Arkansas Supreme Court Project

Arkansas Supreme Court Historical Society

Interview with

Conley F. Byrd

Little Rock, Arkansas

November 15, 2012

Interviewer: Ernest Dumas

Ernest Dumas: I am Ernie Dumas and I am interviewing Justice Conley F. Byrd. This interview is being held at his home on Byrd Road east of Redfield on November 15, 2012. The audio recording of this interview will be donated to the David and Barbara Pryor Center for Arkansas Oral and Visual History at the University of Arkansas. The recording transcript and any other related materials will be deposited and preserved forever in the Special Collections Department, University of Arkansas Libraries, Fayetteville. And the copyright will belong solely to the University of Arkansas and the Arkansas Supreme Court Historical Society. Would you please state your name and spell your name and indicate that you are willing to give the Pryor Center permission to make the audio file available to others?

Conley Byrd: All right. I'm Conley Byrd.

ED: And do you give your permission?

CB: I give you my permission to do anything you want to with it.

ED: Let's start off with your birth, when you were born.

CB: I was born in Poughkeepsie, Arkansas

ED: That's in Sharp County.

CB: In Sharp County.

ED: And Poughkeepsie is near Evening Shade?

CB: Well, it would be eight or nine miles from Evening Shade.

ED: And the date of birth?

CB: January 14, 1925.

ED: Your mama and your daddy—what were their names?

CB: My daddy was Robert Lee Byrd.

ED: And your mother?

CB: My mother was Artie Elizabeth Barnes.

ED: Artie? How do you spell that?

CB: A-R-T-I-E Elizabeth Barnes.

ED: That's Elizabeth with a Z?

CB: Yes.

ED: Where was she from?

CB: She was from Sharp County.

ED: How long had both families lived in Sharp County? Were they born there?

CB: My daddy's mother died during his childbirth. His mother's friend took him for a little while. And when she got married her new husband didn't want him. So he was switched around here and there. And he wound up at his Grandpa George Bland's place. There is a little community over there called Blandville. My mama's daddy and mother homesteaded one hundred sixty acres on the Strawberry River. If you go up there, you'll see a little low-water bridge and the name of it is Barnes Road. [The bridge is where the locals forded the river and is still called Molly Barnes' Ford after Justice Byrd's grandmother.] They had five children. I was the fourth one. My oldest sister died from malaria. That's when they moved from the bottoms in Mississippi County back to Sharp County, because of the mosquito problem. My oldest brother was thirteen years older than I was and did not have the education opportunities I had. I grew up with three girls, Nettie B, Johnnie and Artie Lee.

ED: What was the first one's name?

CB: Nettie B. She married Earvin Shirley when she was fifteen.

ED: The other sister's name was?

CB: Johnnie. Yeah, Johnnie and I were the bookworms in the family. For instance, I knew my multiplication tables before I entered school.

ED: So you were a math whiz?

CB: It came in handy through the years.

ED: What did your father do? Was he a farmer?

CB: He was a sharecropper.

ED: What did he raise? Did he raise cotton?

CB: He did. He raised cotton for cash supply. And we raised chickens, milk cows, and hogs.

ED: A lot of people don't realize that in the old days a lot of cotton was raised in the hills.

CB: Oh, yeah.

ED: People think of cotton as a Delta crop, with the deep topsoil in the flatlands.

CB: It is now. We picked it by hand.

ED: Did you pick a lot of cotton when you were a boy?

CB: Yeah. But I was not good at it.

ED: Was that purposeful?

CB: No. My sister Nettie B and her husband could pick a bale of cotton every two days. I did well to get a hundred and fifty pounds a day. My reflexes were slow.

ED: What age did you start picking cotton?

CB: About five. It was 1931. I was born in '25, so I guess I was about six.

ED: So you and your sisters all picked cotton?

CB: We all picked cotton. We all gathered beans, we all gathered peas. My mama, I think, canned a hundred and one quarts.

ED: So that was much of your food for the rest of the year. You canned the beans and many of the vegetables?

CB: We raised corn. One of the things I enjoyed raising was bell peppers. When I got home from school, I'd cut the top out of one and I'd go over to the bean patch and fill it full of beans, and that was my ice cream for the day.

ED: That was a pretty healthy diet.

CB: Well, I enjoyed it. I still do.

ED: You grew chickens, so you had eggs?

CB: We had chickens. They were inside the fence. We had one Ancona chicken. There was a little spot up there at the top of the corncrib about this big [forms a hole with his hands], and that cotton-pickin' chicken could fly through there.

ED: And you raised hogs?

CB: We fattened the hogs up. When we killed them, we'd put them in boiling water and scrape the hair off.

ED: I'm familiar with that. I never liked it. The odor was pretty bad.

CB: It was food. By the time I was ten years old, I was salting those hams so they would cure.

ED: Did you have a milk cow?

CB: Oh, yeah. And I had a milk cow down here. You wouldn't believe it, but that Jersey gave seven gallons of milk a day.

ED: Seven gallons a day? What did you do with all that milk?

CB: I gave it to everybody who wanted it and then fed it to the dogs.

ED: No wonder those dogs are so happy around here. They grew up on whole milk.

CB: That jersey cream is a good diet. I'd get up and drink a big glass of Jersey cream, go milk that cow, and come back and eat three or four eggs for breakfast.

ED: Did you churn that cream into butter?

CB: Oh, yeah. We churned it.

ED: So you produced your own milk, your own eggs and your own butter?

CB: "Shorty Frances" grew up down here at what they call Hardin Hollow. ["Shorty Frances" was his nickname for his future wife, Frances Hardin.] It's Tar Camp now. She did the same thing. She picked cotton. She helped with the chickens. You name it.

ED: This was during the Depression. You were five or six at the depth of the Depression.

CB: We used a log behind the barn for the bathroom.

ED: A log?

CB: We sat on a log for the bathroom. We didn't have an outdoor toilet.

ED: Where did you go to school?

CB: Poughkeepsie.

ED: Poughkeepsie, all the way through, all twelve grades?

CB: I graduated from high school in 1943.

ED: How big was the high school? How many in the graduating class?

CB: Twelve to fifteen every year.

ED: Was it a good school? Pretty good teachers?

CB: Let me tell you about it. I thought it was a good school. Kenneth Stutts didn't agree with me. I went to the reunion one year. Kenneth Stutts was there. I counted nine people there who were superintendents around the state. I said, "Look, there's proof that Lloyd Goff did something pretty good," and Kenneth Stutts started berating him. The only odd thing about that was he [Stutts] had developed the laser-guidance system.

ED: But he thought did it all on his own?

CB: Well, what the school did was create curiosity. And Paul Ward said you're not educated until you get curiosity. I think he was right about that. Paul Ward was a relative of Governor Baxter, who was elected after the Civil War.

ED: Elisha Baxter.

CB: I don't know what his first name was.

ED: It was Elisha Baxter. He was a Republican. That was during Reconstruction. He was one of the principals in the Brooks-Baxter War, with Joseph Brooks, as I recall.

CB: Yeah, a Carpetbag governor. There used to be some pockmarks on the old Capitol building from the bullets.

ED: Where was Paul Ward from?

CB: He was from Independence County.

ED: Did you know him growing up?

CB: He was the chancellor in our area.

ED: Let's go back a little. You graduated from high school. Did you go to college?

CB: No.

ED: The war comes along.

CB: I got drafted into the Navy.

ED: When?

CB: Forty-three. May 20, 1943. They sent me to radar school in Oahu, Hawaii. I learned the instructions on how to dead-reckon the speed of aircraft. From the radar. You could take the radar and draw a graph to determine how fast the aircraft was going and where it was headed. We'd get a new ensign every time we

hit port. One officer would go off and another one would come on. The executive officer realized that I had that kind of skill. So he turned me over to teach those ensigns how to do it. And I'm a seaman, second-class.

ED: You're a seaman second-class and you're teaching everyone how radar worked.

CB: It got a little embarrassing. So one day the Sea Division officer, Bob Shultz, handed me a book and said, "I want you to read that book and we're going to give you a test this afternoon." I said, "Yes sir." I could read fast.

ED: What was the book? Was it about radar?

CB: No, it was first-class petty officer. Well, first-class seaman is what it was. I took the test in thirty or forty minutes and aced it. I became a seaman first-class that day. It's the second-highest sailor. The next day, the executive officer gave me another book and said, "I want you to read that and we're going to give you a test." I made a third-class petty officer that day.

ED: Now, those are fast promotions.

CB: Well, I could do it. They handed me that book and gave me about two hours to take the test. When I was in high school, I read every book in the library except *Wuthering Heights* [by Emily Brontë].

ED: Did you ever read *Wuthering Heights*?

CB: No.

ED: Well, I recommend it.

CB: I know. But it was about crazy people, and I put up with enough of them.

ED: All right. So, you were teaching other sailors about radar.

CB: No, we were running the radar room. Those ensigns would come up there and we'd teach them how to do the dead reckoning. On one particular occasion we were out there where they were flying kamikazes. I got curious about how the Japanese could find a pilot who would get on one of those kamikazes, because he knew it was a one-way deal to death. He couldn't turn around and go back. The Swiss Embassy educated me. They said the Japanese worshiped the emperor. Well, we got into a typhoon. I don't know if you know anything about typhoons, but they're rough. Our ship rolled starboard seventy degrees. It poured all the mercury out of the gyrocompasses. While that was going on, I was praying that

when this war was over Christianity could reach the people of Japan and be taught to anybody who would listen, and the ship straightened back up. I served twenty-five months and fifteen days in the South Pacific. We were at Tarawa. Do you know what Tarawa is?

ED: No.

CB: It's an island [in the Gilbert Islands]. In World War II an airplane couldn't fly from Los Angeles to Japan. It had to land in between and take on fuel. They needed Tarawa for an airport. They shot it up a little bit and sent some Marines in. We were an antisubmarine ship. The next morning we went up to Tarawa. There were sixteen hundred Marines floating in the water. The admiral said we don't worry about that ammunition supply back there. When they got through shooting at Tarawa, there was one palm tree left and its top was shot out.

ED: Good grief.

CB: Then, Admiral [Chester W.] Nimitz [commander of the Pacific Fleet] and . . . I forget the commander of the Marines. His name was Tommy something. . . They decided they would go and look the island over. You remember Jimmy Charton? The blue-flame fellow? People pronounced it CHARton. But up in Conway County, among that French group, it's Jimmy CharTOHN. He saw this Japanese machinegun turning. He yelled down to Tommy and threw a grenade in and got rid of the machinegun. Admiral Nimitz wanted to give him the Congressional Medal of Honor, but he said all he wanted to be was an officer. He was nineteen years old. When we got back to Hawaii, there was this nineteen-year-old warrant officer. He was later my neighbor back in Little Rock.

Then they sent us to Eniwetok. That's another island [in the Marshall Islands]. We were the first ship in there. We had nineteen air raids that night. The Japanese were flying reconnaissance planes up there at about fifty thousand feet. Our three-inch guns wouldn't reach them.

ED: What was the name of your ship?

CB: USS Harold C. Thomas.

ED: OK.

CB: We turned out to be the command ship. The next day, the whole Seventh Fleet and two British cruisers came in. I had to man the radio, the radar shack. We had one of those TBS radios. We had to keep the volume turned up high to make sure you could hear. Those British cruisers came in and parked about as close to us as those oak trees out there. They stank like hell. You know, they don't clean up. They get on that TBS radio and they say, "Hello, hello. This is the Queen Mary. How do you hear me? Over." Four by four is perfect, but it went down to one, which is a problem. That went on for three or four days. About the fourth day, the best Southern drawl I ever heard got on the TBS system and said, "Hello Queen Mary, hello Queen Mary. I hear you two by two. Too damned clear, and too damned often."

ED: Do you know who he was?

CB: I don't know who he was, but it was the best Southern drawl I ever heard.

ED: Did you suffer some hearing loss over there?

CB: Well, yeah. We had a drone flying over for practice. One of the gunner mates knew it was going to happen. I was lying down under one of those three-inchers sleeping. And he shot it off. And that's when I lost my hearing. I've had trouble hearing ever since.

ED: Did you lose it in one ear or both ears?

CB: Both ears. I don't know whether you've ever heard a three-incher go off, but it's a big boom. The muzzle of that three-incher would have been no more than six feet from me. Now, I spent twenty-five months and fifteen days in the South Pacific and thirty months and four days in the Navy. They sent us back to San Pedro [California] to decommission that ship.

ED: That was at the end of the war?

CB: Yeah. I kept asking when they were going to decommission it. They pointed out to me—some of the officers did—that some of the testing equipment we had we didn't have a record of and we've got to go find it. I said, "Oh, hell, I said I can solve that problem," and I walked out on the deck and tossed them [the equipment] overboard.

ED: Where were you when they dropped the bombs at Hiroshima and Nagasaki?

CB: We were out pretty close to Eniwetok. I knew they were going to do it. They had practiced with those B-25 dive-bombers over an airstrip there in Texas the size of a carrier. They would put them on those carriers and fly them off. It was the boom. You could hear it.

ED: You could hear it?

CB: Oh, yeah. You could hear it.

ED: Did the sky brighten? Could you see the light?

CB: I was in a radar shack, so there was no visibility outside.

ED: But you could hear it?

CB: Yeah.

ED: How far away do you think they were? Three or four hundred miles, or farther?

CB: Yeah, probably. The odd thing about it was one of my high school classmates got sent to Annapolis. And another one, Harold Biggs—his daddy was a rural mail carrier, the man that Wilbur Mills contacted for the hearing. You see Wilbur Mills over there?

ED: Oh, yes, that's Mr. Wilbur. You're pointing to a bust over your fireplace.

CB: That's my hat on him. At any rate, Raymond Norris, for some reason or other, didn't go overseas. But, when the war was over, they shipped them to Japan to clean up all that stuff from the atomic bombs, and both of them died in their forties.

ED: Radiation?

CB: Radiation. So I was fortunate that I got my honorable discharge from the Navy on November 24, 1945. And I didn't turn twenty-one until January 14, '46. I showed up at Arkansas State [College] at Jonesboro to go to school and they had me take all those cotton-pickin' tests, you know.

ED: Entrance exams?

CB: Well, they tested your IQ and all that kind of stuff. I had to give them all my high school records, which were straight A's. I clepped out thirty-five college hours the day I entered college.

ED: So you clepped out of your whole freshman year. This is under the GI Bill obviously?

CB: My roommate was Bly Story. He was from Cave City.

ED: Did you know him from back there?

CB: Oh, yeah. I went to Cave City schools for two years.

ED: Before you went to Poughkeepsie High?

CB: Yes.

ED: Did you ride a bus to Cave City?

CB: Yeah, I rode a bus—or hitchhiked. I hitchhiked a lot.

ED: It wasn't far from Poughkeepsie to Cave City, was it?

CB: It would take you two hours by car to get there. I had two girlfriends going to teachers college. One of them was from Sidney [Sharp County] and the other was from Cave City. They were taking home ec and they had to go to the home ec room. They were dating Bly Story. One day, Bly got an envelope about that thick [holds up fingers].

ED: About two inches thick.

CB: So we switched, at Bly's request. He had a vehicle. He had been in the Air Force. We went to teachers college for a year.

ED: At Conway? At that time, it was called Arkansas State Teachers College—or, no, maybe it was something else at that time.

CB: Normal School. [Actually, the Arkansas State Normal School changed its name to Arkansas State Teachers College in 1925, though many still called it "Normal School."] Frances Butler went to Normal School. Governor Ben Laney had been one of her classmates. At any rate, that's where I met Frances [Hardin, his future wife]. I was in class with her. She was just one of the girls there.

ED: Where was Frances from?

CB: She was from here. Redfield. Well, down there at Tar Camp.

ED: So that's why you moved here to live? She was from here.

CB: Well, it's where we could find a place to live. We bought this farm, with Frances's sister [Willie Mae Murdock]. It was three hundred eighty acres to start out with.

ED: Frances's last name was what?

CB: Hardin. The elementary school here was named after her father.

ED: Yes, I passed by it on the way here.

CB: She gave the best book report I ever heard. I saw her at the Corner Café one day and I asked if I could walk her home. She said yes, but I lost the footrace. I couldn't run as fast as she did. When we got to Fayetteville . . . I went to law school the next year.

ED: So, you went one year to Jonesboro, Arkansas State?

CB: Yes. And one year at Teachers College [Arkansas State Teachers College, later University of Central Arkansas].

ED: At Conway.

CB: Yes. I had sixty-five college hours. I enrolled in law school at Fayetteville, and Frances transferred up there to go to college. We had to take all those entrance exams, IQ and that kind of stuff. She sat across the table from me. When she ran onto a question she didn't know the answer to, I'd tell her. About two days later, I was going to the Student Union for coffee, and she had had a roommate, Helen Whistle, from Paragould. They were crying. They wanted to know if I had some change so they could call Dean Ferguson at teachers college and see if they could go back. I talked to her. "I said you should give yourself a little time because you may meet some character you want to marry."

Charlie Wilson was from Dumas, and he had a Buick up there. He roomed in one of those huts just south of the football field. They had a function at Carnall Hall, where Frances was, and Charlie said, "Let's get a couple of dates and go dancing." I said, all right, and I asked Frances. She and Pat Patrum agreed they would go with us. I walked out in the hall as they were going up the stairs. I listened to what was going on. Frances was telling Pat Patrum that I was hers. Frances kept up with my class hours, and when I went to the Student Union for coffee she would be there. We dated some. Lady Louise Chenault was the dietitian for the University of Arkansas. I called her Lady Louise. Never been married. Frances graduated in May of '49. In April of 1949, she [Lady Louise] came over to the table where I was drinking coffee and said, "When are you and Frances going to get married?" I said, "Lady Louise, there are two or three problems to that. The first one is that with all these serviceman coming back you

can't find an apartment to live in. And Frances has got to go find a job somewhere when she gets her diploma. Now, this was about ten o'clock in the morning. I had a room at 20 South Hill. The landlady was a little gray-haired lady about my age [now]—in her eighties. When I walked back to my room to get ready for my two o'clock class, she walked out in the hall and said, "Do you and Frances want to get married and live here, or do you have that problem?" I thought, "Oh, damn." Then I realized that Lady Louise Brewer had been working things out. When I got out of my two o'clock class, about three, Frances met me like she usually did. Lady Louise came over to the table and said, "Frances will be my secretary next year." So, we got married on Labor Day of '49. And she was still my roommate on August 22 [2012], when she died. Almost sixty-three years. I sure have missed her [sobs briefly].

[Briefly, Frances Hardin Byrd taught in the Little Rock and Pulaski County schools for a number of years, farmed, and edited the Redfield weekly newspaper for ten years.]

Frances was a very capable lady. She organized the high school reunions here. Paul and Jane were running the little *Redfield Update*, and they decided they would go to law school. Frances said, "I think I'll take that over." So we got into the newspaper business. We enjoyed it and I bought a computer and I typed all the type. We set up a table with the stuff you pasted it up with.

ED: When did you take over the newspaper?

CB: Damn. I can't tell you dates anymore. At any rate, one issue came out and the ad for the Methodist Church said the "Untied Methodist Church."

ED: The Untied Methodist Church?

CB: A neighbor up here was Euel Dean Goodman. In the paper, it got to be Evil Dean Goodman.

ED: So you're familiar with the gremlins in the newspaper that all of us experience? We had to endure those embarrassments.

CB: The minister at the United Methodist Church worked for the *Democrat*. He wrote stories. He wrote a story about all those misspelled words and enjoyed the hell out

of it. They had paid for the ad. He said they got more discussion about that ad than anything they had ever set out before.

ED: What was the name of the newspaper again?

CB: The *Redfield Update*. It was a weekly.

ED: Did the kids start that paper?

CB: No, it was a monthly. There was a story about that.

ED: Would that have been in the '90s?

CB: It could have been.

ED: Was Paul part of it?

CB: Paul was working there before, but they turned it loose and Frances started it. She had an ad in there that personal ads were free. She got a long-distance call from Los Angeles, and he wanted to know if he could run an ad. She said, "What kind of ad do you want?" He told her he was thanking his mother, and he named his mother. And she said, "Are you John?" He was.

ED: So how many years did y'all put out the newspaper?

CB: I don't know. Maybe six. At any rate, we have four children. The oldest is Conley Jr.

ED: When was he born?

CB: 1950.

ED: He's now a veterinarian at Redfield.

CB: Yes. Our next one was Suse [Susan Byrd Holmes]. She's [U.S. District Judge] Leon Holmes' wife.

ED: Suse? But her name is Susan and you just call her Suse?

CB: Susan, but I've called her Suse all my life. She has been a journalist, raised five children and successfully home-schooled them.

ED: And then you had Paul. He was born in . . .

CB: 1956. And then Margaret in 1968. I'll tell you something. Margaret was twenty-one and she graduated from Harding University. And she got a job selling stock for the Arkansas Help [or Health] Fund running around over the state. She needed a telephone credit card, so she borrowed her mama's.

It was November 1. What we would do is, I would type the labels and send those papers out. Frances learned that if we took take the papers for Hensley to Hensley, the ones from Jefferson to Jefferson and the ones to Pine Bluff to Pine Bluff and what have you, your ads with the date on them would still be good. After we got all those papers mailed on November 1, Frances came by the mailbox and got a telephone bill. Margaret had forty-six dollars worth of calls on it. They sat down and had a discussion about it and Margaret coughed up the forty-six dollars. And the next was December 1, when we got all those paper mailed. She went down to the mailbox and she came back with a telephone bill. Two hundred fifty-six dollars on the credit card. She was livid over that. Margaret was dating David Dobson. They had met at Harding University. She had come by and said "Daddy, I'll see you" before we had got the papers in the mail. Frances was raising hell for thirty minutes about that two hundred fifty-six dollars. The telephone rang. Margaret said, "Daddy, tell mama she's got a new son-in-law."

ED: That took care of the two hundred and fifty six dollars?

CB: All Frances could talk about was that cotton-pickin' two-hundred-fifty-six-dollar telephone bill. I got on the phone and called all the siblings and told them that Margaret had gotten married. About thirty minutes later, Suse called down here and said, "Where is she?" Frances said, "I guess she's at El Dorado with THAT BOY." Suse said, "If I had a telephone number I'd call her." Frances said, "I've got ten pages of them." David turned out to be a son-in-law that always helped us.

ED: She's now practicing law at Sheridan, and Paul is practicing law at Little Rock.

CB: Margaret's husband owns thirteen rent houses.

ED: Let's go back. You graduated from the University of Arkansas in. . .

CB: 1950.

ED: And you got a law degree. In those days, I should explain, you could go to law school without a bachelor's degree. So, did you graduate and take the bar the same year, in 1950?

CB: I got sworn in at Little Rock. I arranged for a house at Evening Shade, and I had a milk cow that I had bought at an auction. My in-laws, Alfred and Muriel, had Ivan Kimmel get a ton-and-a-half truck. Ivan's son, Alfred, still takes care of us

except during deer season. Anyway, he hauled everything we had up there and the milk cow to Evening Shade in that truck. I practiced law in Evening Shade for a while.

ED: Was there a pretty active bar association in Evening Shade?

CB: No.

ED: There couldn't have been over two lawyers in the whole county, was there?

CB: There was one at Hardy, maybe two, I don't know.

ED: Did you practice out of your house at Evening Shade, or did you have an office?

CB: I had an office. I counted up one day and figured that if I got involved in every lawsuit I couldn't make the kind of living I wanted to. So I applied to Wilbur Mills to get a job. He got me one in the office that catches employers not paying overtime—what do you call it?

ED: The Wage and Hour Division of the Labor Department?

CB: Wage and Hour, yes.

ED: Down in Little Rock?

CB: No, in Washington. But I caught the plane at Memphis to fly to Washington, D.C. The passenger next to me when they cranked the engines up could see the smoke. I said, "Look there, you can see physics in action." It turned out that he was the head construction man from Babcock and Wilcox Company. He had constructed Lindbergh's plane. Mr. Wilcox developed the first seamless tubes for boilers. Before that, they had to be welded. That created problems because of leaks in weak spots. He called me and said if you'll get out of that D.C. traffic I'll give you a job.

ED: And you had not even gotten to Washington?

CB: I had just gotten there and he was in Washington, D.C., and he called me from breakfast. John. . . .the labor boss. . . was sitting in there eating breakfast with us when I talked to him.

ED: Labor boss? Was he with the AFL-CIO?

CB: The coal miners union.

ED: John L. Lewis? He was head of the miners union.

CB: Yes, John Lewis. Anyway, I transferred to Barberton, Ohio. And they put me into doing brickwork, getting prices on brickwork.

ED: This is with Babcock and Wilcox?

CB: Yeah, with Joe Gilroy. Joe was a small man. He probably weighed a hundred and twenty-five pounds. His daddy had insisted that he take shorthand and typing in high school, and the first job he got was with Babcock and Wilcox. I didn't realize what a big shot he was until I had been there about four months and found out that he was the only man in the company who could write a check for more than a quarter-of-a-million dollars without a countersignature.

ED: What kind of work were you doing?

CB: Seeing how much brick needed to go into one of those boilers, and we were getting bids on it. He didn't always take the low bidder, and I had a little trouble understanding that for a while. He got around to explaining to me that if you get a brick contractor who slows the job down it costs you more than what you're paying him. We're talking about a three-and-a-half-million-dollar boiler.

We stayed up there about a year, in Barberton, Ohio. They had a ten-inch snow. We didn't have a telephone, but Frances' daddy figured out how to call a neighbor next door, who came over and got us, and they wanted us to come to Arkansas. So I said all right. I told Joe Gilroy that I had enjoyed working with him and was sorry we had so many differences of opinion. He said, "I'm not. Son, if you send two guys out to dig a ditch and they never have any differences, one or both of them don't give a damn." I got educated.

At any rate, I came down here. A friend of Paul Ward found out I was in Arkansas.

ED: What did you come back to Arkansas to do?

CB: He got me a job in the Revenue Department, assistant attorney in the Revenue Department. From there I went down to Pine Bluff to practice law.

ED: Now, Paul Ward got you the job in the Revenue Department?

CB: Yeah.

ED: Was he on the Supreme Court at that time?

CB: He was. I helped him get elected. I campaigned for him.

ED: When was that campaign, when he got elected to the Supreme Court?

CB: ’48.

ED: So you go down to Pine Bluff to practice law.

CB: Yes. They weren’t paying me very well. Paul Ward and Pat Mullis were pretty good friends.

ED: Pat Mullis. He was the prosecuting attorney.

CB: Yes. Paul Ward called me up and said I could be the Supreme Court reporter. They paid me one hundred fifty dollars a month and they paid Frances one hundred twenty-five dollars to be my secretary.

ED: So what did you do? Did you prepare the head notes?

CB: I prepared the head notes and oversaw the printing of the books. When the first book came out and the backs fell off them I went down to Crip Hall’s office [Secretary of State C. G. “Crip” Hall]. I told him I couldn’t approve payment on those. He told. . .oh I’ll think of his name in a minute, the congressman’s son—Glover. [David D. Glover, congressman from the Sixth District, 1929–35] I handed them one of the books. He [Glover] picked it up and the back fell off. He called Democrat Printing and Lithographing Company [DP&L] and they came out and got those books and rebound them.

Then I found I found out I had an advanced case of TB. I went to Booneville, I thought to die. [The Arkansas Tuberculosis Sanatorium was at Booneville.]

ED: What year would that have been?

CB: June 4, 1954. They couldn’t give me Thorax because my lungs had grown to my pleural wall from the adhesions I had. About that time, some of the new drugs came out.

ED: Sulfur drugs probably.

CB: One of them was streptomycin. They put me on it. They called it PAS. [Streptomycin PAS, or 4-aminosalicylic acid, was an antibiotic used to treat tuberculosis.] You could get a quart a month. You take eight pills three times a day.

ED: You were kind of a guinea pig.

CB: My roommate, Howard Garner, owned a dragline and heavy-dirt-equipment business, and he was paying for his bill. Jefferson County was paying for mine. They put him on isoniazid. We were the first two outpatients from the Booneville TB Sanatorium. I had written a letter of resignation to the Supreme Court that they wouldn't accept. Frances went over there and handled my job and so did Kay Matthews. [Kay L. Matthews of Little Rock, later Pulaski County chancery judge]

ED: So Frances and Kay Matthews did the head notes and the other stuff that you did?

CB: From June 24 to October 26. And then I got acquainted with Johnny Wells. I don't know how well you know Johnny Wells.

ED: I knew Johnny. John F. Wells, who owned General Publishing Company.

CB: Well, at one time he had been the editor of the *Arkansas Gazette*.

ED: Yes, he had been political reporter and city editor of the *Gazette,* and after that executive secretary to Governor Carl Bailey.

CB: Yeah, but when Ben Laney got elected governor [1944], he coached Ben Laney on the Revenue Stabilization Law [enacted in 1947]. Before that, you would get an appropriation, but you might or might not get it funded. And they put in the Revenue Stabilization Law so that every state agency knew the first of the month whether it was going to get money because they categorized them. It got the state out of bankruptcy. At any rate, he started publishing the weekly opinions and getting them out to the lawyers. After about six months, he started paging them and he knew how many pages it would take to make a book. It was real handy. Now when I ran for office, there were four of us ran for office that year. . .

ED: Now, you're jumping forward to 1966, right? Let's go back. When did you start practicing law?

CB: I started practicing law in 1960.

ED: Where did you practice, in Little Rock from the first?

CB: In Little Rock.

ED: What kind of law did you practice?

CB: Mostly real estate. Personal.

ED: Domestic stuff? Whatever came through the door?

CB: Whatever came through the door.

ED: Did you have a solo practice?

CB: Yes. And Howard Garner was buying up property out there behind Pine Manor. He got fifteen acres cleared up with sewer and whatever, and he sold it for seven hundred fifty thousand dollars. Some of those other lawyers in Little Rock realized that Conley Byrd was running that show. It made a difference in how they respected you. At any rate, Frances and I would play pitch at Paul Ward's house at least once a week. One Sunday evening [in 1966], he told me that Frank Holt was going to resign and run for governor and that there would be an opening on the court. Frances and I went home and talked about it. We decided that we would run for the Supreme Court. Then I heard that Bruce Bullion was running. Bruce was my friend. Now, I liked him.

ED: That's Bruce T. Bullion. He was in practice with Eugene Warren, right?

CB: Yeah. He was in the Carl Bailey firm. I called him up thinking I would flip a coin with him. But he said, "I'll see you on the campaign trail." He was past president of the Arkansas Bar Association and had one of the best law practices in the state.

ED: What were you thinking, that you could beat Bruce Bullion?

CB: Well, I looked at it this way: The advertising that you would get running for office would help your law practice.

ED: If you lost, you'd still benefit?

CB: Yes. So I spent my own money.

ED: How much did you spend?

CB: $10,556. It was my money. When I was campaigning and someone would offer me money, I would say the only thing I could do with any money you gave me would be to go hire somebody to campaign for me. And if I can get you to make a few telephone calls for me it would be worth a helluva lot more than anybody I could hire. It worked. I beat Bruce by eight thousand votes.

ED: Let me give you the figures exactly. You actually beat him by about nine thousand votes: 173,200 to 163,939.

CB: I enjoyed doing the campaign. I had a fourteen thousand-vote lead on Tuesday night. A friend of mine from Arkadelphia called me up and said "Conley, they're

trying to change the votes. Call all the counties and get your votes right now." I had B. B. Cunningham do it for me.

B. B. was a character. While I was in Little Rock, I had a zoning case and I needed an expert witness. B. B.'s wife's name was Ruth, but she was a honey blonde and we always called her "Honey." I went by B. B.'s office on November 1 and said, "Honey, where's B. B." She said, "Oh, he's duck hunting." I went back the day after Thanksgiving and asked, "Where's B. B.?" She said, "He's duck hunting." I said, "When is he going to come home?" She said, "Well, duck-hunting season is over January 4 and I'm sure he'll be home the next day."

Two or three years later, they belonged to the KY Club. I don't know whether you ever heard of it.

ED: What club?

CB: KY Club.

ED: What does KY Stand for?

CB: Hell, I don't know, but it was the name of the club. It was a small place. They could only sleep forty-six people, and the fireplace would take three-foot wood. They invited [Associate Justice] John [A.] Fogleman and me down there after recess on December 22. We got down there and the total conversation was about how they could make the duck hunt Christmas morning and get back in time to take care of the family affairs. Monsignor [James] O'Connell had some kind of affair that he had to take care of. And then they wanted to get back down there in time to do some more duck hunting that afternoon. John Fogleman got a big charge out of it. Monsignor O'Connell's right-hand man finally figured it out. He went and rented a single-engine Cessna and picked them up after the duck hunting and flew them to Little Rock. They met all their functions and went back out there, and then he flew them back. Now, let's go back to the other subjects.

ED: Let's go back to that 1966 campaign. It was an amazing year. You had four out of the seven Supreme Court justices retire. So you had four new justices come in: You, John Fogleman, Lyle Brown, and J. Fred Jones. Fogleman was a lawyer at West Memphis, Lyle Brown was a circuit judge at Hope, I believe, and Fred Jones was a lawyer at Little Rock.

CB: You know, all of them spent somewhere between one and two hundred thousand dollars campaigning. And I spent $10,556.

ED: If I could insert this: I was covering politics for the *Arkansas Gazette*. I was shocked that Conley Byrd, whom I had never heard of before you filed, had beaten Bruce Bullion, a prominent member of the statewide bar.

CB: We were going to the Pink Tomato Festival at Warren. That's back when your license tag showed you what county you lived in. When we got up here before you turn off to Hensley, there was a Fort Smith license tag and a woman and three little girls were sitting in it. When she told us what had happened, I had driven one of those Chevrolets before and I realized that the timing chain had broken. Her husband was going to Redfield to see about getting it fixed. It was after twelve o'clock and all the parts places were closed. So I told Frances . . . We had a Nash car and a new Chevrolet. Both of them were air-conditioned. I said we need to go back and get that other car for them. They were going down to Mississippi and visit the dean at Ole Miss. We went back. I got back about the time her husband got back up there. He had to hitchhike to get there. I told them they could take my car and go on down there, and they'd be back on Tuesday. They'll have your car fixed by then. They pulled it into F. E. Beitz, Jr.'s mechanic shop. I apologized to them for that four-by-eight sign I had on top of my car. I said, "I need all the advertising I can get." I didn't realize how much I was going to get.

ED: A "Conley Byrd for Supreme Court" sign on top?

CB: Yes, a four-by-eight sign. He drove it down there that week. The dean of Ole Miss wrote every newspaper and every college president in the state and told them, "This is the kind of folks you need in public office." Charles Allbright [author of the *Gazette*'s Arkansas Traveler column] wrote it up for the *Gazette*. He said he was sorry they couldn't put my name in there. That was some of the fun we had.

ED: Your son Paul, I guess, traveled with you a lot during that campaign.

CB: I'll tell you a story about that. Pete Rogers was the chairman of the Democratic Party, in Independence County. He ran an abstract business. I had run an abstract business in Evening Shade. We would call on the lawyers, the mayors, and what

have you. Conley [Jr.] and Paul would fan out over town and pass my cards out. When I got in Pete Rogers's office and told his secretary that my name was Conley Byrd, he started laughing. He said, "I need to explain to you. I had the funniest incident a while ago." He said, "I was in Paul's Men's Store and a little freckle-faced boy handed me one of your cards and said, 'Would you vote for my daddy?' I said 'I don't know. What do you know about him?' He said, 'Well, he's born up here in Sharp County.' And I asked him, 'Is he any good?' And that little freckle-faced boy said, 'We think so, but we're a little prejudiced.'"

ED: That was Paul. Paul would have been nine then?

CB: Nine years old.

ED: I should point out that the campaigning in those days would have been probably in August. The primaries in those days were in July and August.

CB: It was July.

ED: School was out.

CB: We went through El Dorado. Bruce always advertised that he was a member of the Little Rock Country Club. That didn't mean much to you, but it did to the Jews, because they wouldn't accept a Jew or a black. The mayor of El Dorado was a Jew [Irving L. Pesses]. I called on him and told him I would appreciate his consideration. He said, "Who's your opponent?" I told him, and I said he was one of Arkansas's better lawyers. Bruce was campaigning down there that day. One of the better lawyers there in El Dorado was taking him to the country club for lunch. The mayor and I met the two of them out there in the middle of the street. The mayor said to the lawyer, "What do you know about these two folks?" I said, "Oh, mayor you don't have to worry about Mr. Bullion. It just happens that we're applying for the same job." That lawyer said, "Well, I know him," pointing to Bruce, "but I don't know him," pointing to me. The mayor and I walked on and got about halfway across the street. I was going to the Courthouse. He turned around and looked back and said, "the son of a bitch." The lawyer's son was in the legislature here for a long time. I knew all of the lawyers at the time.

ED: Shall we shut this off and let you rest a minute?

CB: Let's get back to the Supreme Court. It's the most pleasant job I ever had. I didn't like the politics. Earl Warren was the chief justice of the U. S. Supreme Court [1953–69]. He advocated that judges ought to legislate. If you read *Roe v. Wade,* it's thirty-five pages of legislation. We had a case come up from El Dorado, an adoption case. The Uniform Adoption Code had a clause in it that within thirty days of the time the mother turns that baby loose she can go get it back. Well, that mother wanted her baby back. Charlie Murphy testified for the adopting parents. [Charles Murphy was the head of Murphy Corporation, the global exploration company based at El Dorado.] The local judge did what Charlie Murphy told him to do. When it got to the Supreme Court, all the other judges went with Charlie Murphy and voted to affirm it. I wrote a banty-hen dissent. I don't know if you read it or not.

ED: I probably did. I probably wrote about it for the *Gazette*. I covered the Supreme Court in those days. But your dissent said that the mother should get her child back?

CB: That's what the statute provided. They were just legislating.

ED: Was it six to one?

CB: Yes. At any rate, we had another case on whether Big Island, the other side of Lake Village. . .

ED: The island out in the middle of the Mississippi River. . .

CB: Yes, whether it was in Arkansas or Mississippi. A federal judge over in Mississippi ruled that it was in Mississippi. When the deer hunters got into the state court down there, the trial judge ruled that it was in Arkansas. When it got up to the Supreme Court, they all ruled that it was in Arkansas, and I wrote a dissent. [*Arkansas Land & Cattle Co. v. Anderson-Tully Co*.] It was appealed to the United States Supreme Court. I'm told that they cited my dissent in reversing it.

ED: That was another six-to-one decision, where you were the lone dissenter.

CB: The lone dissenter. On that adoption case, when Jack Holt [Jr.] got on the Supreme Court, they adopted my dissent.

ED: Jack Holt went on the court in 1985 as chief justice, and you left the court at the end of 1980.

CB: Yes. Another case. They hired a fellow named Mitchell to write the insurance code.

ED: Probably the Mitchell Law Firm.

CB: No, it was someone else, from somewhere else. Anyway, he did a good job. When it got down to voiding a policy for fraud, he had me look up the Kentucky cases. Kentucky had a statute that after two years you couldn't use fraud to void a policy. [Justice] George Rose Smith voted with...I can't remember his name…the McMath law firm …

ED: Henry Woods?

CB: Henry Woods. He always voted with Henry Woods. I wrote a dissent in that one. You couldn't miss my dissent. You could hear it. Well, about eight or nine years later I got a big brown envelope from John Fogleman. He said, "Look here, one of your dissents has become the majority."

Another political thing I ran into was adoption of the criminal code. Jim Guy Tucker wrote it.

ED: Tucker was the attorney general. I think work got started on revising the criminal code under Ray Thornton, when he was attorney general. Then Jim Guy Tucker took over, and the Criminal Code Revision Commission's work was finished and adopted.

CB: It had a provision that the municipal judges could sign search warrants in the sheriff's office so the sheriff's office could fill them out. That didn't sound right to me. Another was that officers could go break the door down to your house without knocking. I objected to that.

ED: Were those cases that came to the Supreme Court?

CB: In criminal law anywhere. Officers could just break the door down. They didn't have to knock. There was another provision or two. I finally got the Municipal Judges Association to get rid of the one about the search warrant. I argued vociferously about that no-knock provision. And when I raised another issue,

George Rose, who was writing the majority view, gave me a barnyard cussing. He called me a son of a bitch.

ED: That was in conference?

CB: Yeah. When he did that, [Justice] Frank Holt and [Chief Justice] Carleton Harris jumped up and got chairs, because they thought they were going to have to separate a fight. I sat back and I said, "You know, George, I always heard about a son of a bitch, but I've never seen one. In fact, I don't know that one actually exists. But I want you to know that, if I am what you say I am, I aim to be a good one." Everybody relaxed. We went back to deciding cases.

ED: Sounds like quite a disagreement. Were you both friends?

Yes, George and I were friends despite this event. George, as you know, lived on Cantrell Road on the steep hill. His house backed up to woods. He had lots of raccoons from those woods and he would train them and make photographs of them for Christmas cards. Every year, we would all get Christmas cards from George Rose with his raccoons. One year, George was dressed as Santa Claus and the raccoons were staged to look like Santa's elves. He must have spent months every year setting those pictures up. One year, George asked me if I had skunks down on the farm in Redfield. I told him we did and asked him why. He said he wanted to mount one and have it staged in his raccoon Christmas picture for the next year. So I sent my son Paul, who was in high school, out into the field one evening to bring George back a skunk. Paul and his friend Mike Moore came in that night smelling like a skunk. He said, "We got it, but it sprayed right before we could get him." I said, "Where is it?" Paul said, "We threw it in the back of the pick-up truck". So I drove the truck to work the next morning with the skunk in the back. When I pulled into the parking lot, [Chief Justice] Carleton Harris pulled his car in right beside me. When Carleton got out of his car, I saw him inspect underneath his car. He said, "I don't know when I ran over that skunk, but I sure must have." I didn't say a word about the skunk. When we got into conference, I said, "George, I've got your friend." George said, "Where is it?" I said, "In the back of my truck."

A long time later, Lyle Brown came to me one day and said, “Conley, didn’t you give George Rose a skunk once?” I confessed that I did. Lyle said: “That is what I thought. I always suspected it as I smelled one once in the parking lot and saw it in your truck. You know, Virginia and I were over at George and Peg’s the other night for dinner. Apparently, George tried to get every taxidermist in the county to mount that skunk and none of them would touch it. So George went to the library and started teaching himself taxidermy and was going to mount the skunk for his Christmas picture. Only problem was, Peg told Virginia that George had stored the skunk in her freezer. Peg said the skunk smell eventually got on everything in her freezer and she had to throw everything out, including the skunk!”

ED: Were there political issues when you were on the court?

CB: I detested politics in decisions. I’ll tell you another one: When the Supreme Court ruled that the Mulberry River was navigable, that the state owned all the mineral rights, the oil and gas rights.

ED: Under the river.

CB: The legislature solved that by legislating that the rights belonged to the adjoining landowners. You would have never got me to agree to the navigation thing on the Mulberry River. But it was the canoe folks who put the pressure on the court. Somebody upstream was renting canoes. The folks operating the canoes would stop along the river, get up on the bank, leave all kinds of trash, and then get back in their canoes and go home. The landowners were upset about it. One of them put a fence across it.

ED: I remember that.

CB: I grew up on the Strawberry River, and it’s not navigable. But it’s bigger than the Mulberry. Those are some of my gripes. But, by and large, I enjoyed being on the court.

ED: Let’s talk about those dissents. Back in 1972, I was covering the Capitol, and covering the Supreme Court pretty regularly. Periodically, I would try to get a picture of the court. For 1972, I looked at all the dissents for that term of the court, and I wrote a story about it. Here are the numbers for 1972: You led the

court in dissents. You wrote twenty-seven dissents—or twenty-seven dissents that were released. John Fogleman dissented twenty-three times, Carleton Harris twenty, J. Fred Jones twelve, George Rose Smith five, Lyle Brown four, and Frank Holt three. Does that sound like that's how it went?

CB: Yeah.

ED: You thought it was philosophical. . .

CB: Now, look, some of those dissents were valid. They weren't legislating. Now, when George Howard got on the court [George Howard Jr. was appointed in 1977 by Governor David Pryor to finish an unexpired term] he could not vote on capital-punishment cases, so I took all his capital-punishment cases and wrote them. He was just being honest with me. He said, "I can't vote for the death penalty."

ED: It would come his turn to be the lead on a case that involved the death penalty, and, since he was going to dissent, he would bring it to you?

CB: Yeah, well, it got to where he would bring it to me when they passed out the cases. You don't realize how much work there is to that. On January 28, 1958 [he means 1978], we had eighteen opinions. "Shorty Frances" [Judge Byrd's wife] counted up the pages of the briefs that week and they ran forty-five hundred pages. I read every word in every one of them. I sat up to four o'clock in the morning to do it.

ED: This was while you were on the court.

CB: Yeah. That's a lot of briefs to read. I was aware that some of them were letting their law clerks read them for them.

ED: The law clerks would advise them where they should stand on a case? Speaking of that, you were instrumental in creating the Arkansas Court of Appeals.

CB: I was.

ED: Somewhere along in there, the 'seventies, you began to talk about, maybe we need an intermediate court of appeals to take some of the load off the court.

CB: If you have forty-five hundred pages to read in a week, you can see where you need some help.

ED: And it was growing every year. You began to agitate to amend the Constitution to create the court.

CB: We had to take eighteen cases to keep up with the load. If we didn't, they would back up on us. Seven cases is a pretty big load.

ED: When you first began to talk about it, not all the members of the court agreed with you. There was some dissension about the need to create an intermediate court or whether there was some other remedy.

CB: But I talked to the press.

ED: You did. And we wrote stories about it. And, eventually it came about.

CB: Let me digress from the court. When I got elected, the politicians in the state considered me a political maverick. When I was growing up on the Strawberry River and I was ten years old, I was trying to sell the *Saturday Evening Post*, and I became acquainted with [Governor and Senator] Huey P. Long in Louisiana and [Senator] Harry Byrd in Virginia, and they were powerhouses. My dream was I would be governor like Huey P. Long.

ED: So John McClellan was a good friend.

CB: I've got a good story about John McClellan. [U.S. Senator John L. McClellan]

ED: Let's hear it.

CB: The first bill that [President John F.] Kennedy got through was that environmental protection bill. He loaded it up with Harvard graduates. They may be sharp as hell, but they don't have good walking-around sense. They had just opened I-40 [Interstate 40]. In working on I-40, they changed the drainage pattern. One of [U. S. Senator] Joe T. Robinson's nephews owned one hundred sixty acres in a pinoak flat over there. Before they started construction of I-40 he could push some dirt up on the drainage ditch and the rice farmers turned their rice loose and by October 1 he had six or eight inches of water in that pinoak flat. The ducks loved it, and so did the Little Rock Country Club because that's where they went hunting. When it got to where he couldn't get the water, he thought about it and decided the pinoak trees that he couldn't sell—nobody was wanting those pinoaks when oak flooring went out—he had two D-8 caterpillars and he went down there and was clearing that one-hundred-sixty-acre tract and was burning it. Two of

those employees that Kennedy put in Environmental Protection were going down from Washington to Houston for a seminar. They left Monday morning and got to Memphis. Tuesday morning, they got up and started to Houston. When they got to Lonoke County, they saw those bulldozers and the burning. They went over there and told him to cease and desist. You can imagine what a fellow who owns two D-8 caterpillars would tell them. Friday, the U.S. marshal notified him that the Environmental Protection Agency had fined him twenty-two thousand and five hundred dollars. Jack Walls was also a nephew of Joe T. Robinson. They got Jack, the lawyer, to go to Washington, D.C., with them. They got up there Monday morning. They knew that John McClellan got to his office early so they were there at seven thirty. He was in his office. They went in and told John what had happened. John said, "Those folks don't get to work until nine thirty, so we'll have to wait." He called them and they got over there about ten o'clock. He explained to the director what had happened. And the director said, "Well, that's the way it is, and that farmer can pay that fine." John was thumbing through his calendar at the same time. John said, "Did you say anything about this when you got your appropriation last year?" He said, "No, sir." John said, "According to my calendar, you're supposed to before the Appropriations Committee tomorrow at ten o'clock. Is that correct?" He said, "Yes, sir." John asked, "Are you going to be there?" He said, "Yes, sir." John said, "What are you going to tell us then?" About two o'clock that afternoon, that farmer didn't owe any money.
[EPA was formed as result of the Clean Air Act of 1970, signed by President Richard M. Nixon.]

ED: That was John McClellan.

CB: John was a sharp, pleasant fellow.

ED: Let' go back to your early Supreme Court years. When you went on the Supreme Court in 1967, four of you were new. Three carryovers, Carleton Harris, Paul Ward and. . .[George Rose Smith]

CB: The first thing that happened was, Ed Wright was president of the Bar Association [Edward L. Wright Sr., president of Arkansas Bar Association, 1958–59, and

American Bar Association, 1970–71] and he came out there wanting us to adopt a rule that you couldn't sue the state unless the attorney general approved it. Frank Smith, who had written several opinions, changed that.

ED: You mean George Rose Smith?

CB: No, Frank Smith. He was on the court before George Rose. [Frank G. Smith, 1912–49] At any rate, that was one of the things that came out of that election. I fought it. That fellow didn't mention Frank Smith's opinions. He just wanted us to adopt it. He was hoping he could find some folks there who were willing to agree with the president.

ED: President of the bar?

CB: President of the federal [American] bar association.

ED: There was a case that was pending before the Supreme Court, I think, when you went on the court. I don't know whether you remember it. Do you remember the evolution case?

CB: Yeah.

ED: Bruce Bullion's law partner was Gene Warren. He represented the Arkansas Education Association, and he filed a lawsuit for the AEA representing a woman named Susan Epperson, who was a biology teacher at Central High School. They challenged the 1928 initiated act that prohibited the teaching of evolution in the schools. They had a trial down in Murray Reed's court, the Pulaski chancellor. Reed ruled that it was unconstitutional. It got appealed to the Supreme Court. I think the case had been sitting there before the Supreme Court before you and the others went on in 1967. Carleton Harris didn't want to release it. It was a 4–3 split and he wanted everyone to get together, to be united. It was going to be such a controversial case he thought it could hurt the Supreme Court. Do you remember that?

CB: Yeah, the Supreme Court of the United States. . .

ED: eventually overturned it.

CB: . . . legislated so much on education that they can't even say a prayer in school now. That's a stupid thing.

ED: On that case, the court was split, and I always heard that it got very tense in conference over it, between Lyle Brown and the chief justice mainly. And maybe George Rose. Carleton Harris didn't want the court to be divided because he thought the controversy would damage the court. I heard that they fought over it in conference for months and months and finally released the opinion on the last day of the term in 1967. It was 6 to 1 with Lyle Brown dissenting. It was a per-curiam order, unsigned. Fogleman had written the long majority opinion, but they finally agreed to release the ruling, but as a per-curiam order, and two of the three dissenters [George Rose Smith and J. Fred Jones] agreed to go with the majority. Lyle Brown tore up his dissenting opinion but insisted that his vote against it be shown.

CB: I remember it being kicked around.

ED: The story was that, on the last day, Lyle Brown tore his opinion up and threw it across the table at Carleton Harris.

CB: [Laughs]

ED: It was a colorful story. I don't know if it's all true.

CB: It was a decision you didn't like to make. I had another case that came up that I didn't like to make.

ED: What was that?

CB: The U. S. Supreme Court got on the Miranda warnings. A man had broken into this woman's house. She was ironing. He was going to rape her. She stuck that iron to his stomach and branded him. The jury gave him the death penalty. We had upheld it. And then they filed a petition for rehearing, arguing that the U. S. Supreme Court had ruled that it had to be retried.

ED: Because he hadn't been given the Miranda warning?

CB: I wrote the opinion and set it aside for retrial. I pointed out that we did it, not because we thought it ought to be done, but because the U. S. Supreme Court said we had to.

ED: Were there a lot of instances where you ruled not because you thought it was the right thing to do but because that's what the status of the law was?

CB: That guy was as guilty as sin.

ED: Sure, it was an open-and-shut case.

CB: That brand was still on him.

ED: I assume he got convicted again.

CB: I don't know.

ED: One of the justices told me once that there were two ways to approach appellate judging. One was that you looked at all of the law and decided what the preponderant law was in that case, and that's how you ruled. And another justice might approach it entirely differently: Who is right? Who ought to win the case, by all rights? And then you find some law to support that outcome.

CB: We had a case come up from Heber Springs. They had tried a sixteen-year-old as an adult. The state proved it, and that's what I said. When I got home, Betty Britten and my wife chewed my ass out for putting a sixteen-year-old in prison. And that's when I found out I didn't write it right. When the officer arrested him riding side-saddle on a stolen mule, they discovered stuff that he had taken in those fifty burglaries and that it was his ninth escape from the Boys Industrial School. He was in prison down there, and Rockefeller's man was claiming his predecessors had abused those prisoners. They put two men in solitary confinement with him. To keep him from screaming while they were raping him, they held his head down in a commode and drowned him. Fred Jones wrote the opinion, convicting those inmates. He was showing what they were claiming wasn't so. He wrote a thirty-three-page opinion. George Rose raised hell with him about writing thirty-three pages.

ED: From my memory, that seems to be one thing that you and George Rose had in common. You both wrote compact, succinct opinions. J. Fred Jones and John Fogleman wrote lengthy opinions. As a reporter, I always loved yours and George Rose's opinions because the opinions were almost a news story. You went directly to the point.

CB: That Big Island case took a lot of effort, to write the dissent. I had worked in the federal court on navigation. What most folks don't understand is that rivers follow fault lines. If a small earthquake changes the fault line a little bit, the stream changes. They have a 2.5 or 3.0 earthquake on the Mississippi quite often. You

don't hear about it. They don't write it up anymore. It's so far out in the country it's not big news.

I'm a little bit disgusted with the press.

ED: Who isn't?

CB: Let me show you how they misuse us. They support the candidate who spends the most advertising money. That, to me, is not good government.

ED: Newspapers are a business.

CB: And television stations. They want the money and they do what it takes to keep the money flowing.

ED: Yeah. By the way, did the *Gazette* endorse in your race?

CB: No, they didn't endorse either of us. They reported the news as it went along. I liked Bruce Bullion. After the election, he came out to the Capitol for some reason and I sat down and had a cup of coffee with him. I told him I ran that race because if I lost I'd get some good advertising. He said, "I've had more business this year than I've had anytime in my life."

ED: You might have been better off financially if you had lost.

CB: You know, the odd thing about it is, when you are in a political race like that. . . the salary of the Supreme Court justice was ten thousand dollars. It may have been twenty, at the time. It must have been twenty.

ED: It wasn't very much.

CB: I had a lot of law practice. I had some fees that hadn't been paid. I wound up with eight thousand dollars from my law practice that I put into my personal account shortly after I got on the court. My roommate [Frances] spent my salary and that eight thousand dollars, which amounted to sixteen thousand dollars, from January 1 to June 1. I never figured out what she did with it.

ED: There was a period in the 'seventies when the Supreme Court had to address, three or four times, the battles up in Conway County—Marlin Hawkins and [Circuit] Judge Russell Roberts [of the Fifth Judicial District], and Tom Glaze, who was later on the Supreme Court, was a lawyer on the other side . . .

CB: Let me tell you about Russell Roberts. He decided that he would assess some court costs. Even if you won you had to pay the court costs. I'll think of the

lawyer's name in a minute. He represented some of those folks that Rockefeller was after. And got the case dismissed. Then he found out that he had a hundred seventy-five dollars in court costs assessed against him. He appealed to the Supreme Court and I wrote the opinion. I pointed out that the legislature should set the court costs, not the judges. When the judges start setting them, they're legislating.

ED: Y'all overturned Russell Roberts many, many times.

CB: He was so irked at me. He never gave me a decent "Howdy" after that.

ED: Tom Eisele or Marion Burton was probably the Rockefeller lawyer you were talking about. It probably was not Glaze. But all those battles up there involving Marlin Hawkins. . .

CB: Oh, let me tell you a Marlin Hawkins story.

ED: OK.

CB: When I was working for the Supreme Court as the court reporter I realize that there was going to be a change in the Supreme Court clerk's office. I had worked with Jimmy Hawkins, Marlin's brother, over in the Revenue Department. I called Jimmy up and suggested that he might want to take it, because it paid more money than he was drawing. I talked to Sam Robinson and Paul Ward [justices at the time] about it, and they appointed him deputy clerk of the Supreme Court. From there, he became the chief clerk. He was a member of the Sixth and Izard Church of Christ. In fact, he was an elder over there. When they built that new building, Jimmy complained to me about having to sign a note for six million dollars. But his brother Marlin didn't belong to the church. The Rockefeller folks were after him all the way through, trying to run him off. I wrote an opinion showing that the Rockefeller folks were fish hunting. I got to my office at five-thirty one Monday morning to get ready for oral arguments. On Monday morning at six o'clock, he walked into my office and said, "Conley, I joined the church yesterday." I counted that as a great compliment.

ED: Do you remember Joe Weston, Joseph Weston?

CB: Yeah. He was always suing us.

ED: Remember, he was editor of the *Sharp Citizen*.

CB: A nut.

ED: Yeah, he was crazy as a loon. Eventually, they charged him with criminal libel. They hunted him down. He would come into the Capitol pressroom running from the law. They convicted him of criminal libel, and he appealed to the Supreme Court. And y'all struck it down. We had a criminal libel statute, which said you could go to prison for libeling someone. The Supreme Court said it violated the First Amendment.

CB: Joe Weston sued me four or five times.

ED: You were from Sharp County, too. Was that the reason?

CB: Well, he was suing me because he thought I had violated some law.

ED: Judge, I want you to tell the story about Wilbur Mills and the Eighth Street Expressway.

CB: Wilbur Mills had been chairman of the House Rules Committee for twenty-two years.

ED: The Ways and Means Committee.

CB: Yes.

ED: OK.

CB: You couldn't get a bill through Congress unless it went through House Rules. Redistricting [in 1962] put Pulaski County in his district. He was kinda concerned about what it might do to his re-election. So, back a few years before that, when they went to a city-manager system, the city had voted a five-hundred-million-dollar bond issue to buy the right of way for the Eighth Street Expressway. When the city manager got there, he found out that they were paying 2 percent on those bonds and that he could lend it for 10 percent and use the difference to run City Hall. But when it got to where they had to purchase the land, it wouldn't touch it because the price had gone up. I heard Herbie Byrd [radio station KLRA] talking about it on the way home one evening. The next morning I went up and had coffee with Alden Bowen [Edward Alden Bowen Jr.]. Bowen, Beach Abstract. He was on the city Board of Directors. We were sitting there having a cup of coffee. I said, "I hear you're having trouble acquiring the land for the Eighth Street Expressway." He said, "Yes, where are we going to get the money?" I said, "How

would you like to have 100 percent federal financing?" He said, "Can you arrange that?" I said, "Can you name it the Wilbur D. Mills Expressway?" He said, "I bet we can." Bill Smith was supposed to be some kind of expert at City Hall. I said, "Go hire Bill Smith to go to Washington and take care of the details."

ED: That's William J. Smith of the [then] Smith, Williams, Friday, Eldridge and Clark law firm.

CB: Yeah. It worked. They got 100 percent financing on the Eighth Street Expressway.

ED: They did. Some other judges you served with? Darrell Hickman went on the court a couple of years before you left, didn't he? [Darrell Hickman, 1977–90]

CB: Yeah.

ED: What about John Purtle? Was he there before you left? [Purtle was elected in 1978, served until 1990.]

CB: Yeah, a little bit. John Purtle was a friend of mine. He was at teachers college. First though, he was a sergeant in the military, in France. The Germans charged them and killed the officer who was in charge of the crew. John took over and organized that crew and got rid of the Germans. When General [George] Patton found out what happened, he promoted him to full lieutenant. [Justice John I. Purtle received two Bronze Stars from the Army serving in the Pacific Theater. Justice Byrd probably heard something similar to this story but it was not probably not General Patton.]

ED: John was an even bigger dissenter than you were. You overlapped just a little but I guess he eventually became the all-time champion dissenter.

CB: We both enrolled at teachers college. They were used to dealing with high school kids, not military folks. You get one piece of bacon, one egg and one piece of toast and that's all you got for breakfast. John wanted two pieces of bacon but they refused to give it to him. At the next meeting of the college, he got up and gave them a two-pieces-of-bacon speech, and after that we got more food.

ED: John was a fierce opponent of municipal annexation. Didn't you write an opinion on municipal annexation, in which you struck down the annexation? I don't know whether John was involved in that litigation.

CB: Yeah. I've got a story about annexation.

ED: OK.

CB: I think James Eastman was his name. May have been James Terry. He was always opposed to annexation. He owned a lot of land out there.

ED: This was southwest Little Rock?

CB: Yeah. He wanted to develop business property. They were going to annex it into the city and it's residential. If you weren't in city politics you couldn't get the zoning changed. Bill [William H.] Bowen was president of Commercial National Bank. He called me up one day and said, "I want to get a meeting with that fellow and see what we can work out on this annexation." I said, "Bill, Rufus Martin was the vice president of Simmons National Bank, and he always referred to Howard Bartlett, a man from Jefferson County, as 'Mr. Bartlett'. Howard bought cows in seven states. I said, "Rufus, why do you always call him 'Mr. Bartlett'? He's Howard Bartlett to everybody else." Rufus said, "Conley, if you were in the banking business and a man had a quarter of million dollars of CDs in your bank, you'd call him 'Mister.'" After telling Bill Bowen the Rufus Martin and Howard Bartlett story, I said, "Now, Bill, if I were you I'd go through my bank accounts and pick up a Social Security card on a man named Tommy Evans who lives out where you want to annex, and then I'd run that Social Security card through my bank accounts, and you may find that you need to be calling him 'Mister' when you get up there." Sure enough, he did. He called a meeting the next night and with Tommy Evans' help, they worked out an agreement. It worked. The city accepted their property zoning. They weren't opposed to being in the city. They were just opposed to the zoning laws. But I got a kick out of that Rufus Martin story. And just like Rufus Martin said about Howard Bartlett, Bill said, "Conley, I did need to call Tommy Evans 'Mister.'"

ED: In 1980, you decided not to run again.

CB: Well, I had to retire. I got rear-ended three years in succession sitting at a red light.

ED: Three times?

CB: Three times. The last time, a man that was souping up a ‘49 Ford to get it into the stock-car races. I had a half-ton Dodge truck with all the carpet out of George Britten’s house. He was changing it out. Eight hundred pounds of salt was in the back of that truck. We had a camper shell on it. That fellow hit me so hard the things in that camper shell went back past the stop sign. The last three years I was on the court, I read all my briefs and wrote all my opinions in the standing position.

ED: Back problems?

CB: Helluva back problem. I went out to that osteopath, George Bean.

ED: I remember George Bean, out on West Markham. I went to him.

CB: He put me on that table and some way he used his knee and broke that pain lose and then he said, “Turn over” and he did the other side.” Then he said, “Sit up.” I said, “Go to hell. I’ve been wanting to feel like this for weeks.” He said, “Judge, you shouted so loud you’ve run some of my patients off.” But I still have that problem.

ED: But you were in so much pain and it was so difficult that you decided that you needed to retire.

CB: Well, it was in October. I was coming up for re-election in 1980. I told Frank Holt one morning that I was going to call a press conference and announce that I wasn’t running for re-election so some lawyers who might be interested could get organized. He said, “Don’t do it today.” That afternoon, he and John Fogleman—John Fogleman was the liaison with the retirement section of the Supreme Court—took me down to the coffee shop. John said, “Why don’t you apply for retirement disability?” I was having to take Demerol to even move. He said, “It’s not like Social Security disability. If you’re unable to do this job you can get disability.” So I went out and got George Bean to write some letters. They accepted my disability. I timed it for the first of the year. I called Bill Clinton’s office. Couldn’t get him. I finally called Hillary and told her what I was going to do. When my retirement was announced, he appointed a black lawyer to succeed me. I’ll think of his name.

ED: Richard Mays.

CB: Yes.

ED: So he took your place and essentially served out the last year of your term, right?

CB: Those three rear-end collisions tore my back up. Dr. Lohstoeter [Dr. John Lohstoeter, orthopedic surgeon in Little Rock, Arkansas] did one of those things where they run color dye through your back. He said if there had been just one vertebra he would operate, but that you just don't operate on three vertebra at the same time. So I've lived with my pain all these years. I've still got the pain. Incidentally, they let me out of the hospital after my four-bypass surgery. I'm going to drive you to Mobley's Depot before they close.

ED: I think we're about through, anyway. Unless there's something else you think we need to cover before we wrap it up.

After you left the court, you continued to live out here at Redfield. Did you practice law a little.

CB: I did, a little bit, but I quit. You don't realize how much energy is spent reading. I did some truck patching. You saw my tomatoes out there.

ED: Yeah. You still grow a few vegetables?

CB: I have a little truck stand here. I have a little tractor that "Shorty Frances" could drive. We raised purple hull peas, tomatoes, and turnips. That turnip is another story. Frances planted a half-acre of turnips on the other side of the road. They grew as big as that tape measure. I heard that John Fogleman's wife, Anna, had broken her hip. I figured that he was having to do the cooking. John was a banker's son. Bankers' sons don't carry pocketknives. I said, "John, would you like some turnips?" He said, "I don't have any way of peeling them." We have an apple peeler over there. I use an apple peeler to peel the turnips and it slices them. Frances put them in a gallon ziplock bag and two pieces of beef bouillon. I had her write him a note on how to cook them. I called Anna to make sure she was home. On the way to get in the car . . . I had two rows of spinach out there, just about this high, and I picked them and put them in a five-gallon bucket. I called Anna and told her I was bringing her some turnips and spinach. Their daughter loves spinach. I got there about twelve o'clock. That daughter came over and got that spinach. That's the freshest spinach she ever got because if you get it

out of the grocery store it's two or three days old. She told me later that was the best spinach she ever had. I gave Anna the gallon ziplock bag with all those turnips. About a month later, Frances and I saw Anna at a shopping mall. She said, "Ooh, those turnips were good. I cooked pork chops and those turnips and John Fogleman told me that for his last meal he wanted turnips and pork chops." I thought it odd that a banker's son had never eaten turnips.

ED: He had never eaten turnips?

CB: Never ate a turnip in his life until he got those. You put those big bouillon cubes in the turnips and bring it to steam, and they are good.

ED: Yes, and turnip greens. And onions and cornbread.

Judge, this has been great. We'll end with this. Sometime, I may have more questions, but we'll wrap this up.

CB: I've enjoyed visiting with you, Ernie, and telling you stories.

ED: They are great stories, Judge, wonderful stories.