**Arkansas Supreme Court Project**

**Arkansas Supreme Court Historical Society**

Interview with

Justice Bradley Dean Jesson

Fort Smith, Arkansas

January 6, 2014

Interviewer: Ernest Dumas

Ernest Dumas: OK, this is Ernie Dumas; it is Monday, January 6th, 2014. We're at (address deleted), Fort Smith, which is the home of Bradley Dean Jesson, who was chief justice of the Arkansas Supreme Court in 1995 and 1996 under appointment of Governor Jim Guy Tucker. This audio recording will be the property of the Arkansas Supreme Court Historical Society and the David and Barbara Pryor Center for Oral and Visual History at the University of Arkansas and it some day will be archived at one or both places and perhaps put on the internet to be used for access for research or entertainment or amusement or whatever. Brad, can I have your consent that the Supreme Court Historical Society and the David and Barbara Pryor Center can use these audiotapes for that purpose?

Bradley Jesson: So agreed

ED: All right. Well, you were born on, am I right, on January 26, 1932?

BJ: That's correct.

ED: At Bartlesville, Oklahoma?

BJ: That's right.

ED: And your daddy and momma were who?

BJ: My father was named Dean Abraham Jesson.

ED: Dean Abraham, A-B-R-A-M?

BJ: A-B-R-A-H-A-M.

ED: Abraham?

BJ: Abraham.

ED: OK.

BJ: A-B-R-A-H-A-M, Abraham.

ED: All right. And your momma's name?

BJ: And my momma's name was Opal Rhaye Bradley Jesson.

ED: Opal, O-P-A-L?

BJ: O-P-A-L.

ED: R-A-E?

BJ: Actually, R-H-A-Y-E.

ED: R-H-A-Y-E?

BJ: Yes. And her maiden name was Bradley.

ED: So that's how you got the name Bradley?

BJ: That's how I got my name.

ED: All right. And what did they do?

BJ: My father was a pharmacist and owned a drugstore in a small town just north of Bartlesville called Copan, Oklahoma, C-O-P-A-N. It was a town of about five, six hundred people, oh maybe eight or ten miles north of Bartlesville. And it was very near, within five or six miles of the Kansas line.

ED: So this is way up on the border of Kansas?

BJ: The far north, yes. Bartlesville is the county seat of Washington County, Oklahoma. It was also the headquarters of Phillips Petroleum Company and Cities Service Oil Company; it was quite an oil town.

ED: Big oil town?

BJ: Yes.

ED: And it was the hometown of Tom Mix? Was Tom Mix from there?

BJ: Tom Mix was from Dewey, Oklahoma, which is halfway between Bartlesville and Copan.

ED: Well, they have the Tom Mix Museum there, right?

BJ: Yes.

ED: In Bartlesville?

BJ: At Dewey. It's Dewey, I think.

ED: OK.

BJ: His home was in Dewey.

ED: OK.

BJ: They always had the Tom Mix Days there.

ED: All right.

BJ: Used to have the big rodeo there.

ED: OK. Was Tom Mix alive when you were there?

BJ: He was still alive, yes.

ED: Did you meet Tom Mix?

BJ: I never did.

ED: Never did, all right. So how did your folks wind up in Copan, Oklahoma?

BJ: My parents from both sides of my family all came from Kansas, from a little town called Caney, Kansas, C-A-N-E-Y, Kansas, which is a town of about 2,500 people. And again, it was right on the Oklahoma line. My entire life I have lived in towns that were either in Oklahoma or were right on the Oklahoma line.

ED: You never could separate yourself entirely from Oklahoma?

BJ: As it is now, I can look out the window and see Oklahoma out there, from here in Fort Smith.

ED: Yes.

BJ: But the families on both sides lived in Caney. My grandfather Jesson was an interesting guy and I fortunately got to know my… I was an only child and an only grandchild. My cousins had all died earlier, so I was an only grandchild and I got lots of attention with my…

ED: So you were smothered with attention then from grandparents and momma and daddy both?

BJ: My Grandfather Jesson had come to the United States with his parents from England when he was nine years old; it was right after the Civil War. He had led an interesting life. At one point, his family lived in Coffeyville, which was the larger town some sixteen miles east of Caney, but, again, right on the Oklahoma line. And my grandfather Jesson had what he called a mail route. He was a mail contractor for the U.S. Mail, carrying mail from the railhead in Coffeyville, to Bartlesville, Indian Territory, in the 1880s and '90s until Oklahoma became a state.

ED: Oklahoma became a state in . . .

BJ: In 1907.

ED: 1907.

BJ: But I still have the gun that he carried, the big .44 and all that. But in addition to carrying the mail he would carry other small packages, called the Jesson Express. He would carry small packages in this mailbag kind of thing, horse-drawn.

ED: Horse-drawn hack.

BJ: Hack.

ED: Yes.

BJ: My other grandfather, my Grandfather Bradley, his father, my great grandfather, was a physician. And my grandfather went to medical school, was licensed to practice but only practiced for a few years and then went into real estate and other business developments. So he really…

ED: No money in practicing medicine.

BJ: There was really not any money in practicing medicine.

ED: Nobody had any money to pay you.

BJ: In that little town when I was growing up there, there was something like nine or ten doctors for 2,500 people.

ED: Wow, wow.

BJ: But all of them were, you know, up above the drugstores. We lived in Copan. Of course, this was the height of the Depression, and some of my earliest memories were going out with my father in his 1935 Ford trying to collect bills.

ED: Yes.

BJ: And coming back with chickens in the back.

ED: Chickens and eggs.

BJ: That's right.

ED: Yeah.

BJ: Copan just had one doctor, one physician and the one drugstore and that physician died; that, of course, interfered with my father's business greatly. Of course, the business was bad anyway during the Depression. So, anyway, he then sold the drugstore and we moved to Caney, Kansas, which is where my grandparents from both sides were.

ED: How old were you when you moved?

BJ: I was just getting ready to start the first grade.

ED: OK.

BJ: And so I never actually went to grade school in Copan. When I went to first grade we were living in Caney. But, as I say, they were only seven or eight miles apart. But it was a lot more—it was a bigger town, 2,500 versus 500.

ED: Yeah.

BJ: A nice, nice town. They had industry, a lot of natural gas and a railroad town, too.

ED: So you spent all your childhood there?

BJ: No, I lived there when I was in the first grade. I started in the first grade there and my father at that point was hired by his uncle in Caney, who had a drugstore in Caney, and they moved to Coffeyville. He got a job and entered into a partnership with a man with a pharmacy in Coffeyville, which was a town then of 17,000 or 18,000 people.

ED: Yeah.

BJ: It was a big railroad town and a manufacturing town. So I really grew up in Coffeyville. I was there from the fourth grade through high school.

ED: Do you have much memory of going to school at Copan?

BJ: I never started school in Copan.

ED: Oh, in Copan, yeah.

BJ: I was just getting ready to start when we moved.

ED: Yeah.

BJ: I remember going to the first three grades in Caney and riding my bicycle.

ED: So you had a bicycle?

BJ: Oh yes.

ED: All your own, how far away from the school?

BJ: I went to two different schools. One of them was probably ten blocks, twelve blocks maybe.

ED: So you were riding your bike for the first grade at the school?

BJ: Yeah. But, you know, it was all brick streets.

ED: Yeah.

BJ: A nice, safe kind of town, kind of typical of the middle west of America.

ED: Did you have electricity then in town?

BJ: Oh yes, yes.

ED: You had electricity in town?

BJ: We had electricity.

ED: And running water?

BJ: They had running water.

ED: Indoor toilet, all of that?

BJ: And sewer and all that good stuff. Now, we hadn't had all that in Caney and Copan, but we still had the outhouse out behind the house.

ED: Yeah.

BJ: Because I remember my father had the newspaper delivered not to the front porch but to the outhouse, which had electricity in it. Of course, we did not have running water; we had to heat the water.

ED: You had electricity in the outhouse?

BJ: We had electricity in the outhouse and in our house but did not have running water.

ED: You had a Sears Roebuck or Montgomery Ward catalogue in the outhouse.

BJ: Yeah, and then the newspaper was thrown out there.

ED: Yeah, OK, all right. So do you remember much about your teachers in either place?

BJ: I remember particularly the ones in Coffeyville and in Caney some, too. This is late thirties, early forties, because we actually moved to Coffeyville just shortly before Pearl Harbor.

ED: Yeah.

BJ: But it was a time of, you know, God Bless America.

ED: Yes.

BJ: And lots of patriotism and all that.

ED: But you had plenty of food during the Depression?

BJ: Oh, we had lots of food, yes, yes.

ED: You didn't have your father…

BJ: We fortunately did not have that.

ED: Daddy didn't have to work for WPA or anything?

BJ: No.

ED: Or get commodities during the Depression?

BJ: No, but there were a lot of people who did. I remember my next-door neighbor was a rural mail carrier and my family thought that he had the greatest job in the world because he had a new car every other year.

ED: Yeah.

BJ: And he carried the mail and got a good salary.

ED: Yeah, I remember my daddy knew our rural mail carrier down in Union County; he had a nice car always.

BJ: But my parents were… Well, my grandmother Jesson was originally Anglican but they had no Episcopal Church in Caney, so they started going to the Christian Church, Disciples of Christ. But there were none of those… There were no Christian Disciples Church in Copan, so my family went to the Methodist Church and that's how I became a Methodist.

ED: OK. So you're in Coffeyville after about the fifth grade or so?

BJ: That's right. And Coffeyville is best known for—I bet you can remember this—the Dalton Raid. It's where the Dalton brothers robbed two banks at one time and most of them ended up dead. And the alley was right next to my father's drugstore.

ED: At that time? It had happened in the past?

BJ: Well, it happened it 1892.

ED: 1892. OK, yeah, because the Daltons were the previous century.

BJ: But the Dalton family had… There were the good Daltons and the bad Daltons, as my grandparents told me, because they lived on a farm next to my grandfather Jesson's family farm. They were respectful neighbors and all that, but some were bad. Interestingly enough, one of them was a deputy U.S. marshal for Judge [Isaac] Parker here in Fort Smith.

ED: Oh really?

BJ: And I can remember when they had the world premiere of the Dalton brothers movie in downtown Coffeyville and they had all the movie stars there.

ED: And it was a packed house I'm sure of that?

BJ: It was.

ED: Yeah.

BJ: Searchlights were going; I had never seen searchlights before.

ED: Yeah. Did you see the movie?

BJ: I saw the movie.

ED: Was it a good flick?

BJ: It wasn't nearly as good as the one that came along about the same time about Jesse James.

ED: Oh, OK, yeah. So tell me about your parents. Were they pretty tough disciplinarians or were you a rambunctious kid?

BJ: I was not, I was a conformist.

ED: Yeah. You were a little Lord Fauntleroy.

BJ: Well, not exactly that, but I was always involved in school activities, particularly as time wore on—in junior high and high school debate programs, played on the tennis team and in plays, all those good things.

ED: But you didn't play football or basketball?

BJ: I did not play football.

ED: But you played tennis.

BJ: I played tennis.

ED: You played competitive tennis; you were on the varsity tennis team?

BJ: Yes. Coffeyville was in what they called the Southeast Kansas League, which had Independence, Parsons, Pittsburg, Iola. There were a number of these towns of ten to twenty thousand people all within fifty miles, southeastern Kansas.

ED: And you participated in all the activities. What about politics? Did you do student body?

BJ: I was on the student council and all that good stuff.

ED: Did you run for student body president or anything?

BJ: I ran and was defeated.

ED: OK. But you were in all the clubs?

BJ: Yeah.

ED: Debate, so you were a high school debater?

BJ: Yes.

ED: Did you win any?

BJ: I won some trophies.

ED: Won some trophies?

BJ: Yes. Now I was a college debater later.

ED: And you were also in the Key Club, I guess?

BJ: I was in the Key Club.

ED: You mentioned about coming to Arkansas when you were a kid.

BJ: It was one of the great experiences. They had a regional meeting at Central High School, which was then just Little Rock High School, and five or six of us were with a group of young lawyers in Coffeyville and this guy and his wife took us down. We spent the weekend in Little Rock and we stayed at the old Lafayette Hotel in downtown Little Rock. I remember we were each kind of assigned, by mutual consent, a girl to be your date for the weekend, and it was a very thrilling thing because those Arkansas girls were nicer, too, than the Coffeyville girls, I had to admit. It was an exciting experience.

ED: So you had a date with a beautiful Central High School girl?

BJ: That's right. And we went to a midnight movie and we went to a dance and we went to a brunch at Central High School. I had never been to a brunch before. And they took us on a tour of what was then the new Governor's Mansion. Sid McMath was there and greeted us.

ED: That would've been?

BJ: '48 or something like that.

ED: He was elected in '48, so it'd probably would have been '49.

BJ: '49, it probably was.

ED: Probably '49.

BJ: I graduated high school in '50.

ED: All right.

BJ: But he was a young dynamic man. I had read about him a lot. I was even then following all the newspapers.

ED: Big Marine and World War II hero.

BJ: That's right, a big dashing Marine.

ED: Prosecutor in Hot Springs, cleaned up the Hot Springs criminal element controlled by Leo McLaughlin, who was the mayor over there.

BJ: But my life in Coffeyville revolved around, again, the Methodist Church and the Methodist Youth Fellowship and the Boy Scouts. I was an Eagle Scout and I spent a lot of time doing scouting at the Philmont Scout Ranch and all that good stuff.

ED: So you graduated from high school in 1951?

BJ: 1950.

ED: 1950. And you go to the University of Tulsa?

BJ: Yes. But I didn't plan on doing that; I planned on going two years at the local community college. They had a community college in Coffeyville. I was going to go two years there and then I was going to transfer to KU in Lawrence, the University of Kansas. But in high school I entered a contest that the University of Tulsa sponsored called Going to College, the Going to College Quiz Program, where they would come around with equipment not unlike you have here today and record for the university radio station, KWGS, which was the first FM station I had ever heard. They would go to all the regional high schools around Tulsa, and it was a question-and-answer quiz program kind of deal so I entered and won and got to go to Tulsa for the semifinals and then got in the finals and finally ended up winning second place, which gave me a three-year scholarship to the University of Tulsa.

ED: And you could not turn that down then.

BJ: I could not turn that down.

ED: Full scholarship?

BJ: Yes. And about that same time the Korean War started—the summer of 1950. So in Kansas about the only way you could be deferred even though you were in college full time was that you had to be in the ROTC, and they had no ROTC at the community college, so I went to Tulsa, where I was in the Air Force ROTC.

ED: So you went there three years?

BJ: I went there four years.

ED: You went four years to Tulsa and you graduated?

BJ: Yes.

ED: And what did you major in?

BJ: Political science and history.

ED: So you graduated in?

BJ: 1954.

ED: '54 with a B.A?

BJ: Right.

ED: And you got your commission, ROTC commission?

BJ: I got my commission. And by then they let me start law school. At that time Tulsa only had night law school, so my senior year I was taking courses on campus but I was also going to night law school, doing law school.

ED: So you were going to law school before you actually got your B.A.?

BJ: That's right. You could get into law school after you had so many hours and so I got a head start on law school. They were going to let me go ahead and finish law school before they called me into active duty, but then they didn't.

ED: They changed their mind?

BJ: Yes. But at Tulsa that's where I met my wife, Mary Ellen, where she also attended. She was from Sand Springs, Oklahoma, which was a suburb of Tulsa.

ED: She was teaching there?

BJ: And she was a student there.

ED: Well, let's talk about Mary Ellen. Her maiden name was what?

BJ: Mary Ellen Everett, E-V-E-R-E-T-T.

ED: E-V-E-R-E-T-T. And she was from where?

BJ: From Sand Springs, Oklahoma.

ED: Sand Springs, with an S.

BJ: Sand Springs is a suburb of Tulsa, on the west side of Tulsa.

ED: And how did you meet her?

BJ: Interestingly, I met her at church. Well, that's where we really got to know each other.

ED: OK.

BJ: At the Methodist Youth Fellowship at the University Methodist Church on the campus there. We were both active in that and she was very, very attractive and very, very smart. I was an independent student and she was a sorority girl, but we were involved in some other activities together and finally both of us ended up on the student council and eventually I ended up as student body president.

ED: You were more successful in college then you were in high school in politics?

BJ: That's right; they didn't know me as well. But then I joined a fraternity, oh I guess in my sophomore year, and became president of the fraternity. So I was very active in college and then I was also a member of the ROTC and had a commander.

ED: Yes. And when did you all get married?

BJ: We got married sixty years ago, December 27. Last year we celebrated our sixtieth wedding anniversary, December 27th, 2013. We got married in 1953.

ED: So that's while you were in law school?

BJ: While I was in law school.

ED: She was teaching?

BJ: She had just finished; she finished a semester early.

ED: OK. Did she start teaching then?

BJ: No, she had her degree in sociology and her first job was out at Children's Medical Center in Tulsa, working with children as kind of a social worker.

ED: Yes.

BJ: Then during the time, while my first year out of college I was working during the day at the Municipal Criminal Court. I was the chief deputy court clerk in the Municipal Criminal Court of Tulsa and she was working at Children's Medical Center and I was going to law school at night.

ED: So how far did you get in law school before the Air Force called you?

BJ: I did two summers, so I was I had a year and a half.

ED: So you were halfway through law school?

BJ: Right.

ED: So then you had to go into the service?

BJ: I had to go in the service.

ED: And where did you go? You were there three years, I guess?

BJ: I had a three-year commitment and, of course, I had not finished law school so I couldn't get into the J.A.G. [Judge Advocate General] Corps, though I did a lot of special court-martials and all that stuff by assignment that I could do. But they made me a purchasing and contracting officer, and after going through training in Cheyenne, Wyoming, I was sent to Japan. And then we lived in Japan for the rest of the time, two and half years.

ED: You were there two and half years?

BJ: Yes.

ED: Where in Japan?

BJ: Misawa, M-I-S-A-W-A, which is a big air force base on the northern tip of Honshu, the main island. But it was very far north, lots of snow, three or four hundred inches of snow a year.

ED: Wow.

BJ: Which is right next to Lake Ogawara. When I first got over there they didn't have a slot for me in purchasing and contracting, so they sent me as a supply officer out to a remote site on a little island in the Sea of Japan, which was only eighty-five miles from Vladivostok, Siberia. And our mission was to monitor whatever was happening. Vladivostok was a big Russian naval air base protecting the main Russian naval base Sevastopol, to monitor all the air-to-ground or air transmissions, radar transmissions and all of that.

ED: So were you all kind of the spies, spying on the Russians? Keeping up with what?

BJ: Well, we had NSA [National Security Agency] and it's where I first heard about the NSA.

ED: OK.

BJ: They had a lot of Russian speakers out there.

ED: Yeah

BJ: But they were separate and apart from what I was doing. But it was an interesting time.

ED: Well, did you all enjoy Japan?

BJ: Yeah, we did. We had no children and she got a job as secretary to the division inspector general, and so my job was funny because we lived on the base, but my office was off the base, because I dealt strictly with Japanese contractors on building buildings, standing runways, buying goods and all that stuff.

ED: OK. So after three years, do you have any other interesting experiences there?

BJ: Oh, you know, just the usual stuff. We were out there; we would've been overrun in the first ten minutes of any Cold War.

ED: Yeah.

BJ: This was a time strictly, really, of Cold War. This was the time when the Hungarian uprising happened.

ED: Yeah.

BJ: During that time, and this is ’55 to ’58.

ED: So then your commitment ends and you come back to the U.S.?

BJ: I come back.

ED: By the way, did you learn to speak any Japanese while you were over there?

BJ: I learned to speak enough to get by on.

ED: Yeah.

BJ: But I had a former Japanese major in the Imperial Army. He was my right-hand man in my job, a civilian, but a really bright guy. My office staff was almost entirely Japanese. I had one sergeant that worked for me, but other than that they were all Japanese. They were very bright; I really learned to love the Japanese people. And here we were twenty-two, twenty-three and twenty-four years old and we had a full-time maid. She came every day, well six days a week. She brought fresh flowers every morning and arranged them and was quite a seamstress, made a lot of clothing. And it was a good life. There were just the two of us and we ended up having two cars and no roads to drive on. The only paved roads were the ones on the air base.

ED: Yeah.

BJ: And we were up in the ski country where in the winters we would go skiing. In the summer, the beaches were within three or four miles. But we did, you know, travel all over Japan. I always had an excuse to go to Tokyo, which is where a lot of my activity took place dealing with the Japanese.

ED: Did you live on the air base?

BJ: I lived on the air base.

ED: Was there a kind of officer housing or…?

BJ: Well, it was kind of a strange thing. They had a moratorium on building any more housing because they said they were going to abandon the base. Now, this was 1955 and the base is still there and bigger than ever in 2014. But they got a rule that you could put mobile homes on the base and so, of course, they didn’t have mobile homes in Japan. What they did have, they would let you build a house that’s the same size as a doublewide trailer. And so we built our own house on the airbase and I remember it cost $1,600.

ED: $1,600 to build a house?

BJ: And then we built a $600 addition to it. But we owned our own house in Japan.

ED: Oh, did you?

BJ: Yes.

ED: So you built the house?

BJ: We built the house on the military base.

ED: You designed the house?

BJ: That's right.

ED: And contracted somebody to build it?

BJ: And then we sold it. Of course, there was a waiting list, when we were sent back home, to buy it. It was an experience.

ED: So some Japanese contractor built your house?

BJ: That's right.

ED: Yeah. So you made a little profit on your house?

BJ: Well, it was controlled.

ED: Oh, it was controlled, OK.

BJ: Yes.

ED: So you got what you put into it?

BJ: Right.

ED: So then you come back and what?

BJ: I came back and I wanted to finish law school as soon as I could at that point. And Tulsa still was just a night school; the law school was just nights.

ED: Yes.

BJ: So we considered KU at Lawrence and OU [University of Oklahoma] in Norman and Fayetteville.

ED: OK, University of Arkansas at Fayetteville. So what made up your mind about going to Fayetteville?

BJ: We thought about that a lot. But then we visited OU. It was one of those red dust storms and that changed my mind about OU.

ED: That's where they just get vast amounts of red sand?

BJ: That's right.

ED: It fills the house with everything?

BJ: It was just everywhere. It was just so miserable.

ED: Yeah.

BJ: The day we were at KU it was cold. And the day we were at Fayetteville it was a beautiful day.

ED: Do you want to pause a second?

BJ: No. And they were very glad to see me.

ED: Yeah.

BJ: The law school at that time only had ninety-nine students and they had to have a hundred students in order to retain their membership.

ED: Oh really?

BJ: In the American Association of Law Schools, and I was number one hundred.

ED: They wanted you—so they were desperate for you to be there?

BJ: Yeah, that's right. There were no tryouts or no anything else.

ED: Yeah. And all your hours from Tulsa transferred?

BJ: Transferred, yeah.

ED: So had you been to Fayetteville before, had you ever been?

BJ: Yes, many times. Again, there was a Methodist thing at Mount Sequoia when I was a kid.

ED: Oklahoma, yeah, and it's just a short distance across there to Fayetteville.

BJ: Yeah. As a kid I would go there in the summer. I might've spent two or three summers up there, just two-week deals.

ED: Yeah.

BJ: And then my parents loved Northwest Arkansas.

ED: Yeah.

BJ: Back when I was a kid we almost moved to Bentonville. We came very close to my father buying a drugstore in Bentonville, right there on the main drag. And we probably would have but for the fact that I didn't want to move to Bentonville, which was then a town of about two thousand people.

ED: Yeah, yeah. So that was an easy choice to make in the end, because it was just the luck of the draw on the days you were there both places.

BJ: I really didn't ever intend to stay in Arkansas.

ED: Yeah.

BJ: I was always planning on going back to Tulsa, because by then, you know, I had worked in the courts over there and I knew the lawyers and knew some judges.

ED: Yeah.

BJ: And all that. And a lot of Tulsa lawyers had gone to law school in Fayetteville.

ED: Can you recall how you decided you wanted to be a lawyer, and had you some experience?

BJ: Oh, I guess.

ED: Did you know a lawyer?

BJ: My best friend's father was a lawyer and so I was around him a lot and I liked him.

ED: What was his name?

BJ: His name was Aubrey Meale, M-E-A-L-E.

ED: Now that was the father?

BJ: That was the father.

ED: And what was your friend's name?

BJ: My friend's name was Ray Aubrey Meale.

ED: And that's there at Coffeyville?

BJ: Coffeyville. So I was in their house a lot and I was in his office. And he was a big KU football fan and I used to go with them to the football games at Kansas. And, you know, we'd go along and visit at the law school and so on.

ED: Was he kind of a distinguished fellow?

BJ: He was very.

ED: Dignified?

BJ: Yes.

ED: So you think that was probably the –

BJ: Oh, I think so.

ED: He had something to do with it.

BJ: And then, you know, I had given some thought to some city manager thing, that type of thing, and at one point had given some thought to the Methodist ministry.

ED: So you go, what, a year and half?

BJ: Yeah, a year and a half.

ED: A year and a half at Fayetteville.

BJ: Fayetteville, plus the summer.

ED: So did you all rent a house there?

BJ: We rented a little apartment at first and then a house. And I didn't know anybody, I just came in cold. But the classes were small, very small, and the faculty was small. And Joe E. Covington was the dean and Ralph Barnhart later became dean.

ED: He was on the faculty there then?

BJ: He was on the faculty then. Bob Leflar [Dr. Robert A. Leflar] was the grand old man of the law school, a wonderful person. Really, he kind of changed my mind about staying in Arkansas.

ED: He did?

BJ: He did. It was kind of interesting; I had always been interested in politics, obviously.

ED: Yeah.

BJ: And it was that summer of 1958 and Orval Faubus was running for reelection to whatever term that was.

ED: 1958?

BJ: '58. He was running against a Lee Ward.

ED: Lee Ward was the chancellor over around Jonesboro.

BJ: Jonesboro.

ED: And Chris Finkbeiner was running. He made hot dogs. He was a meat processor in Little Rock. I think he was a candidate.

BJ: Well, I remember the only thing I read always was an edition of your paper, the *Arkansas Gazette*, which was available in the law school lounge. So I read the *Arkansas Gazette* every day. For whatever reason they never had an *Arkansas Democrat.* I didn't even know there was an *Arkansas Democrat*, but the *Gazette* was there every day. And I thought just talking to the people at the university… I was convinced that Faubus was going to be defeated. I think in the end he [Judge Ward] carried that precinct where the university was located, maybe one or two in the Heights [Pulaski Heights in Little Rock] and that was about it in the whole state.

ED: Yes. I think Faubus carried all seventy-five counties; I'm sure in that race.

BJ: Now I remember that was the election where people like Minor Millwee and someone else . . .

ED: Minor Millwee was justice of the Supreme Court and he was beaten by Jim Johnson.

BJ: He was defeated, that's right.

ED: In that shocking result.

BJ: And I think Dr. Leflar thought the end of the world had come.

ED: Well Jim Johnson… I'll insert this. Jim Johnson later told me that he sort of regretted it in a way, although he was glad that he got elected to the Supreme Court. After he defeated Minor Millwee, he learned that he was one of the finest judges that ever served on the Supreme Court.

BJ: Absolutely.

ED: And far superior to him and that he was wrongfully elected to that seat. Now, he might've just been generous about it, but he said he had no clue who Minor Millwee was and no clue about the Supreme Court when he got elected. But he just wanted to win an office.

BJ: Well, after Minor Millwee was defeated he did come to Fayetteville to practice with Bill Putman at Putman, Millwee and Davis.

ED: Oh, did he?

BJ: At the Davis firm.

ED: Right.

BJ: So I got to know Judge Millwee and he was just a fine, fine man. But I just remember what a shock it was to everybody in that law school. They were just really so upset about that.

ED: Yeah. And they were upset on the Supreme Court, too—George Rose Smith and I think all of them.

BJ: But it seemed to me that there was one other that was defeated, too, in that election, but I can't remember who it was.

ED: There could've been, but that was a shocker.

BJ: Yeah.

ED: In the other case, it might've been somebody who was reasonably competent won the seat. So you're living there and what does Mary Ellen do? Does she get a job?

BJ: By then we had our first child.

ED: Oh, your first child, who is?

BJ: Who is Lucinda, Lucinda Jesson. And she kept her name Jesson and she is a lawyer and a law professor in Minnesota.

ED: And she's now head of the Minnesota Department of Human Services.

BJ: Human Services.

ED: Which is the equivalent of our department here in Arkansas.

BJ: That's right.

ED: It supervises all the health and human services programs in the State of Minnesota.

BJ: Yes, she has, I believe, eight thousand people in her department. Health law was her bag and she had been very active in Minnesota politics.

ED: As a Democrat?

BJ: As a Democrat. And she got her bachelor's at the university, undergraduate. We'll say the first Truman scholar from the University of Arkansas and went to the University of Pennsylvania to law school, to Penn, Philadelphia.

ED: So you had your first child there at Fayetteville.

BJ: Well, as a matter of fact she was born in Tulsa, actually.

ED: Where?

BJ: She was born in Tulsa.

ED: Oklahoma, born in Tulsa, Oklahoma.

BJ: Yeah.

ED: But your home at that time was in Fayetteville?

BJ: It was in—right.

ED: And so you graduated. You took courses under Bob Leflar. What courses did you take under Leflar?

BJ: Conflicts of Law was the one I remember.

ED: Conflicts of Law.

BJ: Yes. That was his favorite.

ED: Do you have any Bob Leflar stories that bear repeating?

BJ: We found out early on that your wife did not travel in the elevator with Bob Leflar.

ED: Yes.

BJ: But he was so open and friendly to all the students. I'd had a really good experience at the University of Tulsa.

ED: Yeah.

BJ: And the law school at Tulsa at that time was small. It still is.

ED: Yeah.

BJ: Oh, 3,500 students.

ED: Yeah.

BJ: But I don't know, the personal thing at the law school at Fayetteville was really something.

ED: Yeah.

BJ: And I, of course, had wonderful classmates.

ED: Well, let's talk about it. It was a remarkable class. As I was telling you the other day I saw this little bulletin that John Stroud had. He later served . . .

BJ: Yes.

ED: . . . later served on the Supreme Court. I think he was from… He had lived at Texarkana, I guess?

BJ: Texarkana.

ED: Texarkana at the time he was appointed. He was part of that class and he showed me some book. I guess it was of that law school class. And so you and Phillip Anderson, later the head of the America Bar Association, who still practices. . .

BJ: And Hayes McClerkin.

ED: Hayes McClerkin from Texarkana, who was later speaker of the Arkansas House of Representatives and ran for governor in 1970.

BJ: That's right, against my friend Dale Bumpers.

ED: Against your friend Dale Bumpers.

BJ: And Dick Adkisson [Richard B. Adkisson], who was chief justice of the Supreme Court.

ED: Was Dick Adkisson in that class?

BJ: Yeah.

ED: And he was chief justice in the early eighties. And Jack Williams, who is now partner with Phil Anderson in the Williams Anderson Law Firm there at Little Rock. Do you remember anybody else who was in that class?

BJ: Phil Dixon.

ED: Phillip Dixon. Phil's dead now, isn't he?

BJ: Phil's dead now, outstanding lawyer.

ED: He was a great, great, great lawyer. And his law firm was?

BJ: Dixon Dover.

ED: Dixon Dover.

BJ: Yes.

ED: Yeah.

BJ: Jerry Light.

ED: Jerry Light, who was later with—he was with the Friday Law Firm, I guess.

BJ: Friday Law Firm. And Buddy Sutton.

ED: And Buddy Sutton, who I guess is still with the Friday Law Firm. I don't know if he's still practicing or not but he had been a… Buddy Sutton had been a halfback for the Arkansas Razorbacks.

BJ: Wonderful football player.

ED: All-Southwest Conference.

BJ: Buddy and I comprised, and Jerry Light… We were the three on the Moot Court team for the university.

ED: OK.

BJ: And we always claimed we had really – were really the national champions because we had gone on down to Texas and were – the Moot Court team at the University of Arkansas, and we'd won the preliminary rounds. And finally we met, actually the University of Texas, in the final round. Whoever won that moved on to the national championship.

ED: Right.

BJ: And they were good.

ED: Did they get a little home cooking there?

BJ: Well, there were three judges. Two of them were University of Texas graduates, and the third was a Baylor graduate by the name of Leon Jaworski.

ED: Later a Watergate prosecutor.

BJ: Right. We got one vote, Leon Jaworski's. The two Texans voted for Texas. They went ahead and beat Harvard in the finals.

ED: Did they? All right.

BJ: Al Witte was the coach and he still complains about how we were absolutely robbed back then.

ED: Well, I think it ought to be official that you were robbed, and that you were the national champions. So, but anyway, Leon Jaworski voted for you.

BJ: That's right.

ED: So that's a good recommendation.

BJ: But I was in law school my senior year when we had a chance to apply for and won a place in what they called the Honors Graduate Program for the Justice Department—in the United States Justice Department—where you would go to Washington for two years after graduation and rotate through the different sections of the Justice Department. So I was pretty much set to do that and at the last minute—oh, I said last minute, maybe a month or two before graduation—Judge Miller, the federal judge here in Fort Smith, Judge John E. Miller, who was a highly regarded federal judge, former United States congressman and United States senator and a good friend of Dr. Leflar… His law clerk quit to go into private practice, so he was left without a law clerk. The one he had coming backed out on him, because he didn't want to get involved in all the integration fights. By that time, Judge Miller had part of the Little Rock cases. So Judge Miller called Dr. Leflar to see if he could recommend anybody, and so he recommended me.

ED: So that was after… You were graduating at that time.

BJ: I was getting ready to graduate.

ED: You were getting ready to graduate and you hadn't taken the bar yet?

BJ: Hadn't taken the bar. So I came down here, stayed with Mary Ellen. I remember Mary Ellen came and we maybe farmed our baby out somewhere else and talked to Judge Miller and found out the job here paid exactly the same thing as the job in Washington. I'm not too bright, but I somehow figured that same money would go further in Fort Smith than it would in Washington.

ED: Yeah.

BJ: And at that point we were living on the money we had saved during my time in the Air Force.

ED: Yes.

BJ: And it was about to run out so I decided to come here, because I looked around. Herschel Friday had been Judge Miller's law clerk and Ed Bethel had been his law clerk. The people who had had the job before me all had done extremely well. By then I'd become… I had really liked the idea of staying.

ED: And what was your first impression of John E. Miller? He would've been quite old—no, he wouldn't have been that old, I guess, at that time.

BJ: As I look back now, at the time he seemed old, but by now he doesn't seem old.

ED: Yeah. Well, he stayed on the bench quite a long time after that.

BJ: He did.

ED: Until eventually, I think, he was the oldest sitting federal judge in the country.

BJ: I wouldn't be surprised.

ED: Or maybe in history or something. He didn't even take senior status for a long time did he?

BJ: Long time. Paul X Williams succeeded him in 1967, then he took senior status. He was a remarkable man, very wiry, very full of energy.

ED: He was a little guy?

BJ: He was a little guy.

ED: A little skinny guy.

BJ: Full of energy.

ED: With silver hair.

BJ: He liked taking care of his yard and he worked a deal with the marshals somehow where some of the federal prisoners who were incarcerated in the Sebastian County Jail would… He would get them out to go help him in his yard work. And he would end up doing most of the work and they would kind of sit around while watching him do the heavy lifting.

ED: Yeah.

BJ: But he was very energetic, very, very energetic man. I think he wrote more opinions for the Federal Supplement then almost any federal district judge.

ED: Briefly, if we can kind of summarize it. It's John Elvis Miller, I think.

BJ: That's right.

ED: That was his name and he had grown up in Missouri and came down and practiced at Searcy.

BJ: He was born in Missouri, graduated from the University of Kentucky Law School. And he originally was on the train. I've heard him tell the this story. He was on the train going to Hope, he was going to practice law in Hope, and somebody on the train said he ought to get off and take a look at Searcy, which was just a booming town. And he got off the train and stayed in Searcy for a day or two, looked around and established his own law practice there.

ED: And then became the prosecuting attorney for that district.

BJ: For that district, which is like five counties.

ED: Yeah.

BJ: All the way down to Phillips County.

ED: All the way on down to Phillips County on the Mississippi River, and he was the prosecutor in the Elaine…

BJ: Race Riots.

ED: Race Riots, and I think there were a slew of them…

BJ: Twelve or something like that were…

ED: Were convicted.

BJ: Convicted and sentenced to die.

ED: Sentenced to die and many others were convicted, but those were convicted and sentenced to death. And eventually the U.S. Supreme Court, and I guess…

BJ: I think Felix Frankfurter somehow ended up involved in the thing, not as a judge but I think maybe as a lawyer.

ED: Anyway, the convictions were overturned.

BJ: Yes.

ED: And eventually they were at the penitentiary one day and all of them were just kind of set free.

BJ: Yes.

ED: They just kind of opened the gates to the prison up there in Little Rock and they just walked out and went back, walked back to Phillip's County, I guess, or someplace. So he's a prosecutor and then he gets elected to Congress. . .

BJ: Congress.

ED: . . . from that district of Arkansas and then in 1937 he challenges Governor Carl Bailey, who is nominated by the Democratic Party…

BJ: That's right on the death of…

ED: [U.S. Senator] Joe T. Robinson.

BJ: Joe T. Robinson. And from my recollection from the stories, Joe T. had just been re-nominated for another term and he died before being sworn in for the next term.

ED: So then they had to have a special election.

BJ: The Democratic Party had to fill that with a Democratic nominee.

ED: And the new Governor Carl Bailey wanted that job so he arranged for the Democratic State Committee acting as a convention or something to nominate him. And then there was a rebellion in the Democratic ranks and they had a rump convention at the Marion Hotel in Little Rock and nominated John E. Miller.

BJ: As the independent Democrat.

ED: As an independent Democrat.

BJ: But then they had to be voted on.

ED: Yeah.

BJ: And that took him to the election.

ED: And then he beat Carl Bailey in the election.

BJ: He used to have a copy of it, an interesting cover story of *Life* magazine about the new senator from Arkansas, because he was taking the place of Joe T. Robinson, who was a legend.

ED: Yeah, the majority leader and the…

BJ: Former vice presidential candidate.

ED: Yes, 1928.

BJ: But I remember seeing that thing with his picture on the cover of *Time* magazine with his picture inside with his family and all that, but he was a hardworking man. He has told me this story that when they appointed him they told him that…

ED: This was when Roosevelt appoints him to the federal district court.

BJ: Roosevelt.

ED: Roosevelt wanted him out of the Senate.

BJ: Out of the Senate.

ED: Although they were big pals?

BJ: They were big personal friends but politically he was never really a New Dealer. Bailey was much more the New Dealer than Judge Miller. Judge Miller was always in line with old Homer Adkins and that side of the party.

ED: Yeah, yeah.

BJ: But they told him that he would get the first opening on the Eighth Circuit from Arkansas and this was 1937. When I went to work for him in 1959 he was still waiting for it. But he thought he might have a chance when Kennedy was elected. I was working for him when Kennedy was elected and he contacted some of his old friends. But he always, you know, kind of blamed Senator [John L.] McClellan for not pushing hard enough for him to get that. Well, the truth of the matter is he would've been miserable on the Eighth Circuit because he was a born trial judge. And, you know, the appellate judges live a different lifestyle than the trial judges.

ED: Yes.

BJ: Judge Miller liked that interaction, the daily interaction you had with the lawyers on the trial bench.

ED: So the person who got appointed instead of John Miller was a lawyer from the Friday firm, was he not?

BJ: That's right. It was Pat Mahaffy.

ED: Oh yeah, Pat Mahaffy. So he gets the appointment instead of John Miller. You want to take a break for a few minutes? Do you need to get up and move around?

BJ: Yeah, let me just turn this thing off.

ED: And I'll pause here for a second.

(Pause)

ED: All right, we're back. So you're a law clerk for Judge Miller for what, one year?

BJ: For two years.

ED: Two years. And he was involved in, as you said, the Little Rock school desegregation case. I think he had…

BJ: What had happened was that all the other federal judges in the state resigned, retired, got away from it. And that's how Judge Miller kind of . . . That first summer I was with him, the summer of '59, we spent a great deal of time just going around taking arraignments and pleas all over the state. Judge Miller was one of three judges on a three-judge court that was considering the reopening, ordering the reopening, of the Little Rock schools. They had been closed the year before. It was the reopening of the schools and they had mixed in there with it the old Act 10. Do you remember that, where you had to take the teacher oath and all that stuff?

ED: Yeah, Act 10, which was passed by the legislature in about 1958, I guess, at a special session.

BJ: Right.

ED: But I think it was written by Bruce Bennett, the attorney general.

BJ: Yes, it was part of that segregation [package].

ED: And it was kind of a loyalty oath.

BJ: That's right.

ED: You had to sign a loyalty oath or loyalty affidavit in order to keep your job as a teacher or professor.

BJ: That's right.

ED: Yeah.

BJ: But anyway…

ED: Eventually it [the loyalty oath] was struck down by the U.S. Supreme Court.

BJ: It was struck down by a three-judge court.

ED: OK.

BJ: They ordered the reopening of the schools as well. So it was an interesting time because Thurgood Marshall was appearing there and, you know, all of the national press and everybody. I remember we stayed in the old Sam Peck Hotel [at Little Rock] and walked across the street to the Federal Building, and here are all these national commentators all out there with their cameras and their microphones, so it was an exciting time.

ED: Yes. And Thurgood Marshall was attorney for the NAACP Legal Defense Fund.

BJ: Yes.

ED: I guess he was kind of chief attorney in the Little Rock case.

BJ: Yes.

ED: Longer, I guess. I don't know if, for a while there, Wiley Branton might have been involved.

BJ: He was.

ED: But Thurgood Marshall was . . .

BJ: Also, Judge Miller was doing a lot of motions, that kind of stuff, in the basic Little Rock integration case. And I know some of the stuff got affirmed and some of it got reversed. He was reluctant, you know. He came out of a different era and he was convinced that it had to be spread out over years.

ED: Yeah, a gradualist.

BJ: Yeah.

ED: It needed to be done gradually to be effective.

BJ: Yeah. And pupil placement—again, he was a believer in that.

ED: Yeah the legislature passed the Pupil Placement Law.

BJ: Yes. But it was an interesting time.

ED: And he probably was a great storyteller, right?

BJ: Oh, he was a marvelous storyteller. And what we would do… I would ride with him or he would ride with me. He held court regularly over the Western District. He was the only judge and he was always in Texarkana, El Dorado, Hot Springs, and Harrison. He would not hold court, interestingly enough, in Fayetteville because there was no federal building there. He was supposed to be able to hold court in the Washington County Courthouse, but he somehow got crosswise with [Circuit Judge] Maupin Cummings over who was going to use the courtroom. So he said, "Fine, we'll just automatically transfer every case filed in the Fayetteville District to Fort Smith."

ED: Maupin Cummings was the circuit judge.

BJ: Was the circuit judge in Fayetteville.

ED: In Washington County.

BJ: Right. And so for years all of the federal cases arising in the Fayetteville District, which is several counties—four counties, I guess—were all transferred to Fort Smith.

ED: So you spent a lot of time that two years traveling all over the western side of Arkansas.

BJ: That's right.

ED: For trials.

BJ: Trials. I've stayed in the Grim Hotel in Texarkana and some hotel, the Randolph or something…

ED: The Randolph Hotel in El Dorado.

BJ: In El Dorado.

ED: Yeah. It either had to be the Randolph or the Garrett. The Randolph or the Garrett Hotel.

BJ: I think it was the Randolph.

ED: Yeah.

BJ: I remember that courtroom in El Dorado was built during the gilded age of El Dorado. It looked like, you know, a god would be up there with all that marble.

ED: Yeah.

BJ: And all the light shining down on the judge.

ED: It was across the street from the *El Dorado Daily News*, where I had worked as a reporter from 1954 to about 1960 off and on when I was in high school and in college. And then later Oren Harris, I guess, became the federal district judge.

BJ: Yeah, Oren Harris came.

ED: He came along.

BJ: He came along during the…

ED: In 1966 or so, somewhere along in there.

BJ: Well, he was there during… [J.] Smith Henley came first, I think.

ED: OK. But he was in the Eastern District, right?

BJ: No, he had…

ED: He was in Western?

BJ: He was in both districts, he was in Eastern and Western.

ED: Oh, was he?

BJ: He's from Harrison.

ED: Yes.

BJ: And he was the swing judge.

ED: OK.

BJ: But he was the first judge. The new judge came and then Oren came.

ED: [Judge] Gordon Young came along in there.

BJ: Gordon Young came along.

ED: About that time for the Eastern District.

BJ: Yeah.

ED: And Oren was exclusively the Western District.

BJ: Right. Oren took the place of a judge. I can't remember his name. He was from, I want to say maybe Camden, or somewhere down there, or Hope.

ED: Probably Hope, yeah, I think that's right. Well, I spent some time with Judge Miller and I thought he was an outspoken fellow and also sometimes pretty profane.

BJ: Very.

ED: He had colorful language.

BJ: He loved being around lawyers. When we would go places, as we did frequently, he liked Johnnie Walker Black. He wanted three fingers of Johnnie Walker Black, straight up. Frequently, we'd get there and it would be a Sunday and, of course, the liquor stores are all closed so he would tell one of the deputy U.S. marshals to go get him something. And they were always able to supply it; I never knew exactly where it came from.

ED: Was it black-market stuff or was it moonshine?

BJ: One time in Texarkana he convicted this guy who made moonshine… and Judge Miller told a group of us, "Now this guy is an artist, he really does good stuff." And so we all retired to the chambers and drank all of the evidence. Judge Miller gave him some kind a probation. "You know, a man like that shouldn't spend any time away." But he loved being with lawyers, and he would bring all the lawyers back to his room in those hotels. You know, there's an old hotel up in Harrison where we stayed for weeks on end while they were doing all the condemnation cases on the Table Rock Dam, at the old Grenada or Royale, whatever that Spanish-looking hotel was in Harrison. [Was it the Seville Hotel?]

ED: Yeah.

BJ: Just north of the square. But then it was interesting. When he was in the Senate, he liked Hot Springs, but he didn't like being down there during the races. But they told him that they wanted to have a Hot Springs division. The problem was, as he saw it, that it was too

expensive for the staff and the judges to stay down there. Hot Springs is too expensive. So he made a deal with the Southwestern Hotel chain where, for as long as you wanted during the racing season, the staff members could stay for three dollars a night in the Arlington Hotel, with free parking. So Mary Ellen and I would love it because she would find somebody to look after the kids. By then, my father had died and my mother was living near and she was looking after the kids. There were two of them by then. She and I would go to Hot Springs and stay for three dollars a night at the Arlington Hotel. And we had a wonderful time eating at the old Coy's.

ED: Yes.

BJ: That old Coy's down there.

ED: Right, right.

BJ: Not the new one that burned down but the…

ED: Coy's Steak House, the original one.

BJ: Yeah, the old original. But, you know, it was a fabulous hotel in those days—all the black waiters and the white tablecloths.

ED: Yeah.

BJ: It was just the Old South.

ED: Yeah.

BJ: And if you didn't have to, you know, if you could get the room for three dollars a night and you didn't have to pay for parking, it was a dream come true.

ED: Yeah, you could've lived anywhere for that, yeah. So that lasts for two years?

BJ: For two.

ED: And you write a lot of opinions, draft opinions and so forth?

BJ: Yeah. I did a lot of memoranda.

ED: Was it pretty busy?

BJ: He was a prodigious writer and he hated wasting time. One of the funny things, though: His biggest accomplishment in the Senate was the enactment of the Miller Act. The Miller Act is still a famous act, and it involves people who do work on government projects, subcontractors. You're the contractor to paint or redo the barracks at Fort Chaffee, which was the case that was involved. You hire me as a subcontractor to do some particular part of the work and you don't pay me—you, the contractor, don't pay

me. This happened to a client of his when he was in private practice. You couldn't put a lien on the government property like you could on a regular piece of property to ensure you get paid for the workmen. So he passed the Miller Act, which provides a way for some special Miller Act bonds, where you get that instead of a lien.

ED: Yeah.

BJ: But, anyway, they had a case involving Fort Chaffee. The lawyer from Kansas City was trying to explain to him the legislative history of the Miller Act, the way it was done. Finally he said: "Now, Mr. So and So, I'm not interested in that. I'm familiar with the legislative history. You don't need to go into that part of it." And the guy just kept going on and finally he [Judge Miller] said: "Now, Mr. So and So, what's the name of this act that's involved in this case?" "It's the Miller Act." And he said, "What's my name?" And the lawyer said, "Well, you're Judge Miller." And he said: "Do you get any hint of something there?" And the lawyer said: "Well, you have the same name." Judge Miller said: "I wrote the act."

ED: (Laughing) Do you remember the story of how he got elected? One of the reasons he got elected to the U.S. Senate was that he had this friend in Little Rock named Max Allison. He won a judgment for Max Allison in court, I think in Batesville. Max had a sleeping sickness and it was a hot August day and they were trying the case. They had to open the windows to the courtroom and everybody had fans trying to stay awake in the heat. And so in midafternoon, when it was really sultry, Miller decides to put Max Allison on the stand. And, of course, Max, after you ask him a couple of questions, falls asleep.

BJ: (Laughing)

ED: And they have to recess the court for a few minutes while Max finishes his nap and then he pops up and they resume. At that point, he said, "We rest our case."

BJ: (Laughing)

ED: It went to the jury and they gave him a judgment, lifetime stipend. So he was a great trial lawyer, I guess, as well, as great judge.

BJ: Yeah. He represented the Missouri and Arkansas Railroad, which used to run down from somewhere up in Missouri through the White River area and through Searcy and finally ended up down in Phillips County.

ED: Yeah.

BJ: But he had a very successful law practice.

ED: Yeah.

BJ: But he was much more of a… except for the railroad practice…he was much more a plaintiff-side lawyer.

ED: Yes. And he was the first judge on the Arkansas Loan and Thrift case.

BJ: Yes.

ED: He's the one who shuttered the Arkansas Loan and Thrift Corporation in about 1968.

BJ: '68.

ED: And put it into bankruptcy. But you no longer were there?

BJ: I was not working there.

ED: You were by that time a practicing lawyer here in Fort Smith. All right, I guess anything else to be observed about the John Miller phase of your life?

BJ: Well, I remember, as I say, he was a very active guy in the old judicial conferences. They required the district judges to attend the judicial conference every year and he didn't like flying in airplanes. They were having a judicial conference in Duluth, Minnesota, so he and Mrs. Miller got in the car and drove all the way to Duluth. This would've been a weeklong conference and he left us with this office and nothing to do. I remember it was the middle of the summer and I had stayed up too late the night before and I was taking a little nap on the… You know how judges have those sofa things—they look like a psychiatrist couch—in their offices, in their chambers, with one end tilted up. I was in his office taking a nap when in he comes back three or four days early. And he said, "I guess you've been overworked while I was gone."

ED: (Laughing)

BJ: But he had an abiding faith in… What was the doctor's name at Searcy, who got in all kinds of trouble?

ED: Yes. He had his wife killed.

BJ: Had his own hospital.

ED: Had his own hospital. Yeah, Dr. Rodgers, Porter Rodgers.

BJ: Porter Rodgers. He and Porter Rogers were lifelong close, close friends. You'd think he'd be on death's doorstep. I remember I took him over to Searcy once and put him in the hospital. He and his wife had kind of a stormy relationship, Judge Miller that is. They

were not living together at the time and she was living down at the Ward Hotel [in Fort Smith]. I took him over to see Dr. Rodgers and Dr. Rodgers put him in the hospital. By then it was, you know, six o'clock or so in the evening when I got all that done. On the way back, I just decided I was going to spend the night in Little Rock because I was tired. So I spent the night in Little Rock. I didn't get back to the office until maybe noon the next day. When I got back, he was already there. He had already been through the hospital and back.

ED: Got back to Fort Smith.

BJ: And he wanted to know why in the world it took me so long to get back. But he told me the story about how he and Dr. Rodgers had become such bosom buddies. Dr. Rodgers, as a young man, liked to gamble. He knew that these guys were cheating him in some card game so he goes out and he gets some counterfeit money. He buys a bunch of counterfeit money and is using that to play with, with these guys. It all turns bad and then the Secret Service gets after him for using this counterfeit money in the card games. Judge Miller defends him and gets him off.

ED: Gets him off. Well, in the end, of course, Porter Rodgers, at sort of an advanced age, lost his head. I think he got into drugs or something.

BJ: Yeah.

ED: And ended up killing his wife.

BJ: He killed his wife.

ED: Or having his wife killed or something.

BJ: Yeah.

ED: And then got convicted. I think Ed Bethune [later congressman from Central Arkansas) defended him. I guess he spent his latter days in a penitentiary. I don't know. All right, so this takes us up to what year?

BJ: 1961.

ED: '61.

BJ: And so I need to decide what to do. I had some offers from Little Rock folks and thought seriously about moving to Little Rock, to the old Friday firm.

ED: Because you had at least two of your buddies from law class?

BJ: That's right.

ED: Jerry Light and Buddy Sutton.

BJ: That's right.

ED: They had joined the Friday Firm, which was the…

BJ: And Herschel and I had become friends because of our mutual thing with Judge Miller.

ED: Yes.

BJ: So we spent a weekend in Little Rock and they wined us and dined us and all that. But…

ED: At that time it was the…?

BJ: It was Smith Williams.

ED: Smith Williams Friday Bowen and Clark Law Firm, I guess.

BJ: Yeah, I think Pat Mahaffy had just left to go to the [8th U.S. Circuit] Court of Appeals.

ED: Yeah. Mahaffy, Smith.

BJ: Mahaffy, Smith and Williams. But Bill Smith was running the firm.

ED: Yeah. And he later… Well, he did a little time with the Arkansas Supreme Court, I think.

BJ: Yeah, he was appointed.

ED: Yeah.

BJ: But, you know, they were very nice about it, but they kind of let you know where they thought that you should live and where you should go to church.

ED: Yeah.

BJ: And I remember on the way back we decided… Well, we were thinking if they guide you in those directions now, what can they do to you later?

ED: Yeah.

BJ: And I've remained good friends with them. Over the years I've probably done more business with them than with anybody else.

ED: Yeah, yeah.

BJ: I was involved with them for the last couple of months in a million-dollar deal. So I stayed here and I had a choice between the Hardin Firm and the Warner Firm and it finally got done to the grand sum of $25 a month.

ED: Really? So the Warner Firm was Randy Warner.

BJ: Randy Warner, right.

ED: C. Randolph Warner, I guess it was.

BJ: That's right.

ED: And how big was that firm? Was it just Randy and…?

BJ: At that time it was just Warner, Warner, Ragan & Smith.

ED: Yes.

BJ: Heartsill Ragan and Doug Smith were there.

ED: OK.

BJ: The two firms, the Hardin firm and the Warner firm used to be one firm back in the twenties and thirties. They broke up in the early thirties, I guess it was. But, you know, Randy and I were good friends, but I could tell that Randy was not—Randy was getting bored with the law practice already.

ED: Yeah.

BJ: And he finally ended up founding Fairfield Bay…

ED: Fairfield Bay, a real-estate venture.

BJ: And all that stuff. Randy was one of the smartest guys I ever knew.

ED: And Hardin was… What was Hardin's name?

BJ: The old man was Grover Cleveland Hardin, G.C. Hardin, and he was quite a lawyer and quite a political power over here. He had been the chief deputy prosecutor in the Japanese war-crimes trials. He was the number two prosecutor. He personally prosecuted Tojo.

ED: Really?

BJ: I'm amazed that no one has ever really done a thing on that. He and his wife lived in Japan for two or three years, literally in a castle with servants and drivers and limousines. He took with him his secretary and his wife and the circuit clerk here. He made him clerk of that tribunal in Tokyo.

ED: War-crimes trial, yeah? Well, was he still…

BJ: You just don't hear much about Japanese war-crimes trials.

ED: No, I don't. In fact, I guess maybe I was aware of that but I've never heard anything, read anything about it. So he was still the senior partner at the firm?

BJ: Yeah. He was still. But who really ran the thing was Hugh Hardin, his nephew.

ED: Hugh? Hugh Hardin?

BJ: Hugh Hardin, T.H., Hugh Hardin.

ED: OK.

BJ: And he was a marvelous, marvelous trial lawyer. The firm had been in existence for a long time and had good finances, banks, savings and loans, Kansas City Southern Railroad. And Charlie Garner had just recently left the firm because of his entanglement with a secretary.

ED: OK.

BJ: And so there was a nice opening there.

ED: So you took Charlie Garner's place at the law firm? And Charlie went out on his own as a lawyer?

BJ: Charlie went out on his own. We had offices on the sixth floor of the old Merchant Bank Building in downtown Fort Smith.

ED: How many lawyers were there in the firm at that time?

BJ: I guess there were one, two three, four, five.

ED: Five of you. So you were the junior partner in the firm when you went there?

BJ: Yes.

ED: So do you remember what your… Was it a salaried position?

BJ: I started off as a salary position, and they were going to pay me and did pay me the same thing I was making with Judge Miller, which was a pretty good salary for the time.

ED: Yeah.

BJ: You know, $750 a month. I remember it well. I started the first of June and became a partner on the first of January.

ED: So sixth months later you were partner?

BJ: Yes, junior partner.

ED: Junior partner.

BJ: But then G.C. Hardin died so that put his share to be divided up so things started looking up a little bit.

ED: And, let's see, we need to catch up on your family stuff. Lucinda was born in 19 . . .?

BJ: She was born in 1958.

ED: '58.

BJ: And we had a second daughter, Jennifer, who's an engineer with the Conoco Phillips Corporation. Their corporate offices are in Ann Arbor, Michigan. She was born in 1960. And then we have a daughter Deana.

ED: D-I-N-A?

BJ: D-E-A-N-A.

ED: D-E-A-N-A.

BJ: She lives here in Fort Smith and is a stay-at-home mom; she's a licensed teacher but really has never taught in the last twenty years, graduated from the university. And the youngest daughter is Mary Beth, who's president of the Bank of Fayetteville.

ED: OK.

BJ: And whose husband's been nominated for a federal judgeship to take Jimm Larry Hendren's place.

ED: OK. That's pending before the Senate now, right?

BJ: Right. In fact, what happened was the Republicans made him [President Obama] resubmit all of them and he's supposed to be resubmitted today.

ED: OK. Yes, he and the judge from Little Rock [Judge Jay Moody, James E. Moody Jr.].

BJ: Right.

ED: Both got hung up in all that stuff.

BJ: Exactly. And Tim was the second in line to be confirmed when they had the big nuclear explosion and changed everything around.

ED: So he and Jay Moody are probably going to be confirmed.

BJ: They would've been confirmed by now.

ED: Already confirmed. But sometime this month, probably they will be confirmed.

BJ: Yeah, this month or next month.

ED: Yeah. OK. And what is Mary Ellen doing?

BJ: Mary Ellen. For a long time, she just did civic work. She's president of the Junior League and very active in the Methodist Church, status of older women and things like that.

ED: Yes.

BJ: And she ran the Voluntary Action Center for several years. Then she decided she wanted to teach but she'd never taken any education hours, so she started going to Fayetteville and getting her masters. She got her masters in Fayetteville and picked up enough education hours to get her teaching certificate. She taught on the south side for, I think, seventeen years, something like that.

ED: OK. So you're practicing law in 1961 with the Hardin firm. Do you remember your first case, anything interesting?

BJ: The first five or six years, I'd say, a lot of my practice was Kansas City Southern work. I took over that and did that; I was the number one guy for the railroad.

ED: So is that defense work mainly?

BJ: Defense work, yeah. There was a case where the train was blowing the whistle and the usual railroad stuff. I was city attorney briefly and then I quit being city attorney and became attorney for the Sewer Department, for the Water and Sewer Department, because they paid on an hourly basis, whereas the city attorney got a fixed dollar amount each month and you had to do everything.

ED: So how much was it a month, do you remember?

BJ: I believe it was $750 a month. For that I had to go to all the commission meetings, all the Planning Commission meetings. I had to deal with the fire inspectors and the civil service problems and the electrical inspectors. There was just always somebody in my office wanting to know something.

ED: But you didn't have to deal with the municipal court?

BJ: Oh I had a deputy who did that.

ED: You had a deputy who did that?

BJ: Yeah.

ED: So you were not… You did the civil stuff for the city?

BJ: Right. Occasionally when he was sick or something I would have to go over there.

ED: Go over there and prosecute some DWI cases or something?

BJ: Yeah. But it was a losing proposition. One of the commissioners then got a federal grant to build a whole new sewer system and water system and he hired me to, you know, condemn all those properties and all that. I got paid by the hour.

ED: OK. So did that consume a good part of your practice, the city stuff?

BJ: Yeah. The railroad and the…

ED: Railroad and the city government stuff?

BJ: I guess a little later in time I was doing lots of condemnation work, condemning highways, and I was fighting with Henry Gray.

ED: Henry Gray was the state highway director.

BJ: Yeah.

ED: So this was over condemnation and right-of-way for state roads, widening projects and whatever?

BJ: He was as tough to deal with as anybody you could find, cold eyes.

ED: Yes.

BJ: Cold blue eyes.

ED: Yes. Well, he was almost universally hated, all the contractors hated him.

BJ: Yeah.

ED: And legislators hated him, but he was a tough guy.

BJ: I remember when Bumpers appointed George Kell to the Highway Commission [in 1971]. By the late sixties, I had gotten involved with Bumpers on his gubernatorial campaign.

ED: Yeah.

BJ: But I was there with Bumpers and George in the governor's Office when George was getting ready to be sworn in. So Bumpers said, "Now George, you're going to be the commissioner and you're going to make the decisions, but I just want you to keep me informed about what's going on. You've just got to keep me informed. I need to know what's going on. And I'm not going to tell you, you have to do this, you have to do that, but just keep me informed." "Oh yes, governor, I'll see blah, blah blah." We went out and they swore him in. [Chief Justice] Carleton Harris swore him in and he left arm-in-arm with Henry Gray. And Bumpers said, "I never saw the son of a bitch again."

ED: (Laughing) Oh, Henry co-opted all of them, no matter if they were Republican or Democrat or whatever. The new commissioner was immediately under his thumb.

BJ: He was Henry's man.

ED: He was Henry's man. King Henry is what they came to call him, and he truly was. Well, let's go back to when you're city attorney. Now, I wonder if I could get you to tell the story about the...

BJ: Yeah, I don't want to mention the firm's name.

ED: OK, that's all right.

BJ: There's a thing about that.

ED: You cannot mention the firm. But let's talk about it. At that time Arkansas was not alone but a number of states had these bidder's preference's laws, which said that if you're bidding on a contract for work or supplies or whatever and if an in-state bidder was within, I don't know, ten or fifteen percent of the low bid from an out-of–state bidder you had to give the contract to the Arkansas bidder. It was called bidder's preference. Eventually, I think that was struck down, so you all had to deal with that?

BJ: Yeah. You know, when I was a young city attorney and we were getting ready to build a municipal auditorium here and we had that problem arise… There were also exceptions, you know, because if some out-of-state company had a mail drop in Little Rock, does that qualify for being an Arkansas contractor? So there were a lot of issues involved. I had serious doubts about the constitutionality of the thing. So I decided what I need to do is get an attorney general's opinion. Bruce Bennett was the attorney general at that time. We had the Association of Arkansas Contractors.

ED: Associated General Contractors, I think it was.

BJ: And they had a lot to say about what the attorney general's opinion was going to be. I found out how that part of it worked.

ED: So I think you went down to a Little Rock law firm and they said they kind of wrote the opinion and…

BJ: But the attorney general actually signed it.

ED: Yes, but they had put it on the attorney general's stationary.

BJ: Well, they had a lot of input into the opinion, I would say.

ED: Yes, yes. So that's how things worked in those days?

BJ: Exactly.

ED: Because I doubt if Bruce Bennett ever wrote his own opinion on anything.

BJ: (Laughing)

ED: That was the legend at the time. Bruce didn't know any law; he just knew people.

BJ: Well, and he looked like an attorney general should look.

ED: He looked like an attorney general should look. He looked like a United States senator should look.

BJ: Absolutely.

ED: The silver hair.

BJ: So did Warren Harding look like a president.

ED: Yes, yes, yes. OK, so you also did a lot of oil and gas work?

BJ: That came along oh…in the ‘70’s. Fort Smith became a hot spot for oil and gas.

ED: Yeah. The Arkoma Basin.

BJ: Arkoma Basin.

ED: And a lot of oil.

BJ: TXO.

ED: And gas exploration in here.

BJ: This had always been kind of Stephens domain up here. You see, Stephens Production Company is the largest of the producing companies up here, and the Stephens family also owned the Arkansas Oklahoma Gas Company, which was the gas-distribution system. Well, at that time, of course, the Stephens company—the Stephens family—controlled ArkLa [Arkansas Louisiana Gas Company] so they had most of the pieces of the puzzle. Then an outfit called TXO, Texas Oil & Gas, came in and opened a regional office here, put a lot of people here and started drilling a lot of wells. They kind of upset the balance of things, because everything had been worked out in sort of a gentleman’s agreement before. Then the Texans came in and changed that around, so it made life more interesting. By, oh I guess, the late ‘70s I was doing lots and lots of oil-and-gas work. For instance, I got involved with representing TXO in the infamous Fort Chaffee litigation, where TXO had checked around and found out that some congressman named Jake Pickle from Texas had gotten a law passed that he thought only applied in Texas but actually did not have that limitation—it couldn’t. It opened up, really, Fort Chaffee for leasing at a dollar an acre, because it had never been really developed. So it was considered, you know, unproven land. So TXO gets in and for a dollar an acre leases all of Fort Chaffee.

ED: It was Jake Pickle, P-I-C-K-L-E, from Texas, right?

BJ: Yes, yes.

ED: OK.

BJ: He did it to take care of some problem in Texas.

ED: Yeah.

BJ: But in doing it, it unlocked, for instance, Fort Chaffee. So then we just had years of litigation. [Jimmy] Carter was elected [president]. I think it was Carter. I guess maybe this is when… Who succeeded Carter?

ED: Reagan, it was Reagan in 1980.

BJ: Yeah. And so the leases at some point were cancelled. We were involved in litigation in the District of Columbia to force someone to put the leases back in, and we won that case.

ED: You were representing TXO?

BJ: Representing TXO. But then we got back down here and ArkLa filed suit to cancel the leases on different grounds, in [U.S. District Judge] Franklin Waters' court, and Jim Guy Tucker is representing ArkLa, which is an interesting thing. But that was after, I think, the Stephenses had given up at least practical control of ArkLa.

ED: Yeah, Witt [Stephens] had retired and Sheffield Nelson had become president.

BJ: Yes.

ED: Of Arkansas Louisiana Gas.

BJ: Yes, I think that's right. So we fought that for a long time and lost it here and then did not get it reversed in the Eighth Circuit, although we had several votes in our favor and we did not get certiorari [to the United States Supreme Court], but that took a long time. In the meantime, I get involved in representing a group of royalty owners, and this goes back, really, to my somewhat original Bumpers connections.

ED: Yeah. I wanted to talk a little bit about that, about how you got…

BJ: Bumpers was used to fighting ArkLa and the Stephenses and all that for the people down in Charleston.

ED: Royalty owners, land owners and so forth…

BJ: Right.

ED: who had royalty rights on all that land that ArkLa was drilling?

BJ: That's right.

ED: And they were getting some…

BJ: The way they do it… There were two or three different ways, but they all ended up with no money or little money for the royalty owners and lots of money for the oil and gas companies. One of them was called fixed-price leases, where you would sign a lease

where you got an eighth of the market value, calculated four cents an MCF [thousand cubic feet] or five cents an MCF, that being a unit of measurement.

ED: Yeah.

BJ: A thousand cubic feet.

ED: Thousand cubic feet.

BJ: Well, that means you were getting less than a penny if you were a royalty owner. One-eighth.

ED: But ArkLa's actual profit—what ArkLa was actually getting for it—was?

BJ: A dollar and a half, two dollars or more.

ED: Yeah, far more than that.

BJ: Finally got up to, you know four or five dollars.

ED: So Bumpers was suing ArkLa or Stephens Production?

BJ: Well, interestingly enough, he never did get around to suing them. He was always threatening to sue them. And then what he would do is he would threaten and then they'd raise the price. It would say in the lease five cents, we're actually going to give you eight cents. Well, you know, it's still nothing. And he finally got it up to fifteen and a half cents.

ED: Just by threatening him? Threatening lawsuits?

BJ: Yeah, right. I've kidded Dale about it because of some of those things I got involved in. You know about some of them, copies of the old documents that we got. One of them said, well, you might want to think about raising it several cents an MCF because they might end up with a competent lawyer.

ED: (Laugher)

BJ: (Laughter) But that went on. We finally got the first class action that the Arkansas Supreme Court ever upheld. It was the class action in what was called the Cecil Field.

ED: You all won that?

BJ: So we won that.

ED: And got a big judgment out of, I guess, ArkLa or Stephens Production. Were they involved in it?

BJ: ArkLa. It was ArkLa and Stephens. But the biggest one we did was the one against Jerry Jones. Jerry Jones had the take-or-pay contracts, where you [ArkLa] had to take the gas at

the high price, or if you didn't take the minimum amount [of gas] you had to pay for it anyway.

ED: Yeah.

BJ: The price had gone way down and ArkLa didn't want to take it—they couldn't take it—so what they did was buy Jerry Jones's company.

ED: Yeah. But Jerry Jones had signed those contracts. His friend Sheffield Nelson was president of ArkLa at the time.

BJ: Yeah.

ED: And negotiated these wonderful take-or-pay contracts with Jerry Jones.

BJ: That's right.

ED: With which he [Jones] made a fortune and bought the Dallas Cowboys.

BJ: That's exactly right. You can trace the money directly to the Cowboys. And what was so clever about the way they did it was they showed them just buying the company [Jones's company, Arkoma Production]. Of course, once they bought the company the first thing they did was do away with those contracts. See, because they own both sides.

ED: Yes.

BJ: They were both the seller and the buyer, so they did whatever they wanted to. So the people who'd been getting, say, three dollars and half an MCF suddenly were getting, you know, a dollar and a quarter. They got nothing out of the deal and, of course, he [Jones] got enough money to buy the Cowboys.

ED: Yeah.

BJ: But the way they structured it was a lot of off-the-books, off-the-record things. In addition, it showed what they were paying for what I called the hard assets. But, in addition, they agreed one part of ArkLa would give—and "give" is the operative term—so many BCF of gas a year to charity. Another part of ArkLa would agree to buy that gas, which one part of ArkLa gave and another part of ArkLa agreed to buy, at six dollars an MCF, which was an outrageous price at the time.

ED: Yeah.

BJ: That's where he made the money. That contract is what he signed as collateral to buy Texas Stadium.

ED: Yeah.

BJ: But it took a long time to figure all that out, like nine years.

ED: Yeah, yes. Well, how did you come to know Dale Bumpers? Get associated on some case or?

BJ: When I was still working for Judge Miller, Dale would come up and use our library at the federal court.

ED: Now he had a hardware store over at Charleston?

BJ: He had a hardware store in Charleston.

ED: And ran a little law practice out of the side.

BJ: He had a little practice at the store.

ED: Out of the side of his hardware store?

BJ: That's right. And he had a case in the Court of Claims for some guy in Charleston, whom the government had contracted with to buy a bunch of tent pegs for the old wall tents. He made all of them and then they wouldn't take them. So he sued the government in the Court of Claims, and it was a big case for him at the time. He sued as an individual lawyer practicing in Charleston. He started early on using our books, and that's how I really first came to know him. Our wives became friends and we used to go out together. He said he was practicing in Charleston, but most of his practice was in Fort Smith. There were a lot of people in Charleston who did business in Fort Smith. For instance, he represented Jake Patterson, which he doesn't like to brag about much anymore.

ED: Jake Patterson was a Republican.

BJ: That's right.

ED: Later served on the Highway Commission [appointed by Governor Winthrop Rockefeller in 1969].

BJ: Yeah.

ED: As a Republican.

BJ: Yeah. But he had a freezer plant and owned some grocery stores and other things. But he [Bumpers] had a number of pretty good clients up at Fort Smith, contractors. So I just got to know him that way and we became friends. He had some very close friends who were neighbors of ours. That helped move the thing along.

ED: Did you ever associate in a case together?

BJ: We were in a lot of cases against each other, but I don't think we were ever on the same side.

ED: OK. So he would be the plaintiff's lawyer, say, suing one of your clients?

BJ: Yeah.

ED: For a personal-injury case or…?

BJ: Yeah.

ED: Or something.

BJ: One was where I was representing a homeowner against his client because the house was falling off the hill. They hadn't properly done the service road—you know, the structure of it. And it was beginning to slide down the hill.

ED: Well, how did he impress you as a lawyer?

BJ: Juries loved him.

ED: That was his secret: juries loved him.

BJ: Juries loved him.

ED: Whatever the law was.

BJ: He was not bad, he was not bad. He was practicing by himself. He didn't have the other, the support group that you have at a law firm where you can get some other lawyer who will give you a memo on this or that.

ED: Uh-huh.

BJ: But…

ED: But he got a pretty good reputation over there.

BJ: He got an excellent reputation.

ED: As a good trial lawyer.

BJ: That's right, and a great storyteller.

ED: Would he do that in a courtroom? Did he tell jokes and stuff?

BJ: He told stories, yeah. There was a guy named Mark Woolsey from…

ED: Yes.

BJ: Who was his buddy from Ozark.

ED: Ozark, lawyer from Ozark.

BJ: Yeah. You know, he could imitate Mark. He'd sound more like Mark than Mark sounded.

ED: Yeah.

BJ: But somehow he got all involved with Archie. Archie Schaffer was really the key to Dale Bumpers.

ED: Young Archie?

BJ: Big Archie, the older Archie.

ED: Archie Schaffer's daddy.

BJ: If it hadn't been for Archie no one would've ever heard of Dale Bumpers, in my opinion.

ED: So what was that relationship? With Archie Schaffer.

BJ: Archie was his brother-in-law.

ED: Archie was her brother?

BJ: No, Archie's wife and Dale's wife were sisters.

ED: OK, OK, that's right. All right.

BJ: Maggie.

ED: Maggie and Betty.

BJ: And then the other sister was Paul Wolfe's wife.

ED: OK.

BJ: Paul Wolfe being the circuit judge here in Fort Smith.

ED: Yeah. So Archie ran a nursing home?

BJ: Archie, yes, Archie and Dale jointly owned the nursing home, Greenhurst Nursing Home.

ED: So what did Archie do for Dale?

BJ: He was his mentor, really. Archie was a man of many talents and extremely well read and smart as a whip and had a really great sense of history. Archie had been an officer during World War II. He had been mayor of a town in Germany after the war. But he just did it and he was just the kind of guy who challenged Dale to do something other than stay in Charleston and practice law.

ED: So he's the one who… Dale always gives his daddy credit, that his daddy wanted him to be president.

BJ: Yeah.

ED: And "politics is a noble profession" and all that.

BJ: Well his daddy died… His daddy was killed when Dale was maybe in law school, just out of law school.

ED: At Northwestern?

BJ: Yeah. I personally think that Archie's the guy on the ground who prodded him into doing these things because I can remember when Dale ran for the state legislature and got beat by the county clerk.

ED: Micheal, I've forgotten his name now…Mike Womack.

ED: Mike Womack beat him for the House of Representatives in about 1960.

BJ: And, of course, he was running. He needed to go to Little Rock to learn a trade because he wanted to go to school at night and either get a job or something.

ED: That's what Womack was going to do?

BJ: Yeah.

ED: Yeah.

BJ: Of course Womack was from the Ozark side of the river.

ED: Where the population was.

BJ: Where the population was.

ED: Where the voters were.

BJ: Yeah. And there is a day-and-night difference between Charleston and Ozark.

ED: Yeah. So when he ran for the legislature, you all were pretty close by that time, when he ran for the legislature, I guess?

BJ: Yeah.

ED: Well, at the time did you think that this guy has a great political career ahead of him?

BJ: No. I remember he came up and talked to Doug Smith and me about running. Doug Smith is my lawyer friend here who was the head of the Warner firm by then. Doug's the one who originally—when Dale said, "Did you all hear anything about my running for governor?—said "I haven't heard anything, but I've heard several people laughing about it."

ED: (Laughing)

BJ: He really debated it. You know, he was encouraged by what Ted…

ED: Ted Boswell.

BJ: Boswell had done two years before.

ED: He [Bumpers] also started to run in 1968, I think.

BJ: If Ted had run in 1970 there wouldn't have been a Dale Bumpers.

ED: Yeah. Well, he said he only ran after he checked with Ted Boswell and he was not going to run in 1970.

BJ: No.

ED: So he ran.

BJ: But I just got hooked into the thing and Mary Ellen got hooked into it and the women here. And, you know, they [the candidates] all lost to him, the whole business. I mean how do you explain that? There are eight of them, seven or eight of them in the race.

ED: There were eight of them

BJ: Joe Purcell and Hayes McClerkin.

ED: Yeah.

BJ: And Orval E. Faubus.

ED: And he was easily the least known—well, I guess he and that guy named Bill [William S.] Cheek of West Memphis, who was probably equally unknown as Dale Bumpers.

BJ: Bob [Robert C.] Compton from down in El Dorado.

ED: Bob Compton, who had been the president of the Arkansas Bar Association, a trial lawyer, a legendary trial lawyer in south Arkansas.

BJ: He was very good.

ED: And…

BJ: And tied in with the El Dorado interests.

ED: Yeah, all the oil, the money down in El Dorado, and the trial lawyers all over Arkansas, I guess.

BJ: Dale, you know, had started about a year before going around making speeches at Junior Chamber of Commerce deals, you know, that sort of thing.

ED: Yeah, Martin Borchert had got him some speaking engagements around the state the year before. But, at any rate, did he ask for your counsel about whether he should run in 1970 or did he just tell you?

BJ: Now, he just told me that he was going to do it, and I was still saying, "You know, think twice, think about Faubus, he's tough."

ED: Because he was going to have to run against Orval Faubus.

BJ: And Joe Purcell.

ED: Faubus had been undefeated and had retired and now is making a comeback. Joe Purcell, who is the sitting attorney general. Hayes McClerkin, who was the speaker of the House. Bill Wells, who had been the Democratic nominee for lieutenant governor in 1966. And Bob Compton.

BJ: Dale had never had a political position in his life.

ED: Yes.

BJ: Other than the Charleston school board.

ED: Yes. And then one of Faubus's old cronies, a fish farmer known as kind of a famous stump speaker from over in Lonoke, whose name slips my mind at the moment [Jim Malone of Lonoke]. But, anyway, there was a pool of eight candidates and he was dead last, I'm sure of it, at the outset.

BJ: There was a guy named Leffel Gentry who was a lawyer here, a law clerk for [Judge] Paul X Williams. He had been Governor [Francis] Cherry's right-hand man when Cherry was governor.

ED: Yes.

BJ: And he was a pretty smart political operative in the state and, of course, he was a big Faubus man. He pointed out to me… We were so happy when Dale got into the runoff. He pointed out to me that if Faubus could just get one percent of the vote from the people who had lost.

ED: Six.

BJ: That he would beat Dale going away—if he could just get one percent of those votes.

ED: But he didn't get any of those votes.

BJ: (Laughing) He didn't.

ED: And so Dale won handily. Did you work much in that campaign?

BJ: I didn't. I was county chairman here.

ED: You were the county Democratic chairman?

BJ: County Democratic chairman here.

ED: OK, so you had to kind of stay out of it?

BJ: I had to pretty much stay out of active campaigning. Mary Ellen was very much involved and I was working behind the scenes but, of course, when the vote came in from up here

that is what put him ahead. It was slow as could be, of course, in those days because the ballot was as big as the front page of the newspaper.

ED: Yeah.

BJ: Like we would have over 120 contested JP races up here. It was just horrible.

ED: So the Sebastian County returns were always extremely late?

BJ: That's right.

ED: Sometimes the next day.

BJ: And the reason they were so late was because, you know, we were using paper ballots and we had all those… Every race was contested.

ED: But he won huge in Sebastian County?

BJ: Yes. I know your buddy [Tom] Glaze came up and looked a couple of days after the vote; he just couldn't believe the percentage.

ED: Yeah.

BJ: But it was all there.

ED: But that's what put him into the runoff ahead of Joe Purcell, and then it gave him a big margin over Faubus in the runoff. So since we're dealing with it, we'll skip over your law career at that time and deal with the Dale Bumpers thing. So Bumpers is elected and beats Rockefeller in the fall and, of course, in the general election campaign I guess you had a more…

BJ: That's right.

ED: A more open role in the…

BJ: Absolutely.

ED: In the general election. And did you realize he was going to trounce Winthrop Rockefeller?

BJ: Yup.

ED: I mean that was pretty clear. When he beat Faubus by a landslide in the runoff, you knew it was going to be a landslide in November.

BJ: So I started working with him on organizing his administration. He wanted me to come down originally as the executive secretary or his chief of staff. Frankly, it didn't pay enough so I wasn't going to give up my law practice.

ED: Sure.

BJ: We finally agreed I'd come down for six months and do the legislature bit.

ED: So you were his…

BJ: His legislative secretary.

ED: Legislative secretary, which is superintending all the lobbying and relationships with legislators.

BJ: That's right.

ED: Trying to get his back.

BJ: Full of people like Martin Borchert and [J.W.] Buddy Benafield and Pat Moran and… Who else was on his team? It was an interesting group.

ED: So you had Martin Borchert working the Senate?

BJ: In the Senate.

ED: His liaison with the Senate.

BJ: Yup. And then Joe Woodward. Joe Woodward and Buddy Benafield and Pat Moran.

ED: Joe Woodward of Magnolia and Buddy Benafield of England.

BJ: Pat Moran.

ED: And Pat Moran worked the House of Representatives.

BJ: And, of cours,e Matthews was writing bills for us.

ED: Yeah. Charles Matthews, who had been in the House of Representatives from Little Rock, was your bill drafter or whatever. And you were keeping track of all of this?

BJ: That's right.

ED: And I guess it became a huge thing, but when he got elected I don't think he had a clue about what he wanted to do.

BJ: I didn't know. I still remember the day that you told me it took us seventy-five votes to change the cigarette tax. I remember exactly where we were standing in the Capitol—at the top of the marble stairs on the House side.

ED: Yes. I was following you out. That's what we had to do as reporters—catch the governor as he's going in and out and interview him going up and down the stairs. I think he had had to cut the top rate on his income tax bill. He had a top marginal rate of nine percent rate on the income tax and he couldn't pass it, so he had to drop it down to seven percent to pass it.

BJ: I made that decision myself.

ED: Yeah.

BJ: Because we were fixing to lose the whole thing.

ED: Yeah. He couldn't quite get that twenty-seventh vote in the Senate.

BJ: Yeah. And Bumpers had been off to some meeting in Washington, a governor's meeting, and we were all sitting in the governor's office. I had already cut the deal to cap it at seven percent. They interviewed Bumpers at the airport and said, "Well, governor, there's a rumor at the Capitol that you're going to give up on the nine percent." He said, "We'll give up on that when the last dog dies."

ED: Yes.

BJ: And Bumpers came into the office directly from the airport and said, "What's going on?" And I said, "Governor, the last dog just died."

ED: (Laughing) I remember the quote. We had that quote in the *Gazette* after the bill had been beaten. So that cut off a few million dollars out of your program and you had to find a way to make up however many millions of dollars it was. You all came up with increasing the cigarette tax. I guess we were going down the stairs and I guess I had asked Bumpers why are you doing the cigarette tax and he said, "Well, you know, we have to find something we can get a passed by a simple majority."

BJ: (Laughing)

ED: And I said, "Well, you can't pass the cigarette tax by a simple majority because that tax existed in 1934 so therefore it takes seventy-five in the House and twenty-seven in the Senate." And I think he said something like…

BJ: What was that guy's name from West Memphis or somewhere who was an anemic looking guy. He looked like an advertisement of why not to smoke. I don't know, a cigarette dealer or something—he was a member of the House.

ED: Yeah. Yeah, I've forgotten his name.

BJ: But he was a sympathetic figure and, of course, they liked that.

ED: Yeah.

BJ: When Bumpers got me into that job, I had breakfast with Bill Smith, had lunch with Tom Eisele. You know, they had done that for Faubus and Rockefeller.

ED: Yeah. William J. Smith had been the legislative secretary for Orval Faubus all those years and Tom Eisele [G. Thomas Eisele] had been for Rockefeller.

BJ: And I, of course, kept that woman whom he had trained so well, who was marvelous… I've forgotten her name. She was the…

ED: For Rockefeller?

BJ: Worked for Rockefeller, too.

ED: Yeah, I've forgotten who it was, who it would've been.

BJ: She was a wonderful details person.

ED: Before he was inaugurated, I don't think he had a clue about what he was going to do as governor, but then he began to put it together one day and decided to take on all these issues that Rockefeller had pushed. Well, I guess progressives had tried for years and had gotten nowhere. Rockefeller had tried to do all of these things, including raising taxes.

BJ: And had all these studies.

ED: Yeah, reorganizing state government. Y'all just took on all of those things, one by one, and eventually passed every single one of them.

BJ: Yeah. You know, he doesn't get enough credit for it, but one of the guys I recruited to help us was Arch Ford, who had been a big Faubus man.

ED: Yes.

BJ: And, by gosh, he started to come to our seven o'clock meetings and he could turn a lot of votes.

ED: And it turns out he had things he thought ought to have been done. I guess he was the guy with the idea of providing high school textbooks free?

BJ: That's right.

ED: I assumed it was Arch.

BJ: Yup.

ED: He said that's one thing we ought to do. The state ought to provide textbooks for everybody.

BJ: And he really got involved in the program.

ED: Yeah.

BJ: Very enthusiastic about doing these things.

ED: Yeah. And he had a son in the state Senate as well.

BJ: That's right.

ED: Who was fairly conservative.

BJ: He was.

ED: Joe Ford. But he wound up sponsoring some of that legislation like special education, guaranteeing that handicapped children would be given an education in the public schools.

BJ: And you know, we failed on the first try in the special session on kindergartens and we had to come back the next session to do that.

ED: And funded kindergartens for the first time.

BJ: Yup.

ED: And funded special education for disabled children for the first time.

BJ: See, the thing Arch hated more than anything else was the name of the Department of Higher Education. He said, "I guess that means I'm the commissioner of the Department of Lower Education."

ED: Anyway, that was an amazing session. Did you get any insights about how Dale Bumpers pulled all this off? How did he? Part of it was timing. It was the right time.

BJ: That's right.

ED: You'd had a turnover in the legislature, you had a bunch of young progressives in the legislature, and people were sick and tired of all the friction when Rockefeller was governor.

BJ: And, you know, Ray Smith [Representative Ray S. Smith Jr. of Hot Springs] was an ideal person to have as speaker during that session.

ED: Because he was sympathetic to the whole thing?

BJ: He was sympathetic. And, you know how that power structure worked in the Senate. I mean, good Lord, you know, I think of the thirty-five senators we could trace something like twenty-seven of them to direct financial dealings with the Stephens family [W.R. "Witt" Stephens and Jackson T. Stephens].

ED: Yes.

BJ: From Knox Nelson selling them gasoline and going on up from there.

ED: Yes. Of course, most of them had been there some time. They had voted for the Fair Field Price Law in 1957, were still around and Stephens had done something for all of them. He had put Clarence Bell on the payroll of ArkLa—a most powerful chairman of the Education Committee and a powerful man in the Senate. Stephens owned him, lock,

stock and barrel. Senator Olen Hendrix down at Prescott, who became a big Dale Bumpers supporter.

BJ: That's right.

ED: But he was owned a hundred percent by the Stephenses. And the Stephenses didn't like Dale Bumpers.

BJ: No. And Dale didn't like them.

ED: No.

BJ: And it was exacerbated by the fact that Dale would never go to lunch with Witt.

ED: Yes, yes.

BJ: That was a very personal thing for him.

ED: I remember this incident. I later did a long profile about the Stephenses and how they made their money and accumulated all their power. I spent the day with Witt one day. We were in the back of his Cadillac motoring down to his farm and he asked me what I thought about Dale Bumpers. Bumpers had defeated Fulbright by that time. And he said what kind of governor? And I said, well I thought he was a pretty good governor. And Witt said, "Ernie, Dale Bumpers was the worst governor this state ever had."

BJ: (Laughing)

ED: And I asked him, why? And he said, well, when he was in his first term as governor he [Witt] went to see him. He needed a rate increase so he could go out into the Anadarko Basin of Kansas and Oklahoma and bring all that gas in. It would make Arkansas wealthy. But Dale Bumpers wouldn't even… wouldn't call his Public Service Commissioner over to the Capitol so they could talk about this rate increase. And he said as a result of that it took him many years to get all that gas out of there and bring it in. He said he met with Bumpers at the Capitol and Bumpers would not bring Pat Moran [Bumpers's chairman of the Public Service Commission) over because, Bumpers said, you have no business talking to the chairman of the Public Service Commission. So anyway, that was...

BJ: (Laughing)

ED: He hated him.

BJ: But more than anything just the fact that he would not go lunch with him. It just became…

ED: Yes, yes.

BJ: That was the singular thing.

ED: Yes.

BJ: He just wouldn't go.

ED: Now Dale later on went over there and had lunch with him at the Stephens Building many years later when he was in the Senate. I think he did, and it turned out to be a nasty session each time.

WOMAN: We think you guys need a break.

BJ: Good idea.

(PAUSE)

ED: All right, we're back. Can you say something and make sure you're still recording?

BJ: OK, I'm back.

ED: All right, we were in the midst of discussing the six months or so that you spent at the Capitol with Dale Bumpers in 1971 after he was elected governor. And I guess, really, not only a remarkable session but a remarkable two years and a remarkable four years. Later, a survey of political scientists and Arkansas historians ranked Dale Bumpers as the only great governor of the twentieth century. I think there were four near-great governors and so forth. But, anyway, the result was that great productivity, not only legislatively but administratively, in those four years and a lot of it in that first six months. The legislative session achieved all that in spite of there being almost no preparation.

BJ: And a bunch of amateurs down there.

ED: A bunch of amateurs down there crafted and put together this program. I guess one was the reorganization of the whole state government into the thirteen major departments, then raising taxes, particularly the income tax, the only time it had been raised since the income tax was adopted in 1929.

BJ: And probably will be the last.

ED: It will be the last time unless things change amazingly in the future, because it takes a three-fourths vote in both the House and the Senate to raise those taxes. Plus, he raised some other taxes, including cigarette taxes, and there was some tax overhaul, getting rid of some tax preferences for the utilities and common carriers and so forth, the railroads. And the establishment of kindergartens, funding kindergartens for the first time, free high

school textbooks, the guarantee that the public schools must provide education for disabled children.

BJ: And the community college thing.

ED: And expanded community colleges, dramatically. I think at that time we had two community colleges and he expanded to five or six. You expanded the vo-tech schools. I've forgotten exactly, but I think we might've had two vo-tech schools before that and they multiplied. He repealed the old Fair Trade Liquor Law. Did we mention the expansion of the state park system? Anyway, a lot of other changes in the laws. It was the single most progressive legislative session probably in Arkansas history. And here was this guy who had hardly set foot in the state Capitol, who had never held a public office other than, I guess…

BJ: The school board.

ED: School board at tiny Charleston, Arkansas.

BJ: Charleston.

ED: He brought in some people who… Well, you know, you were experienced in politics, you had been involved in politics for years. But a bunch of others had limited experience in government and they came through and passed this amazing program. I wonder if you could talk about how that happened. One, he was probably lucky.

BJ: The timing.

ED: The timing was perfect. The timing was always perfect for Dale Bumpers; everything he ever did the timing seemed to be perfect, at least in politics. But he had to have some qualities that enabled him to do that. Because it was still a very conservative legislature. You had a bunch of new progressives in there who came into office at the same time he did, but still it was a very conservative legislature.

BJ: Yeah. But it was a remarkable legislature in many ways. I remember one of the big problems we had was we wanted to divert as many bad bills as possible so that they never reached the governor. We wanted to divert them so he didn't have to veto them.

ED: Because if he vetoed them they could override the veto with a simple majority.

BJ: That's right. And so we established what we called the bad-bill committee. The bad bill committee consisted of—well, it was Rudy Moore.

ED: Rudy Moore Jr. was a state representative from Fayetteville.

BJ: From Fayetteville and Julian Streett.

ED: From Camden.

BJ: And Jody Mahony [Representative Joseph K. Mahony II].

ED: From El Dorado.

BJ: And all three outstanding people.

ED: Yes.

BJ: And Jody and Julian later became real legislative leaders. But, you know, at that time they were freshman types and didn't have enough, really, to do so we put them in charge of spotting the bad bills early so we could divert as many of them as possible at the first possible time where it never got… where we had to put people on the spot to vote against them much less wait till they got to the governor and he had to veto them. But, you know, just little things like that we did.

ED: There was some bad bills in that session. Do you remember the Pine Bluff highway bill? The state Highway Department had to devote all its resources to building a superhighway [from Little Rock] to Pine Bluff before it could do anything else. He had to veto that bill. And the Fifth District bill that split up the Fifth Judicial District.

BJ: That's right.

ED: And Alex Streett and Marlin Hawkins.

BJ: Yes, which was a bad, bad bill. I remember the Pine Bluff thing. The Pine Bluff people and the Northwest Arkansas people were going for toll roads and we had done a study of the Oklahoma system and also of the Kentucky system and particularly I remember going over to Kentucky and talking to some of the people. We particularly liked the Kentucky system. The Toll Road Authority would build the highway then would lease it to the state Highway Department. And the state Highway Department would charge tolls and the first few years wouldn't be… the maintenance and the bonds would be a little more than what the actual cost was. But, of course, it covered it; the first year some seventy-five percent was covered, or something like that. But then, you know, five years later there was a break-even thing and after that they were making money on it. But with the Highway Department you didn't have to create a whole new department and buy all new equipment because the Highway Department already had equipment to maintain the roads.

ED: Yes.

BJ: So we were pretty much ready to go on that. And the two were to be between Alma and Fayetteville and Little Rock.

ED: And Pine Bluff.

BJ: Pine Bluff. But then good old Henry Gray came along and told Pine Bluff that he would build them a highway for nothing. And, of course, once we lost that, part of the deal was that they then had to be against the other [the road from Alma to Fayetteville]. And I remember at that time they thought they could build the whole thing for $155 million. That was the figure I remember. But, you know, it would have been built many, many years before it was built. But when it ended up I think that tunnel alone cost something like $50 million or so.

ED: Yeah.

BJ: One of the greatest disappointments was not getting something done about the toll roads.

ED: Yeah. So that was a major defeat, I guess, not getting the toll road.

BJ: Because, you know, we had been here in Fort Smith we were so familiar with the Oklahoma system.

ED: Yeah.

BJ: And we see how well it works. You know, they've refinanced the older Turner Turnpike in Tulsa and Oklahoma City, you know, probably now fifty times but it's the cash machine that keeps all the other toll roads operating.

ED: Yeah.

BJ: Because they don't make enough money along the state Muskogee Turnpike from Webbers Falls to Tulsa to break even.

ED: But they set up the Turnpike Authority but nothing was ever done with it, right?

BJ: Right. And now, see, the Turnpike Authority and the Highway Commission are one and the same; there's no separation.

ED: One and the same. So effectively it was killed.

BJ: Yeah.

ED: I guess, as far as defeats, maybe that and Scenic Rivers Bill were the only two things, probably that he lost out of a package of, I don't know, scores and scores of bills.

BJ: He stopped the Cache River from being channelized.

ED: He stopped the Cache River from being channelized; he allowed the Lee County Cooperative Clinic to continue to be funded against the wishes of the establishment over there while the medical people and the business people all opposed that operation.

BJ: And then Roger Bost did so much starting the AHECs program [Arkansas Health Education Centers].

ED: Yeah, that's the other thing we should've mentioned in this litany of accomplishments. The creation of this omnibus Department of Human Services, which brought all the welfare and social services programs together under Dale Bumpers's pediatrician, Roger Bost. He took advantage of all the programs under the Social Security Act, the options under Medicaid and the Children's Colonies. He greatly expanded Children's Colonies after that. Mental health services were greatly expanded, largely paid with federal money. All of those things were already possible, but nobody in Arkansas had taken advantage of them. And then setting up the area health education centers [AHECs], setting up residency programs at regional hospitals all over Arkansas…

BJ: Right.

ED: In hopes of spreading new doctors around the state so that rural areas would get health services. They were greatly underserved at that time. So that was, I guess, both Dale Bumpers's and Roger Bost's idea.

BJ: That's right.

ED: Of getting all that done. So anyway, as I say, the most productive period probably in Arkansas history as far as getting things done.

BJ: But the main thing I liked about most of the people on our crew that were helping Bumpers with the legislature problems is that when it was over we went home instead of staying. You know, people kept connections, obviously. You know, Buddy Benafield became chairman of the Racing Commission, Martin [Borchert] became—let's see, did Martin run State Building Services?

ED: No, he got that job under Bill Clinton years later.

BJ: Somebody else, OK.

ED: But I think he stayed on the governor's staff all four years. I don't remember what his job was, but he remained on the governor's staff. He had a fairly low-paying job as administrative assistant to the governor.

BJ: Pat Moran did go to Public Service.

ED: Pat Moran went to the Public Service Commission, chairman of the Public Service Commission.

BJ: Of course, Archie stayed as executive secretary.

ED: Archie stayed as executive secretary. Joe Woodward went over and became chairman of the state Transportation Commission.

BJ: State Transportation Commission.

ED: But…

BJ: And I went home. He wanted me to stay down there but, again, I had three kids.

ED: Three kids, yeah you couldn't…

BJ: Yeah. But then in the waning days of his administration he appointed me to the University Board [University of Arkansas Board of Trustees].

ED: Did he not also appoint you or designate you as the…

BJ: As the state chairman . . .

ED: State chairman of the Democratic Party.

BJ: Democratic Party, which as I look back, in retrospect, maybe wasn't such a great favor. The Democratic candidate for president, as you recall, because I remember our being there together through that horrible Miami Convention [in 1972], was George McGovern.

ED: So it was your job to…?

BJ: It was my job to carry Arkansas for McGovern.

ED: For George McGovern.

BJ: And we were the only state in the South where the state party apparatus supported McGovern.

ED: So it was you and Marlin Hawkins for George McGovern?

BJ: And Brownie Ledbetter.

ED: And Brownie Ledbetter for George...

BJ: And Tommy Sparks.

ED: Tommy Sparks, state representative.

BJ: And Tommy Sparks, bless his heart, he was the hero of the legislature, as far as I was concerned.

ED: Yes.

BJ: We used him too much, we overused him.

ED: Yeah, he was from Fordyce and as I recall he was a Harvard-educated, Harvard lawyer.

BJ: Yes, brilliant guy.

ED: Yes.

BJ: Just the nicest guy in the world.

ED: Yeah.

BJ: Absolutely right and in synch with us on everything.

ED: Yeah.

BJ: But we used him so much that it destroyed his effectiveness. And he was one of my heroes. But I remember my chairmanship of the party was opposed by Jim Brandon and Phyllis Brandon and who . . . what was that crazy guy who was the county judge down in Pulaski for a while?

ED: Roger Mears, Roger Mears.

BJ: Roger Mears, because I was far too conservative.

ED: Well, the same group in 1970, when Dale Bumpers was running and long before he rose to the top of the pack, Roger Mears called him. He was at that time chairman of the Pulaski County Democratic Committee and they had taken over with Jim Brandon and some of the others. Roger Mears called Bumpers and said, "All right, this Central Arkansas group is ready to elect you governor, but we want you to signal that you're our man by going after Orval Faubus. We want you to polarize the race between you and Orval Faubus, and we want you to go after him over the gambling and Arkansas Loan and Thrift and all of these other things. And when you do that we're going to throw in behind you and get you the nomination. And Bumpers said, "Well, let me think about it." He told me right at the end of the race that he was troubled about it and he had called—I think he was in Batesville or someplace like that late that night—I think Ted Boswell, but he later would say it was Winslow Drummond. Bumpers told him about his dilemma, that this group of liberals in Pulaski County are going to be for me but I've got to attack Orval Faubus and go after him and make that the campaign. And he didn't feel comfortable doing that. And Ted Boswell told him, "Well, if I were running that's what I would do, but that's my natural bent. If it's not for you, don't do it because you're probably going to get beat and you want to live with yourself afterward. You want to run a decent campaign

that's like what you want to do, because that's may be all that you're left with—how you ran that campaign." So he said he felt better about it and called Roger Mears the next morning and said I'm not going to do it. And Roger Mears said, "Well, you're at two percent in the polls and you're going to be at two percent on Election Day." So they went instead with Hayes McClerkin, who opened up and began to attack Orval Faubus. Hayes sank and Dale rose to the top. So there were just bad feelings with them all along, so Roger never got squared with Dale Bumpers, I guess.

BJ: It was an interesting experience and during that same period of time Bumpers arranged for me to be appointed to what was called after the disaster, after the election. And incidentally George McGovern came to Arkansas a couple of times; I thought he was really one of the great men I knew.

ED: Yes.

BJ: He was just so understated. Did you know that in his war record he had thirty-three flights over Germany and the Ploesti oil fields with B-24s?

ED: A genuine American hero.

BJ: A genuine American hero, but he never would let anyone say anything about that.

ED: Yeah and Richard Nixon, who never served a day, was the macho candidate for president.

BJ: And besides that he [McGovern] had such a delightful wife, too. I loved her.

ED: Yes.

BJ: I remember Brownie Ledbetter and I met her in a private plane out at Central Flying Service one time. She got off the plane and she looks up at Brownie and me. She's only about four foot six or so and she looked up and said, "Here I find myself in the land of the giants."

ED: (Laughing)

BJ: (Laughing)

ED: Well, I guess she would've thought that with you and Brownie there.

BJ: But, anyway, Bumpers got me on the Charter Commission, which was [former North Carolina Governor] Terry Sanford's redoing the [national Democratic Party] rules in order to prevent another horrible thing like we had in Miami.

ED: Yeah.

BJ: And set up, you know, the series of primaries and dealt with selection.

ED: So you were on the committee that crafted the reforms that got us away from that disaster.

BJ: They still use those same rules, basically.

ED: Yeah.

BJ: That was a hundred-member commission and, you know, I learned then at home that I was considered to be, here in Fort Smith, a radical liberal. When I got with that group I was considered to be the ultimate conservative.

ED: Yeah.

BJ: Yeah.

ED: Well, I'm just thinking. Dale Bumpers was dealing with a better legislature than had existed before him but still a fairly conservative group with power concentrated in the Senate. Most senators had deep connections with the Stephenses, who were very conservative and opposed to Bumpers and, off and on, Bill Clinton. But, nevertheless, he [Bumpers] by-and-large got nearly all of those guys in both the House and the Senate to go along with him on just about every bill. How did he do that?

BJ: He would bring them up one by one and talk to them. They wouldn't want to come and they would try to get out of going to his office. They'd get mad at us for even being on the floor where we could ask them—"The governor wants to see you"—because they knew the governor was listening, you know, on that thing to everything that was going on in the House." [House proceedings were piped into the governor's office.]

ED: Yeah.

BJ: They'd come up [to the governor's office] and they'd go, "I'm not going to do it, I'm not going to do it." But when they'd come out of there, you know, they had agreed to do it. You know, "I'm not going to go, I'm not going to go up there, but if I go I'm not going to agree," but they did.

ED: He'd call them up there and talk to them, but did he promise them anything?

BJ: No.

ED: Well, "I'll come home and campaign for you" ?

BJ: No. He would sometimes point out what he had done for them

ED: Yeah.

BJ: On a lot of these things I had never realized how important things like people working at [highway] welcome centers are. You know, the welcome centers, "Welcome to Arkansas" like the one at Van Buren.

ED: Yeah.

BJ: Or the one over in West Memphis. Some of those were prized jobs.

ED: For all the local people needing a job, yeah.

BJ: That's right.

ED: So he'd tell them, "Look, you know, I got your brother-in-law…"

BJ: He wanted you to appoint so-and-so here.

ED: Brother-in-law to the welcome center or something. Well, [former state Senator] Bill Walmsley [of Batesville] told the story about how he was a young state senator and he had voted with the governor on everything and sponsored a bunch of his bills. Then he wanted to vote for a tax bill [a tax exemption for the poultry industry] supported by the poultry industry in his district. His would be the decisive vote and the governor wanted that bill defeated. He didn't want any more tax revenues being drained away. So Bumpers told him "If you'll vote against it I'll come back and I'll campaign for you and you can just tell people that I threatened you and I made you do it or otherwise you'd never get anything out of the Capitol again." So when Walmsley cast that vote [killing the tax exemption], sure enough all the poultry industry came down on him. He took all the little slips on the telephone calls down to the governor's office and said, "See, here's what you've done for me." So Bumpers said have a meeting up there and bring all those poultry executives in next Saturday. So he went up there that Saturday with J.K. Southerland and all the other poultry magnates in the bank board room. Bumpers went around and told each one of them something like this: "now, you want to be on the state bank board." And everybody there they had wanted something or he had done something for them and then he said, "If you don't stand behind this young man again you're not going to get appointed to the bank board or you're not going to get all those other things." Anyway, it worked and he didn't get an opponent the next time and all those people remained his supporters. But he had a remarkable talent. I guess personality was a big part of it. Well, let's see, so you were the state party chairman for two years, right?

BJ: For two years. I resigned when I became active in his campaign against Fulbright.

ED: All right, so 1974 he decides to run for the Senate against…

BJ: And there's a story there I'll tell you about.

ED: OK, let's hear that story.

BJ: As you may or may not recall, he was on the fence about whether to run for a third term or whether to run for the Senate, and he was going to announce it on a Saturday morning, which he did at noon on Saturday. Thursday, he calls me and Doug Smith, a lawyer here in town who had worked in the special session the first term and is a close Bumpers friend, and he wanted to know if we could come down and meet with him on Friday to talk about legislative plans for the third term. So Doug and I go to Little Rock, and we go out to the Mansion and we meet with him all morning at the Mansion. We go out to Hank's Dog's House, I remember, for lunch and come back and have another short meeting Friday afternoon, all about setting up a third-term legislative agenda, which would be more superficial, frankly, than anything else, things we could pass pretty easily, not particularly to create controversy but good window dressing for a presidential run.

ED: So he was thinking about a 1976 presidential race?

BJ: That's right. And so we pretty well mapped out what we were going to do and who we were going to get involved on the legislative team. Doug and I go back to Fort Smith.

ED: Did he say anything at all about running for the Senate at that time?

BJ: No, I mean it was as if he had made his mind up.

ED: Yeah.

BJ: And because we had gotten into substantial detail about who we were going to have on the legislative team and who was available and so forth, Doug and I both agreed we'd come down for six months of the third term for the legislature. We get home and my law partner, Hugh Hardin, an old friend of Dale's but an even older friend of Lee Williams…

ED: Lee Williams was on the staff of Fulbright.

BJ: Lee had been on the staff of Fulbright and he had been after Hardin to make a donation to Senator Fulbright. Well, Hugh, being cautious, wanted to be sure Bumpers was in or out before doing that. But he also wanted an edge, so when we got back the first thing he wanted to know was, "Well, what's he going to do?" So we told him what we had been doing and so from that we could all gather it was going to be a third term. So Hugh immediately gets in the mail a $2,000 check to Senator Fulbright.

ED: (Laughing)

BJ: And, of course, the next day he announced it was the Senate. I was never so surprised in my life; I was listening on the radio.

ED: Oh, you didn't know about it?

BJ: No, I did not know about it.

ED: Until you heard it on the radio.

BJ: Until he announced it.

ED: I don't think his staff knew, the governor's staff knew, until maybe five minutes before. Irene Samuel was…

BJ: I'm sure she was torn up. [Irene Samuel was an administrative assistant to Bumpers.]

ED: She was sure the evening before that he was going to run for a third term. She was just virtually certain that he was going to run for a third term, and she was going to be working for Fulbright. But there she was. I went to the thing on Saturday morning, was there for the announcement, and there she was. They all came out. He came out into the conference room, the staff all came out, and there's Irene over there. I catch her eye and she's kind of smiling, a big smile on her face, and then he makes that announcement that he's going to run against Fulbright. I had gotten the impression that Irene was saying, "Regardless, I'm going to be working for Fulbright." So immediately I went over and asked her. I said, "Irene, who are you working for this campaign?" And she said, "Dale Bumpers." And she turned around and walked away. But at any rate, did he ever tell you why?

BJ: Never told us.

ED: Well, I assumed he looked at the polls, which showed that he was…

BJ: That he could beat him two to one.

ED: He would win without lifting a hand.

BJ: That's right.

ED: And that somebody else, if he didn't run, somebody else would, maybe Jim Johnson, and would probably win.

BJ: But he could've been president of the United States.

ED: Yeah, that was the option. He could've been president had he not done that. So I wonder have you ever talked to him about that since then? I wonder whether he has regrets about that.

BJ: Well, he tried to put the best face on Carter that he could but it was hard. [Jimmy Carter, the governor of Georgia, won the Democratic nomination for president and the presidency in 1976.]

ED: Yeah.

BJ: Because he knew Carter pretty well.

ED: Yeah.

BJ: Carter was not a successful governor.

ED: No. No, he had none of the…

BJ: He just served one term.

ED: Yeah. And he served one term as president and went out in disgrace but was not a bad guy.

BJ: Yup.

ED: I thought he was brilliant.

BJ: He's a much better former president then most presidents.

ED: Yeah. And a highly ethical and moral man but he didn't have any of the political skills that you'd want a president or a governor to have, and Dale Bumpers had them in abundance. He would've been a successful president.

BJ: And Dale completely overestimated what a freshman senator could do and underestimated what he could not do. He rankled a lot of the senators, Senator Byrd and some others... [Senator Robert Byrd of West Virginia became the majority leader of the Senate during much of Bumpers's time in the Senate.]

ED: Yes.

BJ: Who had an important influence on his future in the Senate.

ED: Yes.

BJ: And they were very close to Fulbright.

ED: Yes, so he started off with a bad footing…

BJ: That's right.

ED: In the Senate and never got the sort of committee assignments that might have elevated him to national prominence.

BJ: They put him in on Small Business.

ED: Small Business and the Aeronautics and Space Committee and he was just the kind of guy who got buried and never… Eventually, he got Appropriations [Committee], which gave him some clout in Arkansas.

BJ: But that came later.

ED: But that was much later.

BJ: And he was frustrated in the Senate. I remember him saying, you know, when you're governor you get things done; sometimes they're right and sometimes they're wrong, but something happens. When you make up your mind what to do, something happens.

ED: You go out to the Capitol each day and you can do things.

BJ: That's right. Here [in the Senate] you can't do anything.

ED: Yeah. So he was a highly successful governor. I wouldn't say he was a failure as a senator, but he was not a highly successful senator because he didn't have the opportunities, and he probably wasn't quite suited for that…

BJ: Yeah.

ED: Because his skills were running the executive branch. But here's the other thing that he told me once, and I don't know if you had this conversation as well, but he said that the happiest day of his life was the day after he resigned as governor to become a U.S. senator, because he said the pressures of the governor's office were so immense. He worried. He got up every morning worrying that, you know, he had twenty-eight or thirty thousand state employees and one of them someplace is doing something crooked or dishonest that going to bring disrepute upon me and my family. And so every few days, sure enough there would be one.

BJ: He was very, very concerned about that.

ED: Yeah, and he said it was just a nightmare.

BJ: And it goes back to a time after his election but before his inauguration. He set up offices over on the Senate side of the Capitol. I had an office over there, too, because I came down there in November. He and I, a day or two a week, would go over at four o'clock in the afternoon and meet with Governor Rockefeller and some of his people and just kind

of talk about problems in the state government. I remember one time him asking Rockefeller. He said, "Governor, what are the three biggest problems you have as governor, that the governor faces?" And Rockefeller said, "The first is personnel, the second is personnel, and the third is personnel." And as we walked back over to the Senate side, Bumpers said, "I just don't think that personnel's that bad. There's too many really good people out there wanting to serve." But after six months, he reminded me of that conversation. He said, "You know, he was absolutely right."

ED: Yes.

BJ: Because a couple of people had backed up on him and done some things that were embarrassing.

ED: Yeah. I think he had to let go his top staff member.

BJ: Gene Kelley, yeah.

ED: Gene Kelley in the first few weeks of his administration.

BJ: He was pushing bank charters and liquor-store licenses.

ED: Yes. And then he had to call in the guy who was a Rockefeller appointee but nevertheless he was a holdover on the Board of Pardons and Paroles who was selling paroles or seeking bribes to get people paroled. He had to call him in and make him write a letter of resignation. I guess it was just on and on and on. And he had other people on his staff that he had some problems with all along. But, anyway, he said he just worried about it every day and it was just a vast relief when he knew he wasn't going to have to face that any longer. And he didn't have to face that in the Senate; he had a small handpicked staff and never had to worry about that kind of a scandal again. But he said he worried about his kids reading in the paper these terrible things about my daddy's administration. But at any rate, that was what he was best at and what he hated most, I guess. Well, all right, he was the one who appointed you to the University Of Arkansas Board Of Trustees, right?

BJ: That's right. It's one of his farewell deals. I remember the way he did it. He said, "Brad, I've got two strong, strong supporters. There's a vacancy on the University Board. I've got two strong supporters. They both want this job very, very much and I don't want to appoint either of them and make the other one mad. But if I appoint you they'd think that I owe it to you. They'll think I'll owe it to you and then neither of them will be mad at me." So I said, "I'll do you that favor. I'll accept that."

ED: Did you really want the job?

BJ: I did not. I never asked for it.

ED: Yeah.

BJ: But I ended up with it. It was really a good deal for me.

ED: Yeah, so you were on there ten years, I guess?

BJ: I was there eleven years.

ED: Eleven years? You held over for somebody?

BJ: Somebody else's. Clinton called me at the end of my ten years and said—he was governor by then—"Brad, I've got a little problem. I've promised your job to two other people. Would you mind serving another year until I can find a nest a for both of them?

ED: (Laughing) So you served another year and then he gave the job to one of them, I guess.

BJ: Yeah, to the older guy. He wanted on the Highway Commission and ended up back there, Maurice… What was his name, bald guy?

ED: Oh, yeah, yeah. Maurice Smith, Maurice Smith [of Birdeye].

BJ: Yeah. They appointed him to my job on the university board, which he was ill-suited for, he never liked.

ED: Yeah.

BJ: He really wanted on the Highway Commission.

ED: Yeah. And he had been on the Highway Commission under Orval Faubus back many years earlier.

BJ: Yeah.

ED: Yeah. So that was a good deal. You enjoyed those years at the University of Arkansas?

BJ: Oh I enjoyed that time and made some really good friends and good contacts.

ED: Did you hire the coaches? Were you involved in hiring the coaches?

BJ: As a matter of fact what I did hire . . .we hired during my tenure [football coach] Lou Holtz and [basketball coach] Nolan Richardson.

ED: Yes. Well, those were two good hires, particularly Richardson, I guess.

BJ: Yeah.

ED: Who was probably the best coach in Arkansas history in any sport. And several presidents that you all hired.

BJ: Yeah, it was the…hmmm

ED: (Laughing) OK.

BJ: Could've done a better job...

ED: Let's see, you all hired after… Well, you hired, I guess…

BJ: Dr. Bishop had just been hired when I came.

ED: Yeah, Dr. Bishop had been hired, Charles Bishop. And then he left and went someplace.

BJ: He went to the University of Houston.

ED: University of Houston.

BJ: And then…

ED: And then you hired Ray Thornton.

BJ: Well, next we had Jim Martin.

ED: Jim Martin, OK, and then he stayed not terribly long.

BJ: Then we had Ray.

ED: And you went on to hire Ray Thornton.

BJ: You know Ray had done a good job at Arkansas State.

ED: Yeah.

BJ: And we suddenly we had no presidents and we had no chancellor at Fayetteville. They both had quit. The president of the university [Jim Martin] quit to become the president of Auburn. The chancellor at Fayetteville had been forced out because he was having an affair with one of his staff members. And so we were… I remember one time we were stuck on this thing and everybody there was an acting president, acting chancellor or acting dean, interim this or interim that. I remember David Gearhart was just the money raiser and he was conducting this meeting, this luncheon deal and introducing the interim so-and-so, interim so-and-so, interim dean, and he said, "my interim wife Jane."

ED: (Laughing)

BJ: But there were some pressures brought to bear… but we really didn't… we had to get somebody.

ED: Yeah.

BJ: Somebody had to be in charge.

ED: And he was already on hand.

BJ: He [Ray Thornton] was already on hand at Arkansas State.

ED: Yeah. Yeah, well I can imagine what those pressures might've been, yeah. So you left that board. You went on the board, I guess it would've been the end of 1974?

BJ: '74.

ED: 1974 or early '75.

BJ: And I left in the spring of '85.

ED: Spring of '85. And, of course, all that time you were still practicing law?

BJ: Yup.

ED: And I guess the law practice was probably getting better and better?

BJ: Yup.

ED: More and more of the oil and gas stuff?

BJ: Yes.

ED: You still had Kansas City Southern?

BJ: Almost entirely oil and gas.

ED: Oil and gas by that time.

BJ: Yup. And oh, I went off the university board one week and went on the Arkansas Blue Cross Board the next week, because Louis Ramsey and I had become close when we were both on the university board together. By then he was chairman of the Blue Cross Board. And he got two new board members; he got me and Hayes McClerkin at the same time.

ED: So you and Hayes McClerkin both went over there?

BJ: Yeah.

ED: To Blue Cross.

BJ: Yeah, in 1985.

ED: So how long did you stay on that board?

BJ: I'm still on it.

ED: You're still on it?

BJ: I resigned during my tenure as chief justice.

ED: Oh, OK. Any other particular cases that are good stories?

BJ: Well, I guess the most significant one maybe was that Jerry Jones case, where we finally did settle it after we lost it twice in the federal district court, once before Morris Arnold

and once before Jimm Larry Hendren. They took it on to the Supreme Court of the United States and we won there.

ED: And what was the final judgment when you won?

BJ: We finally settled it and I forgot the exact figure. It was maybe twelve million dollars, which by current class-action standards is nothing, but it was a lot of money then.

ED: Yeah, yeah.

BJ: And, you know, we just took our fee out of that, but the royalty owners continue today to get the benefits of that.

ED: Yes. OK, well I guess is there anything else before we move along to chief justice?

BJ: Right.

ED: In 19… Jim Guy Tucker becomes governor when Bill Clinton is elected president. Jim Guy is the lieutenant governor and steps into the job and then is reelected governor in 1994, defeats Sheffield Nelson. And so in 19… I'm trying to think now what happened. Well, who was the chief justice at that time?

BJ: Jack Holt.

ED: Jack Holt. And Jack Holt retired.

BJ: Retired.

BJ: At the end of '94?

BJ: In the summer of '95.

ED: '95, he decides to retire.

BJ: Retire.

ED: He reaches retirement age and he retires. And so you got a call from Jim Guy Tucker?

BJ: I was in the middle of a deposition on an oil and gas case I was getting ready to try that I didn't want to try. The secretary comes in and says the governor's on the phone. This is Thursday. And he said, "How would you like to be chief justice for the rest of this year and all of next year, take Jack's place?" And I said, "You may have made my day, but I've got to talk to Mary Ellen. So I came home and told her and she said, "Let's do it." And it was perfect timing because she had quit teaching full-time and was only teaching half-time.

ED: OK.

BJ: She was about ready to get out of it entirely anyway. So I had to talk to my law partners and said, “You know, I’ve just got to get out of the law firm completely.” I got out of the law firm, resigned from the Blue Cross Board. I was on a bank board, so I resigned from the bank board. I was on a couple of other boards. I resigned from everything. And on Tuesday I was sworn in as chief justice.

ED: The following Tuesday after that Thursday?

BJ: That’s right, after that Thursday.

ED: And this would’ve been… It was in the summer so were they in recess at the time?

BJ: Yes.

ED: So the court was in recess.

BJ: Tuesday was their first day back.

ED: Oh, so you were sworn in on their first day back?

BJ: That’s right. And the first day, well, they sent me the cases and the first day out I had five capital-murder cases.

ED: Wow, that was in the first round?

BJ: The first round of decisions. They were all some… Most of them were argued that day and some were already submitted.

ED: These were cases that had already been…?

BJ: Been filed.

ED: Filed.

BJ: And then the briefing had all been done. But they always move the capital cases to the head of the class.

ED: Now, was the drill that the cases were assigned automatically?

BJ: Yes.

ED: Was that at the point that they were submitted? Once the case was submitted that’s the day that you were assigned, not when the cases are filed or anything?

BJ: Yeah, right. What the clerk did with some of his staff and other staff workers or somebody, they’d analyze what the case is about and they’d divvy them up. On each case, as you’ve probably been through with the others, on each case they have a primary judge and a backup judge.

ED: Uh-huh.

BJ: Number one, you know, and the chief justice is always number one and the next justice in seniority.

ED: Yeah, going by seniority.

BJ: Justice two and three and four.

ED: So you became the number-one judge?

BJ: I became the number-one judge. And so…

ED: So you get the first case, which would be a capital case?

BJ: I did get a capital case, yes. I hadn't tried a murder case, and I was apologizing to my colleagues. I said, "I haven't tried a murder case in twenty years." And they looked around; none of them had ever tried a murder case.

ED: (Laughing) Yeah.

BJ: But it…

ED: But you had tried a few?

BJ: I had tried them.

ED: You've taken criminal cases?

BJ: I've tried two or three murder cases.

ED: Yeah.

BJ: But, you know…

ED: Any of your guys ever get executed?

BJ: No, they all got acquitted.

ED: They got acquitted?

BJ: Yeah. Some after two appeals, but yeah.

ED: Yeah.

BJ: I did the Freddie Rush murder trial.

ED: Who? Which one?

BJ: The Freddie Rush murder trial.

ED: Freddie Rush. What did Freddie Rush do?

BJ: Supposedly murdered his father, who was big furniture manufacturer in town.

ED: OK.

BJ: But it…

ED: He was acquitted?

BJ: He was acquitted after two trials.

ED: So the first one was?

BJ: The first one was reversed. He was convicted of first-degree murder but not given the death penalty and we reversed it. The second time he was tried for second-degree murder, and we reversed that and the third time he was acquitted.

ED: At the third trial?

BJ: Yeah. But, you know, it was different. I had been down there and sat as a special justice, but that was my only real experience.

ED: You sat as a special justice when some justice recused from a case?

BJ: On the Supreme Court, yes. I'd been down twice on something like that. It didn't work like I thought would. It's a different culture, you know. I would go for days down there. They have literally written but unofficial rules of the court on how everything is done, everything is done.

ED: And did you know? Did you understand all that? Did you get some kind of briefing on that? Well, you knew basically how it worked, the rotation on cases and all that?

BJ: Yeah, I knew that.

ED: The George Rose Smith system?

BJ: That's right.

ED: That he and Leflar…?

BJ: Basically how it worked.

ED: Yeah.

BJ: But I didn't realize, for instance, that the real justices did not ever speak to one another about the case except in conference. You know, you get the briefs two weeks and four days before the submission. Some are orally argued. Most are not but you get them two weeks and four days before, whether that's a billion dollar case or whether it's a twenty-two dollar case. But, you know, if you've got some question in your mind… David Newbern and I were in law school together and [Robert] Dudley I'd known a long, long, long time. [Tom] Glaze I'd known a long time. [Robert L.] Brown and I had worked with Bumpers together. [Donald] Corbin I had known because he was in the legislature when I was working for Bumpers. Andree [Roaf] I did not know, but she was a wonderful woman. But it…

ED: Annabelle [Imber]. Did Annabelle come up?

BJ: Annabelle, no.

ED: She didn't come until two years later…

BJ: She came as I left.

ED: Yeah, she came on just as you left, yeah.

BJ: But it was a good group to work with. We all came from a variety of backgrounds, which was helpful. But I didn't realize the absolute code of silence where you just did not… You know, if you had some question you wrote a memo and sent it to everybody. And they enforced it.

ED: Was that a system that was unique to Arkansas, as far as you know? Is that a George Rose Smith, part of his creation?

BJ: Well, I think it probably does so much, just to the customs and usages, go back to George Rose.

ED: Well I guess he and [Robert A.] Leflar… Leflar was briefly on the court.

BJ: Yes, he was.

ED: As an appointed justice.

BJ: As appointed justice

ED: Appointed justice, maybe the same time George Rose went on, way back in '48 or '49, somewhere around in there.

BJ: And then, you know, you could run for reelection. He ran for reelection and got beat.

ED: Yeah.

BJ: That's when he first got so mad at the whole state and he started doing this NYU [New York University] stuff.

ED: Yeah.

BJ: But, as I'd mentioned last night, in order to get the feel of this and talk to somebody who knew what they were talking about and whose judgment I trusted, I arranged for Darrell Hickman to come down and spend a day with me and just kind of go through the procedures and also the personalities that I had to deal with.

ED: Yes. Because he had gone off the court in about 1991, somewhere along in there.

BJ: But still there were several of them there that he had served with.

ED: Yeah, he had served for many years with Newbern and Dudley.

BJ: And Dudley.

ED: And with Corbin. Corbin had been on there a year or so by that time.

BJ: Could be.

ED: He went on in about '88, I guess. [Donald Corbin went on the Supreme Court in January 1991.]

BJ: And Glaze maybe.

ED: Glaze, that's right, yeah. He and Glaze. He [Hickman] went on in about '79 and Glaze went on in '85.

BJ: Yeah, Brown was fairly new.

ED: Yeah.

BJ: And, of course, Andree was new.

ED: Yeah. She was appointed as a special...

BJ: Yes, she was appointed.

ED: To fill out a term, yeah.

BJ: I think she took Steele's place.

ED: That's right, Steele Hays had retired.

BJ: But, you know, I was used to a law-firm setting where, you know, if I had some question I would just go next door to my partner and talk to him about the thing. And you just don't do that. You talk to your law clerks and that's when I had two guys. I inherited Jack's two law clerks and that was good. They were good people. One of them is still out there as a staff lawyer. The other one is now an FBI agent and she had been a deputy prosecuting attorney in Benton County. So she knew all the criminal rules, and criminal rules were foreign to me because I hadn't done any criminal work, as I said, in twenty years. So that was a big help.

ED: So did you run into any problems as the chief justice where you wanted to do something. We ought to do it this way but they said no.

BJ: They very quickly let me know that you don't do anything out there without four votes.

ED: Yes. So you could have some ideas but you'd have to run them.

BJ: That's right. We made ourselves our own prisoner. There were just a couple of things that really rankled me. One was a step back to the establishment of the Court of appeals. And that was Carleton Harris's baby.

ED: Conley Byrd was one of the fathers of that.

BJ: And why they ever had… Originally, it was a three-member Court of Appeals and then it became a six-member Court of Appeals. While I was there it changed from three to six because the three were terribly overworked. They each represented… It was all based on the census of 1960 or sometime when we had six congressmen and it was based on those congressional districts from long ago. Originally, each one of those represented two of those congressional districts and then it changed where each one of them represented one district. And now they have two of them from each one. Now they have twelve.

ED: Yes.

BJ: When I started they only had three. But I lost my train of thought.

ED: Anyway, you were baffled by the Court of Appeals system?

BJ: In order to get the thing passed to establish the Court of Appeals, Carleton Harris and the backers… I was on that committee, but we had to do everything that Carleton said. It was Carleton's deal; he decided how many people they had and where they were elected from and all that. In order to get it done he had to make sure that certain cases went directly to the Supreme Court and never passed through the Court of Appeals. For instance, all cases involving mineral rights, oil and gas cases and so forth, went directly to the Supreme Court. Secondly—and this is the thing which just drove me crazy—all tort cases went to the Supreme Court.

ED: All tort cases?

BJ: You could have—and I had one on two occasions—two automobiles running together at an intersection and all there was was property damage, no personal injury whatsoever. Property damage to an '84 Oldsmobile, and that went directly to the Supreme Court, whereas the Court of Appeals did contract cases that involved multi-millions of dollars, and they did all the PSC [Public Service Commission] appeals. So they were doing a lot of stuff that, in my opinion, the Supreme Court should have been doing.

ED: You know, all worker's compensation cases went there.

BJ: Worker's comp cases all went there.

ED: Unemployment compensation cases.

BJ: Yup. And the unemployment compensation cases went there.

ED: Yes. Death cases automatically went to the Supreme Court.

BJ: Right.

ED: And constitutional…

BJ: Statutory construction cases and things like that.

ED: Yeah.

BJ: But then they're just tossing in all tort cases. It screwed up the whole balance of it, because so many are just literally property-damage cases that should never have been there taking up the time, because they take time.

ED: Yes.

BJ: And so I could never understand why we couldn't redo that. It's our own rules. We can change them.

ED: Did you suggest changing the rules?

BJ: I talked about them, yes. But we always would run into the George Rose Smith system. That's the way it was with George Rose, so we're not going to change a thing. And the other one that really drove me crazy because we had a full-time apartment in Little Rock up at Forest Place and basically lived in Little Rock. But I would like to come home occasionally because we've got the house here. We always had the hearings on Monday morning at nine o'clock, so you had to be there Monday morning at nine o'clock, beforehand usually. The gavel fell at nine o'clock. And then on Friday you had to be there for what we called the Opinion Conference, where we went through the final opinions. So Mondays and Fridays were days you absolutely had to be there, which shut off spending long weekends anywhere else. And now they've changed that.

ED: Yes.

BJ: And that's something I talked to my successor about and they got it changed, but by then Dudley was gone.

ED: And Dudley was a stickler for doing things the old way.

BJ: Absolutely.

ED: The George Rose Smith way.

BJ: Absolutely.

ED: That's how God intended it to be done.

BJ: That's exactly right. The other thing that created was . . . yes?

WOMAN: Can you talk to Hank for just a second?

BJ: Yeah.

WOMAN: I'm sorry.

ED: That's OK.

BJ: Hang on a second.

(PAUSE)

ED: OK, we're back. So you tentatively tried to do some things to change the procedures at the court; they were largely resistant, but you got some changes made after you left.

BJ: That's right.

ED: Jim Hannah, I guess, took your place, right?

BJ: No, Dub Arnold.

ED: Dub Arnold became the chief justice.

BJ: Right. And then he retired early and Betty Dickey served [as chief justice by appointment from Governor Mike Huckabee].

ED: Betty Dickey and then Jim [Hannah].

BJ: That's right, then Jim. What bothered me was that all the cases about who got into the intersection first tended to get as much attention or similar attention as the really significant cases. And there's a self-imposed deadline, which is a good thing, generally speaking. Once a case has been argued, the day that it's argued is the day it's decided, which most people do not understand.

ED: So you argue the case…

BJ: In the morning.

ED: If there's an oral argument on it…

BJ: If there's an oral argument on it.

ED: Or if it gets submitted and the court…

BJ: If it's submitted, then it gets decided.

ED: Then you go into conference and the cases are decided?

BJ: That's right; the oral-argument cases are decided first.

ED: Yeah.

BJ: So they're decided that day, which most people do not realize. Most people don't realize, including most lawyers, I think, that the justices and their law clerks never see the case, never see the briefs and the abstracts and the appendix until two weeks and four days

before the hearings. And that on the submission day, whether it's orally argued or not, it's decided.

ED: So everybody comes to the court that morning with their minds already, tentatively, made up.

BJ: Yeah, you almost have to.

ED: And then the oral arguments might but probably won't have much influence on it.

BJ: Right. One time out of maybe twenty.

ED: Unless somebody does an amazing job on that.

BJ: Yeah. And, of course, you know how it's passed around the table. The primary judge gets to speak first without interruption and it goes around. The secondary judge, backup judge, speaks without interruption and then it goes around the table and everybody says their own thing and the chief justice keeps score.

ED: So he keeps score and at the end says, "All right, it's five to two, so this is the way it's going to be."

BJ: If it was five to two and if the primary judge is in the majority, then he'll write the opinion. If he isn't and the backup judge is in the majority, then he or she will write the opinion.

ED: So can you think about the big cases in that fifteen or eighteen months or so that you were on the court? One that you had for the first time was the *Lake View*, in '96, I guess.

BJ: That's right. And we sent it back first for some reason, to complete the record or something.

ED: Yeah. Well, I think Annabelle Clinton—or maybe it was Annabelle Imber by that time—was the trial judge. She was a chancellor in Pulaski County and she had held the Arkansas system of financing public education unconstitutional but she stayed the order for two years to give the legislature or the governor time to make it constitutional, to change the school-aid distribution formula and whatever else was in order to meet the standards that she set out in her opinion. And so it goes up to the Supreme Court and—I've forgotten—the state argued that it should be dismissed or something. Anyway, you sent it back to the trial court to proceed and to have full hearings and so forth on the constitutionality and that's what they proceeded to do. Meantime, Annabelle is elected to the Supreme Court, she recuses and that case goes to Collins Kilgore…

BJ: Yeah.

ED: Who was then the chancellor in Pulaski County. I think it still bounced back and forth. It goes up to the Supreme Court again and you [the Supreme Court] say no. By this time, you had left and the Supreme Court says, "No, you have got to have a full evidentiary trial, you've got to try these things." He [Kilgore] proceeds to do that and renders a second decision somewhat like Annabelle's, this time with all the evidence supporting the idea that the state is violating the Constitution by not providing not only an equal education but a suitable education. And that's when it all starts; we'll get to that later because you entered the picture again.

BJ: Yeah.

ED: But at that time you're the chief justice when it comes up the first time and you sent it back. Do you remember much about the case?

BJ: I just remember the whole record wasn't complete somehow, so we sent it back. We knew, of course, we were dealing with a very significant matter.

ED: My recollection is that at that point throughout the first phases of that case Tom Glaze, for example, thought that the courts shouldn't be dealing with that. It was a legislative issue. It wasn't the Supreme Court's job to pass judgment on that. At some point in there he changes and becomes, in a way, I guess, the toughest judge.

BJ: Yeah.

ED: He decided we're going to do something and I think he was probably prepared, if the legislature didn't do something, to say that the court would take over the treasury…

BJ: That's right.

ED: And do it. He thought that's what had to be done. He hoped it wouldn't happen, but the court had this obligation to see that the Constitution was complied with.

BJ: Yeah, he was strong, strong.

ED: Yeah, in the latter stages.

BJ: On that.

ED: Any other cases stand out? Any other battles inside the court?

BJ: Well, there were cases involving the Memphis Three.

ED: Oh, the Memphis Three, that's right. The West Memphis Three. It bounced back and forth through the courts and it got there [to the Supreme Court] and you all upheld the conviction?

BJ: That's right.

ED: Was that a unanimous decision? I've forgotten whether it was a unanimous decision. Well, all you had was a record before you, the trial record?

BJ: The trial record was all we had.

ED: Have you had any subsequent feelings about that case?

BJ: I was concerned at the time, and I wrote the first opinion. I wrote the opinion for the boy that confessed.

ED: Yeah, the boy that confessed.

BJ: Yes.

ED: It was sort of the basis of the convictions.

BJ: Because the timeline seemed strange to me. I mean, assuming everything he said was true the conviction and his confession were right. But, you know, again the record was there, the record was there. It was clearly a jury case.

ED: That's all you had?

BJ: That's all we had. All this other stuff came later.

ED: And so you all affirmed his conviction.

BJ: We confirmed all three.

ED: All three of them, yes. And then there were I guess several others. Were there other death cases during that time?

BJ: Well, there was the Fun Wash case, where the guy killed the people out at the Fun Wash out on Cantrell [Road in Little Rock].

ED: Oh yeah, yes.

BJ: But most of them were just… I hesitate to say just routine murder cases.

ED: Yeah, yeah.

BJ: Basically, that's what they were. Well, when you have an appointed judge like me we get, for one reason or another, a lot of cases that the others don't want. For instance, I get to write the opinion on shutting down Santa Claus and the Christmas lights.

ED: Oh, the Christmas lights, that's right.

BJ: Yes.

ED: The Christmas lighting case came up.

BJ: The lighting case.

ED: Which was a huge case, I guess.

BJ: It was.

ED: Because everybody wanted to see those Christmas lights out on Cantrell Road.

BJ: Except the people who lived down in Robinwood.

ED: Except the people who lived nearby.

BJ: Who wanted to cancel it.

ED: An ambulance couldn't get to their house or fire trucks or anything else.

BJ: That's right.

ED: Because of long lines of traffic to see those lights. What was the family's name that had all the lights?

BJ: Jennings Osborne.

ED: Jennings Osborne and his family. So you all came down and said, no, it was a nuisance.

BJ: That's right.

ED: And they had to…

BJ: Cut it back to…

ED: They had to cut it back?

BJ: To 13,000 lights or whatever it was.

ED: Yes. (Laughing) So how did you get that case?

BJ: My number appeared on it. But, you know, there were several things like that. See, it was during my tenure that we made the arrangements to build the new addition to the Justice Building. Well, you know, no one really wanted a lot of their fingerprints on that either. It was far better that I do it because I wasn't going to ever settle into one of those nice offices.

ED: Or face reelection.

BJ: And so I was….

ED: Or face reelection.

BJ: Or face reelection, right. So we went around and looked at capitols, at justice buildings, you know, all around the country. Ended up the plans—I think a beautiful plan.

ED: It is.

BJ: And it really improves the looks of that 'fifties building.

ED: Yeah. It was a hideous building but it [the addition] really does it make it look a little bit majestic.

BJ: Yeah, and the other one did not look majestic.

ED: No.

BJ: So I was the one who got to testify… carry the ball for the governor into the legislative committees.

ED: Legislative committees, the Joint Budget Committee?

BJ: Yeah.

ED: Even Donnie didn't want to do it. Donnie Corbin loved to go over to the legislature.

BJ: Oh, he loves to, but he didn't want to do that.

ED: He didn't want to do that one? (Laughing)

BJ: But it was well worth it.

ED: In 1996, were there some election cases where you were knocking things off the ballot?

BJ: Yeah, we had a whole bunch of them that we threw off the ballot.

ED: Threw off a whole bunch of them?

BJ: Yeah.

ED: That's always a controversy. They used to make a lot of people mad.

BJ: We had some cases. One that particularly annoyed me was the one about "Does Not Support Term Limits." You know, where if you're running for the Supreme Court and somebody decided that the state couldn't limit the terms, for instance, of U.S. congressmen.

ED: Yes.

BJ: But somehow some legislator votes against them [term limits] in certain bills. They put an amendment up where they want to put behind a candidate's name, "Ernie Dumas, Does Not Support Term Limits" if you voted this way or that way for or against them. I don't remember how it was, but they would put that little tag behind your name. And we ruled that unconstitutional.

ED: OK. Yeah, that act was passed by the legislature, wasn't it?

BJ: I think it was.

ED: Yeah. And did Tucker sign that bill? That doesn't sound like a bill that Tucker would have signed; they might have passed it over his veto.

BJ: The legislature gets to submit three [constitutional amendments] and I think maybe that was one.

ED: Oh, that's right. Yeah, it's a constitutional amendment so the governor doesn't have anything to do with it. I remember that now, yeah. So you had to self-identify yourself as a bad guy.

BJ: Yeah.

ED: On the ballot.

BJ: One thing that I do think I helped smooth over. I was amazed when I was out there about the lack of any interaction between the Court of Appeals and the Supreme Court. Now bear in mind at this time that all the offices of the Court of Appeals are on the second floor and they'd all been redone and they're grand and all that. And the justices were all down on the first floor in the old original building.

ED: Yeah.

BJ: But it was like they didn't exist. I mean, you see them occasionally in the lobby of the building, but it was as if they didn't exist. And that just struck me the wrong way, so in January 1 of '96 my friend John Stroud became a judge on the Court of Appeals. Dudley and Newbern and I used to go out to lunch a lot. It was thought of as Nixon going to China just inviting John Stroud to come eat lunch with us.

ED: So it was debated, is this the right thing to do?

BJ: Well, you know, right.

ED: That's what they were…

BJ: I don't know if it's because George Rose Smith didn't do it or whatever, but it broke the ice. It started then a regular thing, having more interaction between the two, at least on the social side.

ED: Yeah.

BJ: To go to lunch with them.

ED: When you all went to lunch, even if it was just the justices, you never talked about the cases?

BJ: No, we never talked about the cases. It seems hard to realize, you see, that the Supreme Court of the United States doesn't work that way.

ED: No.

BJ: No, they'll go in and they'll trade out, you know, one thing for something else.

ED: And they'll go down and lobby and call and argue.

BJ: Yeah.

ED: And in private, one-on-one. I think that somebody told me that there had been a little, the last few years, a little bit more interaction: Can you go with me on this? If I change it this way, can you go with me on this and that?

BJ: I didn't ever see that.

ED: None of that happened while you were there, that you saw?

BJ: But, you know, among the seven of us we all came from completely different backgrounds, as far as the law practice. David was a law professor and Dudley was a career chancellor.

ED: Prosecutor and then a chancellor.

BJ: Right. And Glaze had been a chancellor and Corbin had been a legislator. Brown had been an administrative guy for Bumpers and practiced law briefly, I think.

ED: And a writer, yeah.

BJ: And a writer and Andree [Roaf] had been in practice. But it was really kind of a mix, which I thought was a good idea because, for instance, now somehow the Supreme Court of the United States is made up of… Everybody on there either graduated from Harvard or Yale law school.

ED: Yeah.

BJ: And they all live within the confines, I think, of the City of New York, as their permanent homes.

ED: Yeah.

BJ: I read a lot of history. Douglas and Frankfurter and Justice Jackson—they had varied backgrounds. Frankfurter, obviously, was Harvard; Hugo Black was University of Alabama, Justice Jackson, I think, was from Albany Law School, which was a night law school. Douglas was from Washington. A lot of these people came directly out of the private practice and into the judgeship. Now, particularly the Supreme Court of the

United States, all of them have to go through the Court of Appeals before they go on. I wish there were more diversity in the Supreme Court.

ED: Yeah. Well, so you go through '96. Let's see, Jim Guy Tucker is…

BJ: I'm there when Jim Guy is convicted.

ED: He was convicted and resigned as governor and Lieutenant Governor Mike Huckabee, you swore him in?

BJ: Right. I had the whole court over there in our robes waiting to swear him in and, of course, it went on and on and we waited and we waited and finally I felt there was something really wrong. I thought, if he doesn't quit we're going to be called upon to do something. So I got the court together and we went back over to the Justice Building. Oh, it was the evening I got a call saying that Jim Guy had resigned as the governor and Huckabee is ready to be sworn in, so I went back down but the rest of the judges didn't. I went back down to the Capitol to swear him in.

ED: And that would've been in July, probably?

BJ: July.

ED: July of '96.

BJ: '96.

ED: And so you finished out that term and then in January went back to Fort Smith?

BJ: I came back to Fort Smith, thought about staying in Little Rock, had some opportunities to stay down there. We liked Little Rock very much but, you know, this is home. All our kids were here—well, three of the four were in Fort Smith.

ED: Yeah.

BJ: So we came back and I thought that my public service thing was all over. And it was until 2004. That's when…

ED: The master…

BJ: It was when [Justices] Tom Glaze and Bob Brown came and called on me.

ED: Yeah, let's talk about that. The two of them, Bob Brown and Tom Glaze went to visit… Did they come over here and visit you?

BJ: Yes.

ED: You and Newbern both. What did they tell you?

BJ: They outlined what was there. Of course, I knew what the *Lake View* case was about in general.

ED: This was the continuation of the *Lake View* case?

BJ: Yes.

ED: I guess to summarize, Judge Collins Kilgore had…

BJ: Declared that unconstitutional.

ED: Declared the whole system unconstitutional, because it did not provide an equal and suitable education for all Arkansas kids.

BJ: Efficient.

ED: And efficient.

BJ: And adequate, too.

ED: Efficient and adequate education for everybody. The legislature had met and done some things and adjourned and the case comes back in which the plaintiffs are saying, "No, they're not living up to it."

BJ: That's right.

ED: And so the Supreme Court confronted it once again—whether to reopen the case. They decide that they will assign this job of evaluating what had been done.

BJ: To two special masters.

ED: To special masters. And so they come to see you and Judge Newbern, who had retired a couple of years earlier?

BJ: Yeah.

ED: And so what did they tell you?

BJ: They said you'll conduct the hearings and do the studies and listen to the experts and report to them [the Supreme Court] our feelings about whether it was adequate. And so we just kind of then made up the rules as went along.

ED: So you all were sworn in, I guess, as masters?

BJ: We were sworn in as magistrates or as special masters. Special masters— that's what we were.

ED: Yes.

BJ: And we were given offices in the Justice Building with the Court of Appeals and given signs and secretarial help and some law clerks. J.D. [Gingerich, administrator of the courts, has lots of people out there, as you should know.

ED: Yeah.

BJ: But we got some of the more experienced ones. So then we did our work and made our initial report and it was favorable.

ED: Said that they had done, they had met the task.

BJ: That's right. This was a special session and it started in January, I think, '04.

ED: OK.

BJ: Lasted until April or so. And then I remember in '05 they'd had the regular session and did not keep up this stuff and it slipped back. But, see, by then the original lawyers were basically out of it.

ED: Yes.

BJ: And David Matthews intervened. He had basically taken over on behalf of the Bentonville School District because they were getting shortchanged just because of their tremendous growth.

ED: Yes.

BJ: And so David is running the show. I remember Mary Ellen and I were cruising down the Rhine River in Germany and I get a call on the boat. They were saying that they wanted to reappoint us. So then we were back down in '05 for another four, five, six months.

ED: Yes.

BJ: And then we were back again in '07.

ED: So you were reappointed in June of '05 and then in that October you delivered your second report.

BJ: Yes.

ED: In which you said, no they had not [complied with the Constitution].

BJ: That's right.

ED: They had backslid. And that they had not given priority to education as the Constitution required. And this time Mike Huckabee is governor.

BJ: That's right. And Mike had lost interest in it by then.

ED: Yeah, yeah. And we put that in the report. He's not as fully engaged this time as he was last time.

ED: And he was a little sore about that.

BJ: He was. But he wasn't. I mean, he played a major role the first time.

ED: Yes. And I guess twice he had appointed Betty Dickey, a Republican, as an interim justice, twice, once as chief justice.

BJ: Once as chief justice.

ED: And she went along with it.

BJ: She did.

ED: She went along with the tough stand.

BJ: Right down the line because we met with them, we met with the court.

ED: Yeah. I've always had a hunch that the fact that she went along with this influenced him because she had been on his staff, she had been his legal counsel.

BJ: Yeah.

ED: And he had a great deal of respect for her. That kind of turned him around and he became a pretty fierce advocate of school consolidation.

BJ: He really did.

ED: Tried to consolidate all schools below 1,500 students and succeeded in getting those abolished under 350. But he raised a lot of taxes; in fact he raised more taxes than any governor in Arkansas history during the years that she was on the court and increased the budget more than any other governor in Arkansas history. So was that enjoyable? That was rewarding; it had to be.

BJ: It really was.

ED: Because you all had big hand in one of the…

BJ: In many ways, as far as a personal feeling of accomplishing something, I feel better about that than I did my term as chief justice, because there you were actually seeing something being done.

ED: Yeah, yeah. And the effect of it is continuing.

BJ: That's right.

ED: Because as a result of that report and the order by the Supreme Court, the legislature is under notice that it must, every year, give priority to the school budget, must first

determine what an adequate education is and it must fund that before it funds anything else. And if there's hard times and the budget is slack and revenues don't come in, then they cut everything else before they cut education.

BJ: And you look around the state at the number of schools that are being built in these small towns.

ED: Yes.

BJ: Really, sometimes you're surprised at the size of the gymnasiums.

ED: Right.

BJ: But nevertheless, they're building schools.

ED: Your second report was that the money that they had set aside for capital improvements in the schools was grossly inadequate.

BJ: That's right.

ED: And so they greatly increased that and that's continuing. And they're under orders that they must forever do that. The legislature will convene again next month.

BJ: But they won't like it.

ED: And they've never liked it, but they must first set aside the money for the schools and guarantee that it will be there before they can fund anything else. In effect, that's what the law is now and that followed the second report of the masters.

BJ: Yeah.

ED: And the decree from the Supreme Court implementing it.

BJ: And, of course, David was a marvelous person to work with.

ED: Yes.

BJ: Well, he says the same of you. He thought that that was some of the best work that he had ever done in all his years on the court—what he did on that case. So then after that you were appointed a third time, I think.

BJ: Yeah, a third time.

ED: To evaluate what they did the next time.

BJ: Right.

ED: And that time you and David concluded that they had, this time, met the burden of proof.

BJ: And it's a complicated formula that they came up with.

ED: Yeah.

BJ: It's amazing to me that they were able to do it.

ED: With a term-limited legislature. I don't remember how much the governor had to do with the development of the formulas, but I think they had some smart people in the legislature that took the lead on that and got it done, a handful of them. Most of them just went along, but they had some good people working on it.

BJ: Well they had, you know. [State Senator] Jim Argue did a good job.

ED: And Jody Mahony was still involved at that time.

BJ: Jody, and there was a Republican senator from Benton County who was actively involved in the thing.

ED: Yes, yes. I've forgotten his name. Well, all right, so we've covered the special masters. Anything else that we need to cover?

BJ: I returned home and tried to keep a low profile.

ED: You're still continuing to practice law at Hardin Jesson?

BJ: If you could call it that.

ED: But you're keeping your hand in it? You're doing some practice?

BJ: I do some practice, I do. Some days I'll maybe just go and look at the computer and read the *Wall Street Journal*.

ED: OK.

BJ: The law firm is kind enough to put up with me.

ED: OK. Well, all right.

BJ: And I do some other odd things now that no one ever used to do. They've had mock trials for years, mock trials where they'll go out and select juries off the street and try a case just to see what the jury reaction is to this point or to that point, not just with criminal cases but big-time civil cases. That's now a common thing. Before you try a big civil case involving multi-, multi- millions of dollars you'll frequently go out and bring in a jury or have some jury consultants get a jury for you, a cross-section of people. Then you actually try your case to them, not both sides. If the defendants are doing it they'll hire some other plaintiff's lawyer, not the real plaintiff's lawyer, to put on the case and put on the damages. Here it is, jury. What do you think?

ED: So you do some of that?

BJ: Well, I do it at the next level, at the appellate. It's been so successful they're now doing it in some cases where some side gets an adverse decision. They'll get former justices together and you read the verdicts and you go through the oral arguments and do it that way.

ED: And so that gives them an idea: Should we proceed any further with this?

BJ: Yeah. Or is this a point? Should we stay away from this point or emphasize that point?

ED: Yeah, right.

BJ: But that's happening more and more. I've done it here and in Minnesota and in Illinois and a couple times in Arkansas, three times.

ED: Yeah.

BJ: Kind of a new field.

ED: So is that enjoyable?

BJ: Yeah, it is.

ED: Because there's no fallout from it.

BJ: No fallout, because you're not really deciding it.

ED: Yeah, yeah. OK. Well, I think that we'll just wrap this up. When we finish all this and get the transcript back there may be something else we need to cover that we can splice in or take out.

BJ: Splendid.

ED: So we'll do that. Thanks a lot for doing this.

BJ: It's been enjoyable. Thank you, Ernie.

ED: Thank you.