one of the few places that offered employment. While we were at camp, recruiters would come in from major companies and offer jobs, and like I said before, the only way you could leave camp was to pursue other lawful activities. So, you had to have a job when you left.

Q: And what job did you have?

YONEHIRO: Initially, I signed up to work for a cold storage plant in Detroit, Michigan. I worked for them for about a month and a half, and the cold storage plant got too much for me. I went back to Chicago, because I had a number of friends there, and I went to work for the Simonize Company in Chicago.

Q: Were you ever involved in any military activities in World War II? Did you enlist?

YONEHIRO: Yes.

Q: And to what outfit were you assigned?

YONEHIRO: The 442d Regimental Combat Team.

Q: I guess that we can take judicial notice of the fact that it is the most highly decorated unit of any kind in World War II, isn't that correct?

YONEHIRO: Yes, sir. Thank you, sir.

Q: When you were with the Regimental Combat Team, were you stationed in the United States?

YONEHIRO: For training purposes. And then we were assigned overseas and I served in combat in France and Italy, sir.

Q: And, did you see your brother at that time?

YONEHIRO: Yes, my brother was in the same unit. And I saw him not too frequently, but every once in a while.

Q: Were the majority of the recruits in the Regimental Combat Team from Hawaii or from California?

YONEHIRO: I would say two thirds were from the mainland, California, one third from Hawaii. The original unit was a Hawaiian National Guard Unit. The original was called the 100th Battalion, which became the 1st Battalion of the 442d Regiment.

Q: And the regiment saw action in Italy and in France?

YONEHIRO: Yes, sir.

Q: Did you receive any awards or decorations for your military service?

YONEHIRO: Subsequently, I did, sir, a Bronze Star.

Q: You mean you found out about it subsequently?

YONEHIRO: Yes.

Q: At the time you didn't realize you had been awarded it?

YONEHIRO: That's right.

Q: When were you discharged from the Army?

YONEHIRO: February 1946, sir.

Q: And where?

YONEHIRO: In Chicago — Fort Sheridan, Chicago.

Q: And then, what? The next event in the life of George Yonehiro?

YONEHIRO: I stayed on in Chicago and eventually — like all veterans, I wasn't too proud to work, and I thought I'd buy myself a little business and went broke as a gas station operator in nine months. I felt that the study of law would certainly be better. I picked up some more pre-legal units at the then Roosevelt College — named for Eleanor Roosevelt, it subsequently became Roosevelt University — and from there, I went to John Marshall Law School. I graduated from John Marshall in 1954, got admitted in January 1955, because the Supreme Court did not meet in December of '54. But I passed the bar the first time, which I was quite proud of. And I practiced in Chicago until November or December of '61, and we moved out to Colorado.

Q: How did you support yourself when you were in law school?

YONEHIRO: I worked full-time for the Simonize Company and attended law school evenings, sir.

Q: And how many years did you attend law school?

YONEHIRO: Four years, sir.

Q: You took the bar in Illinois?

YONEHIRO: Yes, sir.

Q: And when you started practice, what type of practice did you have in Chicago?

YONEHIRO: Anything that would come. Like all new lawyers, general practice and then eventually, the area I was practicing in. I had two offices — a Loop office for prestige (in the Loop you could rent offices for \$60 a month, then) and a southeastern side office for practicality. The southeastern area became subject to an urban renewal program. And I got deeply interested and became a specialist in that area of condemnation.

Q: Were your clients chiefly of Japanese ancestry?

YONEHIRO: No, sir. Mostly Caucasians. About twenty percent Blacks, very few Japanese.

Q: Sometime in this period, did you get married?

YONEHIRO: Yes, in 1954, on Valentine's Day — how romantic — Koko and I got married.

Q: And where was Koko from?

YONEHIRO: She was from the Los Angeles area. She was born in Burbank and grew up in the El Monte area. She attended El Monte High School.

Q: Was she relocated at the beginning of World War II?

YONEHIRO: Yes, she was.

Q: To where?

YONEHIRO: She was relocated initially to Calleri Assembly Center in Calleri, California. Then she got transferred to Gila Relocation Center in Gila, Arizona. And then, eventually, transferred to Crystal City, Texas, which was an internment camp. Her father happened to be at one time a president of the Japanese Association — a social group in El Monte — and for that reason he was interned along with what they considered dangerous aliens — Japanese nationals.

Q: And as a result of that marriage, you have children. What are their names and when were they born?

YONEHIRO: Melissa was born in 1958; Marcus was born in 1959. Melissa is presently working in the development department, KVIE, educational TV, Channel 6.

Q: Did you meet Koko in Chicago?

YONEHIRO: Yes, sir.

Q: And what was she doing there, at that time?

YONEHIRO: She had come out, I guess, seeking her fortune in Chicago, and I met her in Chicago.

Q: You told me that after a few years in Chicago you decided to try your luck at the practice of law in Colorado. Was that because your parents were there?

YONEHIRO: Yes, sir.

Q: And where did you move to in Colorado?

YONEHIRO: Glenwood Springs, Colorado — about 175 miles west of Denver.

Q: And did you practice law there?

YONEHIRO: Briefly, sir, for a short time.

Q: Did you have to take the Colorado Bar Examination?

YONEHIRO: No, sir. I was admitted to the Colorado Bar on a motion made by a resident attorney.

Q: Then you made a subsequent move from Colorado. To where?

YONEHIRO: To Placer County.

Q: And for what reason did you return to Placer County?

YONEHIRO: Basically, initially, because at that time I was deeply interested in representing an investment group in Chicago, and they asked me to look up potential land development possibilities in California and Nevada and five western states. And I thought there were high potentials for investment in this area, and because I was a native of this area.

Q: And what type of investment were they interested in?

YONEHIRO: In possible commercial development.

Q: When you moved out here you had the children?

YONEHIRO: Yes, sir.

Q: And where in particular did you move in Placer County?

YONEHIRO: Applegate, California, approximately ten miles east of Auburn.

Q: And what kind of office did you set up, or what did you do in Applegate?

YONEHIRO: For land investment purposes?

Q: No, offices.

YONEHIRO: Our office was at home. On instructions from Chicago, I would go weeks at a time and look up potential areas for development.

Q: And that would include all other areas in California?

YONEHIRO: Yes.

Q: Then did you decide to resume the practice of law?

YONEHIRO: Yes, I did. But I was not a member of the California Bar. I took employment initially with the County of Placer in their Assessor's Department. Then I went to work at Sacramento Municipal Utility District in their Land Department, when they were developing the Upper American River Project. While I was working at Sacramento Municipal Utility

District, the former judge of the justice court, Alta Judicial District, had decided to retire and I campaigned in 1964 for that position and won the election.

Q: At that time to be a justice court judge, was it necessary to be a member of the Bar?

YONEHIRO: No, sir. You took a qualifying examination.

Q: And did you take that examination?

YONEHIRO: Yes, before I ran for the office.

Q: And what year was this?

YONEHIRO: 1964.

Q: And do you remember how many people ran against you?

YONEHIRO: Yes, three others ran against me. One was the city attorney of Colfax, one was the former clerk of the court, and the other was the Democratic Central Committeeman.

Q: What was the general geographic area of that judicial district?

YONEHIRO: Extending a few miles north of Auburn, clear up to the Donner Summit.

Q: What were some of the localities or names of towns in that area?

YONEHIRO: Dutch Flat, Colfax, Norden, Silver Springs, Emigrant Gap.

Q: At least half of those were place names associated with early mining activities in the Mother Lode country.

YONEHIRO: Yes.

Q: I guess the other half were associated with the railroad?

YONEHIRO: Yes.

Q: About how many people were in that district at the time?

YONEHIRO: About 12,000 registered voters.

Q: And can you tell me your best guess as to those voters who were of Japanese heritage?

YONEHIRO: Just our family and one lady — a Japanese war bride.

Q: So, if any voting was done on the basis of race or heritage, you were only assured of three votes.

YONEHIRO: Yes.

Q: Were you forced into a runoff?

YONEHIRO: Yes, sir.

Q: And then eventually you were elected?

YONEHIRO: Yes, sir.

Q: This was in 1964?

YONEHIRO: Yes, sir.

Q: And where was the courthouse located at that time?

YONEHIRO: Colfax, sir.

Q: And what type of facilities were available?

YONEHIRO: The court was in the old City Hall building in the City Council chambers.

Q: Colfax, at that time, probably the only claim to fame was that it was a stop on the railroad, right?

YONEHIRO: Yes, sir.

Q: How busy were you as a justice court judge — was it a full-time occupation, or could you do other things?

YONEHIRO: I could do other things, but I decided that if I were going to become a judge, I would devote full time to it. Initially, the pay was less than what I was earning at Sacramento Municipal Utility District. If I recall, it was about \$6,800 or \$6,900, just a little short of \$7,000, but I decided to devote full time to it, improve the type of job that others had regarded as just part-time supplement to their other activities or occupations. The following year, the supervisors awarded me with recognition by making my court the only full-time justice court judgeship in Placer County, and raised my salary to \$900 a month.

Q: I know that when you first took over as a justice court judge, you had a tremendous idealism so far as judges were concerned in the practice of law,

but one time I think you told me that one of your initial impressions was disillusionment the way that justice was handed out prior to your election.

YONEHIRO: Yes, sir.

Q: Tell me about it.

YONEHIRO: One of my first impressions is of the former judge. He remains unnamed, and he has long been deceased. The former judge used to sit in the back end of the little courtroom and observe me, especially when I was in small claims matters. And after the conclusion of one of those small claims cases he came in the back room where I was drinking coffee, sat with me and he said, "George, you're doing those cases too fast. Take them under submission. What you do is tell them you'll decide later, go on home and see which one will bring you the chicken or the ice cream, or whatever they want to bring."

Q: I take it, you didn't follow his advice.

YONEHIRO: No, sir.

Q: Now, some time during this period when you were a judge of the justice court, you engaged in a few writing activities, didn't you?

YONEHIRO: Yes.

Q: Tell me about those. Tell me about the first occasion in which you followed in your father's footsteps. I guess prior to this you had done some writing.

YONEHIRO: Yes. I was always interested in creative writing and short stories. When I was going to Sacramento Junior College and also to Roosevelt College, and in between, I wrote and had published by *Bluebook Magazine*, *The Saturday Evening Post*, and *Collier's*, short articles. At that time, the prevailing rate — the high was 2 to 2½ cents a word; low was about ½ cents a word. So you got a few dollars, but the dollars went far in those days.

Q: Did you author the articles under the name of George Yonehiro?

YONEHIRO: No, sir. Patrick Shanagan.

Q: Did you use the same Irish alias for all of the articles you published in national magazines?

YONEHIRO: Yes, sir. Or some other of that sort. George Yonehiro would never sell. But Patrick Shanagan would sell, and there were a few others that I adopted from time to time.

Q: Did you continue any of this writing after you returned to California?

YONEHIRO: Yes, I did, when I started getting to factual, because non-fiction paid a little better, for even the shortest article. I believe it was *News-week*, or one of the national news periodicals, just a one-paragraph item would give you \$14–\$50, which is a lot better than pounding the typewriter at short stories and getting only a few bucks.

Q: From 1964 on, how long were you a judge of the justice court of that one judicial district?

YONEHIRO: Till 1980, and then the Colfax-Alta Judicial District was consolidated with the then Auburn Judicial District. In 1980, I became judge of the consolidated district.

Q: How many JP's were there in Placer County prior to the consolidation?

YONEHIRO: Seven, sir.

Q: Do you remember any of the JP's who served with you at that time?

YONEHIRO: Yes, sir, Howard Gibson.

Q: He subsequently became a superior court judge.

YONEHIRO: Yes, sir.

Q: Who else?

YONEHIRO: Wayne Wylie, who also became a superior court judge. Robert Fugazi, who has recently retired from the Tahoe Judicial District.

Q: But at the time of his retirement, was he the equivalent of the municipal court judge, by virtue of salary and activity?

YONEHIRO: Yes, sir. He was one of the few remaining circuit judges.

Q: And how about another JP?

YONEHIRO: There was Frances Raines in Forest Hill who never had formal — yes, she did — she had a year or so at McGeorge Law School.

Q: And how about the JP in — was it Loomis or Lincoln?

YONEHIRO: Bob Young?

Q: Wasn't Dick Couzens a JP?

YONEHIRO: Oh, yes. Richard Couzens was initially appointed to the Lincoln justice court and then because Judge Wayne Wylie got elevated to the superior court, there was a vacancy in the Auburn Judicial District. The supervisors decided to hold an election for that office. Richard Couzens won the election, was judge of both Lincoln and Auburn Judicial Districts. Richard was, in 1980, appointed to the superior court.

Q: Now, after the consolidation of the Colfax and Auburn Judicial Districts, I presume that, of necessity, you were a full-time judge.

YONEHIRO: Yes, sir.

Q: And where did you sit?

YONEHIRO: I sat in both Auburn and Colfax, mainly in Auburn.

Q: But you divided your time between judicial districts?

YONEHIRO: Yes. It was consolidated — one judicial district — but the facilities were apart. I was also appointed to be judge of the Lincoln Judicial District, until the Lincoln Judicial District was consolidated with Loomis.

Q: So, at least at one time, you were a judge of a substantial percentage of not only the geography but of the population of the county.

YONEHIRO: Yes, sir.

Q: I want to spend a minute or two for you to tell me about the occasion of building the new courthouse in Colfax.

YONEHIRO: Yes, sir. There was a person named Mr. Chase, Earl Chase — a blind man who owned three different adjacent parcels in Colfax. On each parcel he had an old house. Every time there was a vacancy in one of the houses, the city attorney would condemn the house so he couldn't re-let it. On one of the remaining occupied parcels there was an old well. Some kids one evening had removed the sheet metal that covered the old well. The well had long ago filled in to where there was only about two to three feet deep. But on a technicality, the city attorney filed a misdemeanor "dangerous abandoned well" charge against Earl Chase. Earl Chase came up to answer the complaint, and he said he was getting sick and tired of

this harassment: “I will give you the property, Judge.” I told him I could not receive the property, but the county would love the donation, and would he give it to the county for courthouse purposes. He said, “yes, sir.” So it was easy. I walked up to the then chairman of the board and asked him to come to the court and make a formal acceptance on behalf of the county and we did just that. We got a quick title search — everything was okey dokey except for current taxes, and that was the subject property for a new courthouse in Colfax.

Q: And who designed it?

YONEHIRO: I did, sir, together with a structural engineer friend of mine, Carl Schonig, who has long expired.

Q: So that courthouse in Colfax that is still in use today certainly is a memorial to George Yonehiro.

YONEHIRO: Thank you, sir.

Q: When did you pass the bar, or did you ever pass the bar in California?

YONEHIRO: Yes, in 1977, sir.

Q: And did you ever practice law in conjunction with, or at the same time that you were a justice court judge?

YONEHIRO: No, sir, I never did, sir. I am one of the few judges in California who had never practiced California law at all.

Q: Now, in 1980, you were a justice court judge of the Colfax-Auburn Judicial District. And, at that time, that judicial district was far and away the largest judicial district in the county.

YONEHIRO: Yes, sir.

Q: There was some belief that at that time the population of the judicial district exceeded 40,000 people, was that correct?

YONEHIRO: Yes, sir.

Q: And I am told that one of the former publishers living in Auburn filed a suit in the superior court to declare the district to have over 40,000 people in it, primarily for the purpose of making that judicial district a municipal court.

YONEHIRO: Yes, sir.

Q: When did that happen?

YONEHIRO: That happened in 1981 or 1982. I think it was early '81, by Mr. William Cassidy.

Q: And then, for one reason or another, the Board of Supervisors took some action, pending the determination of that lawsuit, so far as relocating the boundaries of your judicial district, is that right?

YONEHIRO: Yes, sir.

Q: And as a result of the Board of Supervisors' actions, a certain number of people were removed from your district?

YONEHIRO: Yes, sir.

Q: So, as a result of that lawsuit, and as a result of the action of the Board of Supervisors, there was a determination that there were not, at that time, 40,000 people in your judicial district.

YONEHIRO: Yes, sir.

Q: Now, at about the same time, the Board of Supervisors took legislation to Sacramento to create municipal courts throughout the county. Is that right?

YONEHIRO: Yes, sir. With the exception of the Tahoe Judicial District, other judicial districts — the proposal was to consolidate all those and make one municipal court district.

Q: So the result of that proposed legislation was that there was to be one municipal court in the entire county except for the fringe area around Tahoe, and there would be how many municipal court judges?

YONEHIRO: Three, sir.

Q: And those judges were to be elected, or appointed?

YONEHIRO: Elected, sir, because there was a brand new judicial district.

Q: When was the election to be held?

YONEHIRO: In 1982.

Q: Do you remember the election of 1982? Did you have any opponents?

YONEHIRO: Yes, I had one, Mr. Phillip Mohr, a lawyer who resided in Roseville and practiced in Wheatland.

Q: And that was for one of the districts?

YONEHIRO: Yes, sir.

Q: Were all of the seats at large? They weren't divided into geographical districts?

YONEHIRO: This was one judicial district, but there were three seats — Seats One, Two and Three.

Q: And which one did you run for?

YONEHIRO: One, sir.

Q: And as far as seats, Two and Three — were they contested?

YONEHIRO: Yes.

Q: Now, the election, so far as Seat One was concerned, was that determined in the primary?

YONEHIRO: In the primary.

Q: And Seats Two and Three?

YONEHIRO: In November, sir.

Q: So at least in point of time when you were elected to Seat One, you then became the first municipal court judge in the County of Placer?

YONEHIRO: Yes, sir.

Q: Can you give me some sort of guess as to the number of Japanese voters in Placer County in 1982?

YONEHIRO: I would say less than one percent.

Q: Aside from any possibility of a marshal or constable, were there any other officeholders in Placer County of Japanese ancestry?

YONEHIRO: No, sir.

Q: So, in effect, you were the first person of Japanese heritage elected to a county-wide office?

YONEHIRO: Yes, sir.

Q: That was in 1982?

YONEHIRO: Yes, sir.

Q: And who were elected with you?

YONEHIRO: Judge John Cosgrove and Judge Richard Ryan.

Q: And at that time how many superior court judges were there in Placer County?

YONEHIRO: At that time there were four.

Q: In 1982, at the time that you were elected to the municipal court, who were the superior court judges?

YONEHIRO: Judges Howard Gibson, Wayne Wylie, Richard Couzens and Richard Sims.

Q: Soon after that, there was a vacancy created by Judge Sims's elevation. Was that the first vacancy?

YONEHIRO: Yes, sir.

Q: And who was appointed to his spot?

YONEHIRO: Judge Richard Gilbert.

Q: And after that, was there another vacancy?

YONEHIRO: Yes, Judge Wylie retired and Judge Jack Willoughby was appointed.

Q: Then, in 1984, there was a general election in Placer County?

YONEHIRO: Yes, sir.

Q: And in the general election, one of the spots to be voted upon was for the superior court?

YONEHIRO: Yes, sir.

Q: And did you run for that office?

YONEHIRO: Yes, sir.

Q: And were you elected?

YONEHIRO: Yes, sir.

Q: In the primary?

YONEHIRO: Yes, sir.

Q: And you have served as a superior court judge since that date?

YONEHIRO: Yes, sir.

Q: So that your experience as a judge in Placer County was that you were elected as a justice of the peace, you were elected as a municipal court judge and you were elected as a superior court judge?

YONEHIRO: Yes, sir.

Q: Sometime after your elevation to the superior court, I think you had occasion to try and recover some of your war records, including a discharge paper.

YONEHIRO: Yes, sir.

Q: When was that?

YONEHIRO: 1955, I believe.

Q: And what happened on the occasion of your relocating those records?

YONEHIRO: I found I had earned the Bronze Star.

Q: I know that you're not one to count, but I saw a picture of you on the occasion of receiving that award, and it seems to me that there were at least four rows of ribbons. And to that, you added the Bronze Star.

YONEHIRO: Yes, sir.

Q: So, after you came to California — after the war, of course — did you resume any military activity?

YONEHIRO: Yes, sir.

Q: What was that?

YONEHIRO: With the California State Military Reserve, sir.

Q: And what type of work did you do for them?

YONEHIRO: I was director of Logistics; I was judge advocate, and I am presently deputy commander under General Matson.

Q: What rank do you have?

YONEHIRO: Colonel.

Q: I presume that you joined the American Legion?

YONEHIRO: Yes.

Q: Any other organizations?

YONEHIRO: Veterans of Foreign Wars, Sons of Italy, the Navy League.

Q: Let's not skip over the Sons of Italy too fast. I take it you adopted some sort of Italian heritage for that purpose. Did you join the Sons of Italy under an assumed Italian name?

YONEHIRO: No, sir. Japanese and Italian names all end in a vowel, so I didn't have to change my name.

Q: You were convinced that they thought that you were of Italian blood! And what were some of the other organizations?

YONEHIRO: Veterans of Foreign Wars, the Navy League. I joined the Navy League primarily in interest and support of my son, Marcus, who graduated from Annapolis in 1982 and is still with the Navy Department. He has recently returned to Annapolis to teach.

Q: Now, as far as Marc is concerned — did he go to local schools?

YONEHIRO: Yes, he went to Colfax High School and then was appointed to Annapolis in 1978.

Q: So, as a former member of the Army, you decided, for his sake, to join the Navy League.

YONEHIRO: Yes.

Q: Did you go to his graduation?

YONEHIRO: Yes, sir.

Q: And he became an ensign in the United States Navy.

YONEHIRO: Yes, sir. And I was very proud, sir.

Q: You should be, indeed. What type of ship was he assigned to?

YONEHIRO: To a destroyer, sir.

Q: And what were some of the places he had served?

YONEHIRO: On one tour he went WESPAC — that is Western Pacific, Australia, Japan, and the Aleutian area. The second two duties or tours were in the Persian Gulf — he served two six-month sea tours in the Persian Gulf.

Q: And now he's doing what?

YONEHIRO: He's been assigned to Annapolis. He's teaching Navigation and Surface Warfare.

Q: Any other organizations?

YONEHIRO: Japanese-American Citizens League, National Guard Association of California.

Q: There was an early California case called *People v. Hall*, and in it, in 1852, the Supreme Court said that Chinese were in fact Indians and couldn't testify in court because there was a restriction against Indians testifying. And towards the end of the opinion, the chief justice made some remark that if he didn't do this that Asiatics would have a foothold and eventually they would want to become jurors and even, God forbid, sit on the bench! You've made his prophecy come true in that at least one Asiatic had the temerity to want to sit on the bench in California. About how many people of Japanese ancestry are there on the bench that you know of?

YONEHIRO: Presently?

Q: Yes.

YONEHIRO: I would say about eight or nine, sir, mostly in the Southern California area.

Q: Are there any others in the Northern California area?

YONEHIRO: The closest, I believe, would be Justice [Harry] Low in San Francisco.

Q: Who is of Chinese ancestry?

YONEHIRO: Yes.

Q: I guess that the most important contribution you could give to us is a viewpoint of the fact that you have reached such phenomenal success in spite of difficulties in World War II and relocation. Tell me some of your ideas about patriotism and service and the fact that you had such an unfortunate beginning with the government.

YONEHIRO: That's easy, sir. I grew up, like I have previously described, under a samurai or warrior father whose philosophy was not stoic as much as to endure and outlast the bastards, if I might use the term. And later, that same type of philosophy was tempered when I was associated for a

time with an older Jewish man who had the Hebrew philosophy, “Stay alive, George, just to be curious.” And I believe that is one of the things that strengthened the Jewish people. Very few Jewish people commit suicide. Stay alive just to be curious. The shortcoming, or some of the adversities that others may seemingly think we have suffered I have never felt too deeply because of the philosophy my dad had impressed upon me to always look forward, never to look behind in time. Time will cure and time will strengthen you. What you may have lost today will be an advantage to you tomorrow type of a philosophical approach to life. All the time we were in evacuation or during the relocation period, my dad had always told us never to be bitter. Bitterness clouds the mind and doesn’t accomplish anything.

Q: I never had the good fortune of meeting your father, but I know indirectly that there were few people who were prouder of his children than he was, and for good reason. All three boys served in the Army under very adverse circumstances.

YONEHIRO: If I might expand on that. I had a homicide case involving two black defendants. One of the defendants voiced his objection based on the premise that I or counsel might be prejudiced. I thought that everyone may be prejudiced towards his defense. I tried to teach him that he really, at his young age — early 20s, I believe he was — didn’t know prejudice. His surname is Porter. For example, I said, “Mr. Porter, if someone contacted you by telephone or by mail, simply by use of your surname, they would not differentiate you from any other American. Anyone who wishes to contact Yonehiro, either by telephone or by mail knows immediately that I am of Japanese ancestry. The mere fact that I was of Japanese ancestry caused me to be incarcerated.” I asked if the mere fact that his name was Porter caused him to be incarcerated. He said, “No.” And I think after that short lecture or advice, he felt differently and he accepted the appointment of counsel and the court.

Q: Do you think most of the people your age carried a lasting resentment?

YONEHIRO: No, sir.

Q: Have you kept track of any of the people who were in relocation centers with you?

YONEHIRO: Yes, sir.

Q: And what has happened to some of them?

YONEHIRO: One of them, for example, is Hije Yago who became the first marshal in Placer County. He was initially an elected constable in the judicial district when it became a municipal court. He was in Tule Lake. And his reaction to the evacuation, to what has befallen the people of Japanese ancestry during World War II is not much different than others I have had contact with. There is no resentment. It is one of life's experiences, and it may be hard to relate to others but the Japanese had long had — not only Japanese, but Chinese — the Asiatic — have had a type of philosophy based on their geographic location, climatic conditions — subject to earthquakes and typhoons and flooding, famines and all that — but it is that type of philosophy based on, or closely related to, religious doctrines. Buddhism is philosophy, pure and simple — more philosophy than that religious philosophy that Christians embrace. By the way, I am a Catholic. Anyway, when you live close to nature — not because of the typhoons or earthquakes or floods — you live to be like one of God's little children or flowers. You learn to bend with the wind. You have to do that to survive.

Q: I can't think of a better expression to end this interview. I thank you on behalf of the State Bar, and I think it goes without saying that your reflections and autobiography as you related today indicate that you have indeed contributed a tremendous amount to the history of the law in California.

YONEHIRO: Thank you. I appreciate the opportunity.

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