

Arkansas Supreme Court Project
Arkansas Supreme Court Historical Society

Interview with
William David Newbern
Little Rock, Arkansas
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Interviewer: Ernest Dumas

Ernest Dumas: I am Ernie Dumas and I am interviewing Judge William David Newbern. This interview is being held at his home, 10 Ozark Point, in Little Rock, Arkansas, Pulaski County, on December 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?

William David Newbern: My name is William David Newbern and I am willing to donate the interview to the Pryor Center.

ED: Good. Judge, let's start with your birth. You were born in Fayetteville, right?

WN: No.

ED: No?

WN: I was born in Oklahoma City, Oklahoma.

ED: Date?

WN: May 28, 1937.

ED: Your parents were?

WN: Charles Banks Newbern and Mary Frances Harding Newbern.

ED: And you were born in Oklahoma City. Were you an only child?

WN: Yes.

ED: You were an only child.

WN: Yes.

ED: What did your daddy and your mama do?

WN: Well, my dad was an employee of the Firestone Tire and Rubber Company and they had a tendency to move their employees from store to store around the region. He was employed by Firestone in Oklahoma City for I don't know how long, maybe no more than a year or two, but that's where they were when I came along.

ED: What did he do with Firestone?

WN: Well, I think he was a salesman and from time to time a store manager. They shuffled people around doing different things and I think that primarily he was a representative. He sold tires.

ED: What about your mother? Did she have a career of her own?

WN: My mother was a teacher. She was born in Fayetteville to my grandparents, Dr. A. M. Harding and Edna Nance Harding. She, remarkably, graduated from the University of

Arkansas at about age twenty and had a master's degree by the time she was twenty-one. She had met my dad somewhere, I don't know where. He was from Marianna, Arkansas, and so she went over there...I'm not sure if it was to teach school or be with him. But, anyway, she went over there and taught school for a year, elocution, I think, or something like that.

ED: At Marianna High School?

WN: Marianna School, I'm not sure...

ED: It was all one.

WN: It was all one school, I believe. That's the story. They...

ED: So he would have grown up, probably, in a farm family.

WN: No.

ED: No?

WN: No, his father was a merchant, had a store called Newbern Griffiths Store in Marianna, Arkansas. They owned a lot of property, a lot of farm property, but they were landlords and not farmers.

ED: So you were born in Oklahoma City and how long did you stay there?

WN: I don't know. Think we went from there to another Oklahoma town, may have been Enid, but wound up...My earliest memories are from Amarillo, Texas, where my dad...Firestone sent him to Amarillo where he was, again, a sales representative, I think. My memories of Amarillo are so clear because of the extreme weather conditions—the extreme dust storms in the summertime, sandstorms, and the ice storms in the wintertime.

ED: So this would have been the late '30s, I guess. But you can remember probably early forties.

WN: Yeah, I would say '40, '41.

ED: So you had all the dust storms out there. The Dust Bowl?

WN: Oh yeah. I really related to Ken Burns' Dust Bowl thing because I actually remember my mother hanging up sheets on the windows to try to keep the sand out. [*The Dust Bowl* was a Ken Burns documentary film that aired on the Public Broadcasting System network in 2012.] And I remember my dad coming home victoriously holding a rubber hose that he could use to hook up a gas heater because there was no electricity due to the ice storm. It was rough living back in those days.

ED: So your first memories were of Amarillo—you would have been four or five or six, something like that?

WN: Yeah, about four.

ED: And how long did you live in Amarillo?

WN: Maybe a year. Maybe a year, not very much. We left Amarillo, I'll never forget it—rode a train from out there somewhere to Little Rock, back to Arkansas. My dad left Firestone at that point. Of course, the war was in prospect and everyone seemed to know it. We rode a train from out there and I remember being on that train with a whole bunch of people wearing uniforms. We got to Little Rock and moved to a house on South Maple, 123 South Maple Street. My mother taught school at Pulaski Heights Elementary and my dad worked for the ordnance plant out at Jacksonville.

ED: Everyone worked at the ordnance plant when they were getting ready to go into the Army.

WN: Yeah. Yeah. I mean, it was good work, and it paid well, I guess. We didn't have a car until one day my dad came home with a huge Buick automobile. I mean, it was the

biggest car in the world over there on South Maple. He drove it in the driveway, whereupon it promptly disgorged every drop of oil it had.

ED: So it was an old used Buick?

WN: Boy, it was used, it was old. Anyway, that was an interesting time. Eventually...He was older, he was in his mid-to-late thirties, and thus not subject to the draft. He joined the Navy.

ED: I think they were taking people up to thirty-four. Maybe later on they raised it some.

WN: Yeah, I think he was beyond that. Anyway, he joined the Navy and I had a victory garden and we fought the war. But I remember, I think I remember, the Pearl Harbor announcement here in Little Rock.

ED: And he joined the Navy?

WN: He joined the Navy.

ED: How long was he in, where did it take him?

WN: Well now...

ED: You all were left here—you and your mom?

WN: Yes, my mom and I were left here and he joined the Navy and went to...He was at the San Diego Naval Station and went through boot camp somewhere in that neighborhood and then stayed there for the duration of the war. He did not go overseas.

ED: And so you were in Little Rock when you started school. Was that about the time you started school, in '42?

WN: Yeah, the first grade at Pulaski Heights.

ED: '42 or '43 probably.

WN: I can't remember. I'm not sure.

ED: '37 and you're about three months older than I am. What time were you born in '37?

WN: May.

ED: I was born in December. So probably '42 you went, started.

WN: Probably. I remember Ms. Walker was my teacher. My grandma and my dad's sister lived over here on Oak, 624 North Oak. I remember my grandma coming to see me participate in the rhythm band in the first grade and she sat and cried all the way through it.

ED: So that's how your music started, in the first grade?

WN: Yes, I was absolutely destined to become a musician.

ED: A musician in the first grade.

WN: Yeah.

ED: Is that where it started, your toying around in music?

WN: Yeah. I don't think I had been. I had a really good ear, could imitate people on the radio singing songs and that kind of thing. But, anyway, we were in Little Rock and my mother and I...my grandfather at about that time succeeded J. William Fulbright as president of the University [of Arkansas] in Fayetteville.

ED: Fulbright had been fired by the Board of Trustees at the behest of Governor Homer Adkins.

WN: Homer Adkins, that's right.

ED: And then that's when he ran for Congress and two years later for the Senate. So your grandfather succeeded him as president of the University of Arkansas.

WN: Right. My mother and I moved from here to Fayetteville at about that time, while my dad was over in the service.

ED: So you went to Fayetteville because your grandfather was becoming president of the university.

WN: Well, it wasn't because he was becoming president. My grandfather and grandmother were interesting people. He was a PhD mathematician from the University of Chicago, although he grew up in Fayetteville with six brothers. Had a home on Washington Avenue in Fayetteville. His parents had moved them up from Pine Bluff. He was, I guess... Maybe one other child had been born at that time. They knew they were going to have children and wanted to come from a place like Pine Bluff to a place where they could get a university education. They moved to Fayetteville and they had the seven sons there on Washington Avenue in Fayetteville. My grandfather went to the university and graduated in 1903 and he was a musician with the cadet corps band.

ED: A musician and a mathematician?

WN: And a mathematician.

ED: They kind of go together.

WN: That's what they say. I missed out on the mathematician part. But, anyway, he was, I would say... It would not be untoward for me to say, he was a beloved mathematics professor with a strong interest in astronomy. Later, he wrote a book, a very popular book, on astronomy. And he was on the Chautauqua circuit and they would go out West and do the Chautauqua thing and he would talk about the heavens and the stars and people were always fascinated by that.

ED: Did you go with him on any of that?

WN: Oh no.

ED: Did you ever hear any of those lectures?

WN: You know, I have a recording of one that he did at Spokane, Washington. It's on one of those huge discs that they used to do at radio stations. I had it transcribed to a tape. But for a PhD professor type, he sounds like a circus barker, talking to this radio station—broadcasting from this radio station about the coming speech that he's going to give at the fairgrounds. He'd whip up a big crowd and he'd talk to them and he had these beautiful glass slides that he could project onto something, a screen, a sheet, whatever and would describe what was going on up in the sky.

ED: These were like county fairs that he'd have these things at?

WN: The Chautauqua circuit, that was a big deal back in those days. This was entertainment.

ED: The governor of Arkansas was famous for that... the governor from the 1920s, Governor Brough.

WN: Governor [Charles H.] Brough [1917–21]. Oh yeah.

ED: He was a big Chautauqua guy. He was kind of like your grandfather. He made the Chautauqua circuit across the country.

WN: I didn't realize that. Of course, he came from the University of Fayetteville as well.

ED: Then I think he also went to Princeton or some place. Like your granddad, quite well-educated. So did you have a lot of experiences with your grandfather? Did he have a big impact on you?

WN: I did. He did indeed. Of course, my father was gone. My grandfather, although he was busy trying to get the university through the Second World War, spent a lot of time with me. I have very fond memories of him. He was an extraordinarily kind person, generous, and really took good care of my mother and me during that time, when they were...

ED: Did he stimulate your interest in academics?

WN: No, no. Didn't really. He stimulated my interest in vehicles. Bought me a three-wheel tricycle with a chain drive, which was a remarkable thing back in those days. It drove the rear wheels with a chain and I was sort of the king of the neighborhood bicycle kids, or tricycle kids. I'll never forget, he bought it for me at the Firestone store one day when we had walked to town to the post office and we were headed back home. Little things like that you remember. He was just very, very kind. When I wanted to have piano lessons he allowed me to bring a piano into his home, there on the first floor of their big house in Fayetteville. He did things like that.

ED: Did he live on campus? Did the president live on campus?

WN: Oh no. Back then... He and my grandmother were smart people and frugal. He had bought out all of his brothers' interests in the old family home. Then the house was moved... This is complicated. A house was moved onto the corner across the street, a big house. He hired the Earl V. Bird Construction Company to put a brick veneer on this house and made a beautiful, huge home out of it. But, with two apartments upstairs, he converted the old family home to four apartments across the street. So they were landlords during that time, when his faculty salary was not all that much. They had all this going and my grandmother was a great participant in all that. She helped with the rentals and so forth. So they were very smart and did very well financially because of the kind of initiative that they took.

ED: Did he stimulate your interest in music?

WN: He did and I still have his flute that he played in the band. We talked about music some and I remember that well.

ED: When did you take up the stringed instruments? The guitar and so forth? Did that come much later?

WN: Yes, it did. I always wanted to do that, but didn't seem to have the opportunity. Oh gosh, when did that start? I had an old banjo that my grandmother had owned. In fact, my great-grandfather had brought it to her at some point when she was young and I fooled around with that some, didn't really learn how to play it. But, I had it and was interested in it. When I really got started on the string thing... I had been a high school bandsman. I was a really good high school tuba player, like Richard Allin, you know? Boy, was he a good player! [Richard Allin, from Helena, was a columnist for the *Arkansas Gazette*.] But, anyway, I did that in high school and then for a little bit in college and I had a lot of success with that, in contests and that kind of thing. Did solo work with other nearby high school bands and in Fayetteville. That was my main musical emphasis, although I was a singer and was involved in solo singing—did weddings and things like that. Guitar work... I had bought another banjo from a fellow I knew when I was in the Army. I had it with me in Korea when I went there and there were some fat lieutenants on the floor above me who played Merle Haggard constantly and other country things that I didn't have much interest in at all. But I got to listening to it and realized how much musicianship there is in those recordings of The Strangers and the Merle Haggard Band. So I started to try to play that banjo. But when I got out of the Army... We covered a lot of territory here.

ED: Let's continue with the music. We'll jump back. That's OK.

WN: All right. When I got out of the Army in 1970, I went to Fayetteville to teach school at the university and I still had that banjo. This was after a tour in Germany where I had... we had a lot to talk about, but I learned to speak German and I learned to sing

German songs. I was hired to play at Ken's Pizza in Fayetteville at night, and I was out there with a long-neck banjo, singing songs in German.

ED: And getting paid for it?

WN: Yeah, and getting paid for it. [Laughing] "Assistant Professor Newbern will now render the Lorelei with his banjo." Well, Charley Sandage was out there one night—Charley was a graduate student at that point—and his jaw just dropped. He looked at me and he said, "You really need help." And I said, "OK." So he and I started getting together and I was playing banjo. One thing led to another and I bought a guitar and played the guitar. That's how that begins.

ED: OK, we'll get back to the music. Music comes into play in a lot of your life. But let's go back to school and to Fayetteville. When did your daddy get back from the war?

WN: Right after it was over, in 1945.

ED: Fall of '45 probably?

WN: Yep, mmm hmmm.

ED: So then did he come back to Fayetteville?

WN: Came back to Fayetteville, didn't have any other place to go or anything to do.

ED: He would have been forty years old or so?

WN: Yeah, yeah. He went to work for the Phillips Motor Company. That was a Chrysler-Plymouth dealership there in Fayetteville. I think he was in the parts department or did something like that. My mother was teaching school at Washington School during that time. So, yes, he came back and we lived in one of my grandparents' apartments. We paid rent. Then, eventually, my mother bought...My mother and father were separated from time to time. He had an alcohol problem that was serious and they were separated, and actually divorced at one point. Then remarried later on and spent their lives together after that.

ED: Did he finally lick it?

WN: That's a good question. I think so, I think he did. He just got too old. Anyway, he was...We lived in an apartment and my mother, having caught the frugality bug from her parents I guess, was smart and bought a house on Washington Avenue, and that's where I grew up. It's just catacorner across—we were all right there in one spot, the intersection of Washington Avenue and East Lafayette in Fayetteville, Arkansas.

ED: Well, did your daddy, was he good to you? Did you have a good relationship?

WN: Oh yeah. He was. He loved me a lot and I loved him a lot. He was good. He was funny. He had a wonderful...I know you knew Helen and Wes Gordon.

ED: Oh yes.

WN: Well, Helen and Wes and my parents were best friends. One night a week, they were always together and did things together.

ED: You and Nancy [the Gordons' daughter]?

WN: Oh yeah, they lived right behind us for a long time. Then they moved to their house up on the mountain.

ED: I loved Helen and Wes.

WN: Oh, gosh yes! Wonderful people. They would...Wes was so droll and Helen was a hoot. They would get together. It was a show. I would just sit and laugh because they were such funny people, so much fun to be around.

ED: And Helen, she could be pretty sharp. I remember once going up...She had this little craft shop up there, right off the square, so we were in there one day and Elaine was looking

around and came up with this little funny thing that Wes had made, an old piece of rough lumber or something. He had sawed it out and on there he or she had painted a frog. Elaine thought it was funny and said, “Oh, we should just buy it.” Helen says, “No, you can have it, Elaine!” She was insisting on buying it and she said, “Dammit, Elaine, have the good grace just to say ‘thank you’ and take it!”

WN: Sounds just like her, yeah!

ED: Nancy has some great stories about her mama. Helen was dying and Nancy went over to say something to her right before she died, I think maybe about her last words. Nancy said something and Helen corrected her usage. Nancy told Helen that she was her “hero.” Helen said softly, “It’s heroine.”

WN: Yep, Helen was capable of that—dying breaths.

ED: That was kind of her last word to her only daughter. At any rate, where were we? You were with the Gordons and your folks.

WN: Yep, we wound up having a pretty good life. My dad wound up as the, I guess you’d say, the owner of White Truck Sales and Service, right there on the curve going into Springdale. That was his final business venture. It was a pretty successful one. He was good at buying and selling vehicles and I inherited that from him. I’m not good at fixing them, or even washing them, but I love them. I tell people I have four cars but only three of them are for my personal use. The other one is for my spouse. So I inherited that from him for sure.

ED: So, high school: You went to Fayetteville High School?

WN: I did.

ED: Anything remarkable about Fayetteville High School besides your participation in the band?

WN: That was my main thing.

ED: You didn’t play football or basketball or track?

WN: No, I went out for football. I guess...I was in school, back in the day, the last year the ninth grade was part of the high school, before what I call the “new” high school was built in 1952. We were at the old high school there on School Street in Fayetteville and I went out for football and there were a lot of stories about that. But the one I like the best is about Harry Vandergriff, who was the coach. He was a great man, and wound up the superintendent of schools in Fayetteville...He was the coach and he had told me that I had to have a pair of football shoes to play. So I asked my mother, I said, “I need to go down to Lewis Brothers store to see my wife’s dad Heydon Lewis, who was at Lewis Brothers, of course—and get me some shoes.” Well, I bought this pair of football shoes, cleats, and they were way too big, but my mother thought it was all right, that I would grow into them. But, you know how cleats are—if they are too long they will turn up on the ends sort of like oversized clown shoes, and I’d go flying onto the practice field and Coach Vandergriff would have to turn around he was laughing so hard at me. His nephew, David Vandergriff, who is a lawyer in Fort Smith, and I used to go visit with them every first Monday in February, whenever Martin Luther King Day is, and he’d tell this story to the Bar Association up there about me and my shoes and his uncle, Coach Vandergriff, and how I was the team entertainment.

ED: With your big shoes you obviously were not a running back.

WN: No, I was not a running back. I don’t think I was an anything. I am sure I was some sort of lineman. It didn’t work out too well.

ED: You were kind of a blocking dummy.

WN: Thank goodness for the band. We decided that I really shouldn't try to do both the band and football. So I did not play football.

ED: So you played the tuba?

WN: We played the Sousaphone. We didn't have any tubas back in those days. The sousaphone is the thing that wraps around you and you march in the parade with the bell forward, you know? We didn't have tubas back in those days.

ED: So you graduated from high school in 1955, probably.

WN: That's correct.

ED: And then what? Did you go to college then?

WN: Went to college. Went to The University of Arkansas at Fayetteville and was there...I was on, what they call, the "3-3 Program." You go three years as an undergraduate and you're sort of a declared pre-law student and your first year of law school counts as your major so that gives you a B.A. and then you do two more years in law school and then you're out.

ED: So that's what you did?

WN: That's what I did, although I spent my second year of law school at Vanderbilt University. I went over there. I kind of felt the need to leave home, you know? Went over there for my second year and did OK, but didn't really like it. So I came back and graduated from the law school at Fayetteville.

ED: So you got a B.A. in '59?

WN: That's correct.

ED: After one year of law school and then you got a LL.B. two years later.

WN: Right, which was subsequently magically changed to a juris doctorate.

ED: J.D. in '61, would that be right?

WN: That's correct. In '61.

ED: I'm familiar with those dates because they kind of coincide with mine.

WN: Right, yeah.

ED: So what did you do after you got your degree? Anything else to say about your U. of A. career, besides your continuing in your music, I guess?

WN: Well, yeah, I didn't play in the band very long. I didn't want to march and do the football thing and the basketball thing. So I was recruited in the opera workshop. A fellow named Kenneth Ballenger was the opera director...I sang a major role in an opera production, *Cavalleria Rusticana*, and I really liked that. I guess I did two years of that. Not a lot about my undergraduate thing. Sometimes I think I majored in fraternity, which was not a good thing.

ED: What fraternity were you in?

WN: S.A.E.: Sigma Alpha Epsilon. That's about all I need to say about that, I guess. But law school was...I sort of took to law school and I became editor of the law review my last year of law school. I won a couple of academic prizes in my last year, graduation. That was a good thing for me. Of course, by then, I had been through the senior R.O.T.C. program and I was a second lieutenant when I graduated from law school. But I applied for the J.A.G. Corps and was accepted. So I went on active duty as a first lieutenant and then began my military career.

ED: On the law, was there something that influenced you to go into law? Or was it just “I think that’s something I want to do”? Or did you have some experience, some influence to help you decide that this might be the right career?

WN: I’ve never really tried to sort through that. I think that I wanted to do it. I always wanted to be a leader. I wanted to be out in front and that seemed like a way to do it, I guess. To become...I wasn’t particularly interested in politics at that point. I remember, there was a beloved barber down at the U. of A. Barbershop on Dickson Street who would cut my grandfather’s hair, and my dad’s, and mine. His name was Mr. Brown. We called him Brownie. One day, I was in the chair and Brownie said, “David, what are you doing over there at the school?” And I said, “Well, I’m in law school.” He said, “Well, what kind of lawyer are you going to be? Politics?” And I got all balled up at that point and I said, “Well, no, I may get involved in tort law and personal injury and that sort of thing.” “Well, that’s politics!” he said. OK. Whatever! I can’t remember any other time I tried to sort out why I was doing what I was doing. Anyway, I liked it and I had...Bob Leflar was a big influence on me. [Robert A. Leflar was dean of the law school and later a distinguished emeritus professor.]

ED: Do you have any Bob Leflar personal stories to tell? Any that bear repeating?

WN: I really don’t.

ED: Most of the Bob Leflar stories I’ve heard seemed to be apocryphal. I don’t think they really happened. Bill Wilson [U.S. District Judge Billy Roy Wilson], for example, telling me these things.

WN: Well, it was so funny...He was an acknowledged god at the law school and there was a fellow named Rodney Chambers from down in Magnolia. Rodney was kind of a spookable guy and there were stories about how Rodney would...somehow he would...Somebody was channeling Bob Leflar and late at night—we all worked our tails off in those days, we all stayed in the law school until midnight every night—and Rodney would think he’d see Bob Leflar on the stairs, or something like that, late at night. Ooooo! It was funny like that. I don’t think I have particular stories. We were all so terribly afraid of him because he presented this aura of god-like knowledge, like “I know everything and you know nothing and we’ll go from there.” But I liked him a lot, and as years went by, he liked me. So we were friends.

ED: Good. All right, back to the Army. So you have your commission, you had done R.O.T.C. and you had your commission. And you go to the U.S. Army.

WN: U.S. Army as a first lieutenant J.A.G. officer. I got married that summer, in 1961. I married a woman named Barbara Rigsby from Nashville, Arkansas. It was a big, typical south Arkansas wedding in the Methodist church...

ED: In Nashville?

WN: In Nashville. She was a wonderful—still is I guess—a wonderful musician. What a piano player! I mean, she really was good. She majored and got high honors in both music and German and she got a Fulbright Scholarship.

ED: Did you meet her in Fayetteville?

WN: In Fayetteville. She had a Fulbright Scholarship and a Woodrow Wilson and she gave up the Fulbright Scholarship to marry me, which was a big mistake. But she married me and we went off together to the Army. My first assignment was temporary duty at Petersburg, Virginia, at Fort Lee, waiting to go into the class at the J.A.G. school in Charlottesville, which we did. We moved to Charlottesville from Petersburg and we were there for

something like eight weeks, twelve weeks I guess, training as a J.A.G. officer. Because of her interest in Germany and German and, having given up her Fulbright to go to Düsseldorf or someplace like that to marry me, I got interested in, I guess, the German language and all that and I thought that was great. So I requested to be assigned to the International Affairs Division of the Judge Advocate General in Washington, at the Pentagon, and got it. So we moved from Charlottesville to Washington and lived there for a couple of years while I worked at the Pentagon.

ED: So what did you do?

WN: I was an international affairs specialist. There really wasn't much for me to do the first year, as I recall—the first few months. We had a very erudite fellow in charge of that office who was named Colonel Lawrence Phillips, who was later a general officer. We got little assignments to try to look up things and work out international law issues. We had a protectorate over the Ryukyu Islands and we were... We had a lot of issues in respect to that. We were in the process... We were supervising the Status of Forces Agreement in Europe, in Germany, for example—the legal status of our forces in the countries where they were stationed in Europe and Japan. So we had a lot of issues with respect to international legal jurisdiction over people and that kind of thing.

ED: But we were at peace at that time, except, of course, for the ongoing Berlin Crisis. And along about that time we were beginning to ease into Vietnam, almost unnoticed I guess. But you didn't have to deal with Berlin...the airlift and the Berlin Crisis, I guess? But you eventually went to Germany, right?

WN: Oh yeah. Yeah, it's an interesting thing. I want to mention just one thing, and that is—I had one year of advanced R.O.T.C. at Vanderbilt. So I went to summer camp with the people from Vanderbilt at Fort Benning [Georgia], where they had the people from North Georgia and people from the Carolinas and, you know, the Southern boys. The people from the military schools were so aware, at that point, of Vietnam, and what was just starting. This, of course, would have been '59 and '60 and they were aware of it. They all saw themselves, believe it or not, headed for Vietnam.

ED: Really, even that early?

WN: Even that early they were thinking about it.

ED: Most people hadn't even heard of Vietnam.

WN: Yeah, that's right. There's a guy...

ED: *The New York Times* might have a little story on the bottom of page twelve about Vietnam or something.

WN: I didn't know about Vietnam. I had never heard of it. But these boys (I'll call them "boys" because we were twenty-two, twenty-one years old, something like that), they were on top of it and they were thinking they were going to serve with General Mark Clark back in those days, going to Vietnam. Anyway, that was my introduction to Vietnam. I was there in Washington for a time and I got to know some very interesting people in that international affairs division. One of them had just finished, at taxpayers' expense, a master's degree at the Fletcher School of Law and Diplomacy at Tufts University.

ED: In Boston, Massachusetts.

WN: Yes. It's run by Tufts, Harvard and M.I.T. They all collaborate, but it's on the Tufts University campus and is primarily a Tufts institution. I thought, "Wow, that's really

great if you can get that kind of education through the military.” And sure enough, I went on to Germany from there.

ED: Where were you stationed in Germany?

WN: Frankfurt. Was there for almost three years.

ED: Those years would have been...?

WN: Well, '64, '65 and left there in '66. But before I went to Germany, I had perhaps the best educational experience I've ever had and that was my assignment to the U.S. Army Language School in Monterey, California. What an experience! I mean to tell you, I walked into that classroom with maybe nine or ten people, and here is this guy standing up in the front of the room who said, “Guten Tag!” and then he went like that—made a circle with his finger. It was so funny. Every mouth opened and said, “Guten Tag.” And it was German from then on. Not a word of English spoken for six months, sitting there in that room. With him, and with others... Turns out, he had been a Wehrmacht captain and we all wondered how many people he had lined up in France, along a wall somewhere. He was from Osnabrück, way up in Northern Germany. He was a marvelous, marvelous teacher. I mean, he just had a way about him. He was funny, but he was a ramrod-strict German-officer type.

ED: So you left after six months fluent in German?

WN: I would not say fluent. No. You go away from there, if you have a good ear (and being a musician helps a lot), if you have a good ear and can imitate the language you go away from there able to speak street German really well. You're not fluent in the sense that you can read a newspaper and get everything that's in it. But you're on the road to fluency. If you have the good luck to be assigned in a way so that you can live, as we say, “on the economy” rather than on a military installation while you are there, you're on the road to fluency. I'm not really sure I ever made it, but I came close.

ED: So you went from there to...you were assigned Frankfurt.

WN: That's right.

ED: And what did you do there?

WN: I was a lawyer. I did a lot of trial work, both as prosecutor and defense counsel. I had other responsibilities, some international-relations type things because of the background I had had at the Pentagon. My car affliction came right out in Germany on the Autobahn. I had ordered a Porsche while I was in Monterey. I would go downtown in Monterey to Wester Motor Company and stand there on Sunday afternoons when no one was around with my nose on the plate-glass window looking at these cars in there. And so I ordered one and picked it up at the factory in Stuttgart when I got to Germany. I would drive that car up to Holland, to places to deal with legal issues at missile installations, where someone might be in trouble. I flew over to Berlin a time or two with a parachute on.

ED: This is while they were still...during the Berlin Airlift. No, that was over by then.

WN: That was over, but, of course, it was still a divided country and we were over hostile territory when we were flying over there to try cases or whatever we would do in Berlin. Not often, once or twice. It was a great, great experience. My older daughter was born in Frankfurt.

ED: What is her name?

WN: Her name is Laura Harding Newbern. She is a poet of some renown these days. She teaches at a little school in Georgia called Georgia College. Actually, its full name is Georgia College and State University, for reasons I don't understand. But beautiful little

campus in Milledgeville, Georgia. She won some big prizes in 2010 and had a book published, a manuscript of poetry, and so on. She's really good. But she was born there and we spent almost three years there.

ED: In Frankfurt?

WN: In Frankfurt.

ED: And is that when you leave the service and come home? How long were you in the service, altogether—five, six years?

WN: Eight years, ten months and one day.

ED: Eight years, ten months and one day.

WN: That's right.

ED: Were you intending to kind of make it a career?

WN: Yeah. I really had thoughts about that. My marriage wasn't going well. It was starting to get really shaky towards the end of that German tour. But I had managed to get appointed to the Fletcher School. So we left Germany and moved to Woburn, Massachusetts.

ED: What's the name of the town?

WN: Woburn. It's a suburb of Boston. Barbara and I lived there and that was where we finally came to a parting of the ways. But not quite; there's more to the story. At any rate, there at the Fletcher School, what to say? Well, it was quite an experience. I'll never forget the first day. I had no background in economics. None. And that's a big part, of course, of international relations. So, I went to my first economics class with a German professor, Professor George Halm. He began the first day by drawing a big line up on the blackboard and turning around...And here are all these Phi Beta Kappa graduates with me at age twenty-nine in this classroom and he said [in a German accent], "What's that?" And all these hands start going up. If I had to answer the question I would have said, "That there is a line on the blackboard." But everybody else knew what kind of curve that was and so on. So I had to go buy a copy of Samuelson, a basic economics text [*Economics: An Introductory Analysis* by Paul A. Samuelson, 1948], and start reading just to figure out what the terminology was and how to deal with it. But, I got through it. Finished at the Fletcher School and Barbara and I kind of reconciled and went from there back to the Pentagon in Washington.

ED: Did you get a degree? Is there a degree involved at the Fletcher school?

WN: It's an A.M. degree in international relations. I concentrated on European diplomacy. Wrote a paper on an event that occurred in the 1930s in Germany. Wrote a paper on treaty interpretation in the European Common Market for Leo Gross, who was a great international law teacher at Harvard and the Fletcher School.

ED: So you finished there and then went back to the Pentagon in Washington.

WN: Back to the Pentagon. We lived in a Maryland suburb of Washington and the marriage just kind of dissolved at that point and I went my way and Barbara went hers. She and Laura stayed there for a while and then moved later on. But, I was stationed there at the Pentagon and wasn't having a happy time. The fellow who was the boss of the international affairs division at that point was somebody...He wasn't a bad guy, I guess, but he and I just didn't see eye to eye and I knew I needed to get away from him or my career was going to be in trouble. And by then, the Vietnam War had reached its...I don't know what to call it. It had become so unpopular in the United States.

ED: This would have been '66, '67?

WN: Yes. I graduated from the Fletcher School in '67.

ED: They had had the Gulf of Tonkin incident.

WN: Oh yes.

ED: Fulbright had turned against the war back here.

WN: Yeah, I was screening records that were submitted from the field, from Vietnam, on treatment of prisoners and that kind of thing. Looking at those things, looking for incidents where our officer corps in the field might be liable for mistreatment of prisoners and killing unnecessarily and so forth. I was looking at all this stuff coming across my desk.

ED: William Calley?

WN: Yep, Calley. I don't remember what year that was. It was in that time. Anyway, I became...I don't know what word to use...But I was upset about being a military officer at that time. I didn't fit. I just did not feel I fit. But then, I owed the Army so much. They had been so good to me. My first tour at the Pentagon had enabled me to obtain an LL.M. degree at George Washington University in '63. They had sent me to Germany when I asked. They had sent me to the language school when I asked. They had sent me to the Fletcher School when I asked. All those things and I thought, "I can't just walk away from this. They've been too good to me." They really wanted to keep me and I was flattered by that. They wanted to keep me but I knew I was going to have to go. So I volunteered to go to Vietnam. I said, "I owe you. I don't really want to go there, but I'll go because I feel like I owe you. Then I'm going to say 'goodbye.' I'll be out." They said, "Well, no" and actually used these words. The chief of the personnel division says: "We really want to keep you. I don't want to send you to Vietnam so I am not going to do this. Why don't you go to Korea instead?" I said, "OK." So they sent me to Korea and I spent my last year in the Army...

ED: Had you gotten a divorce by this time?

WN: Let's see, I was divorced in '68. Yes. I was divorced by the time I went to Korea. So there I was, in Korea, and that's where I fell in love with Merle Haggard and was doing things like that. We had a wonderful group of guys in the J.A.G. office over there. The Seoul assignment was referred to as "the Army's best-kept secret." When I was in a temporary-quarters situation, had just gotten there, somebody said, "Come on, let's go over to the club for brunch!" So I go over to this nice officer's club and I'm out on the veranda, with champagne and strawberries, in Seoul, Korea.

ED: So you were in Seoul, not out in the D.M.Z. [demilitarized zone].

WN: No, I was in Seoul. I was at the Eighth Army Headquarters. Eighth Army United Nations Command. I was assigned to the United Nations Command but we were all the same J.A.G. office. So, they had a nice golf course, an eighteen-hole golf course.

ED: Did you play golf?

WN: I did play golf and I was terrible at that. I didn't get golf shoes because I knew what would happen. But, I played golf and was, as I say, terrible. But it was something to do. One experience we had over there that I recall (it may be the only one worth talking about) is, we were out on the golf course, it was Sunday afternoon, a beautiful day, knocking the ball around the course, and I could tell everybody was starting to leave. People were walking off the golf course and I thought, "Uh oh. Something's wrong." Well, there was a P.A. system and they announced all officers were to report to duty stations. I went to my office and here was my boss, who was an old World War II colonel—Colonel Petkoff was his name, a New Yorker—and Colonel Petkoff was in his

office and, sure enough, a sergeant and a warrant officer had taken a helicopter up for a joy ride and had strayed over the border.

ED: The D.M.Z.

WN: And they were down. He says, “Dave, what are we going to do? We’ve got to do something. The general is going to call me! What are we going to do?” I said, “Well, Colonel, first thing we need to do is stop. Calm down and settle down and think about this a little bit. What are the ramifications of anything we do here?” “But, Dave!” he said, “What would General Patton do?” I said, “I don’t know, Colonel, but I don’t think it’s what we’re going to do.” Finally, it all got worked out. The helicopter and the people were returned and we didn’t go to war with North Korea at that point.

ED: Patton would have run up a few tanks and gone across the border and fought his way to him, I guess.

WN: Oh yeah, no question about it.

ED: They’d still be fighting that way.

WN: “What would General Patton do?” Anyway, we had a lot of fun. The officers, the younger officers (I was older, I was a major by that time)...The captains and lieutenants were a fun group of young people to be with. I liked my year over there. Carolyn and I were corresponding all the time. She and I had dated some, years ago back in college.

ED: She was still at Fayetteville?

WN: Well, she was teaching at a little college up in Wilmington, Delaware. She had gone to Denver to teach school and then from there to get a master’s degree in American studies at the University of Delaware. Great program.

ED: So you had known each other in high school and...?

WN: Oh yeah. Yeah. She’s younger than I am, by about three years. So her brother and I were good friends.

ED: What was her brother’s name?

WN: Don Lewis. She was Carolyn Lewis back in those days. She had not married. She was like twenty-nine or so. We got into heavy-duty correspondence while I was in Korea and she sent me a carrot cake and that did it! So when I came back to the states, she and I got together and got married by the assistant deputy clerk in Montgomery County, Maryland.

ED: OK, so you come back from Korea. What year would that have been?

WN: ’69.

ED: ’69. And you come back to Washington first?

WN: Let me think now. I need to get this right. ’69 and ’70. It was 1970.

ED: So you’re stationed in Washington for a while before you leave the service?

WN: No. No, I was not. I resigned my commission and came back and was separated from the service at Fort Lewis, Washington. Carolyn came out there to meet me and had a nice trip back, across the country. Came back to Fayetteville. She stayed there and I went on to Washington. I had accepted a job as associate dean and assistant professor in the law school at American University.

ED: In D.C.?

WN: In D.C. I was headed for that. I have so many stories. I had taught there in the evening division of the law school while I was at the Pentagon in 1968 and early ’69 before I went to Korea. I had taught property law in the school there. There’s a long story about that, but we don’t need to go into it, I guess. But, the fellow who hired me was the dean of the

school at that time—Bill Tennery. I had a really good experience teaching in the law school there. Stories about Abe Fortas, I could go on and on. But, anyway...

ED: Abe Fortas—was he on the faculty there?

WN: No...well he sort of was. That was part of his problem. He was accepting a big honorarium for teaching there...

ED: While he was on the Supreme Court.

WN: Yes.

ED: I had forgotten exactly what all his troubles were. But [President] Lyndon Johnson had appointed him to the Supreme Court.

WN: Yes, and he was a...

ED: A brilliant man, I gather.

WN: A brilliant man and a good teacher, apparently. But he had accepted, I don't remember all of the details...But he had a relationship with one of the real estate moguls or insurance...I don't remember all of it. He was a diminutive person and I'm not diminutive and I remember Louis standing in the line at graduation one time and Bill Tennery, who was something of a "wag," was there with Abe Fortas and me and he looked at Abe and he looked at me and he said, "Mr. Justice Fortas, I would like to introduce you to a towering member of our faculty." And he pointed at me.

ED: You were six-three probably?

WN: Six-four. There's a lot of stories about American University. During the time that I was in Korea, and corresponding with Bill Tennery about coming there to teach when I got out of the Army at the end of my Korean service...When I was doing that, you can imagine what was going on at the campus of American University. They tried to burn the law school down. I mean, the students there were absolutely out of control.

ED: Against the war?

WN: Yeah, and the faculty people were just trying to hang on and keep education going in the law school and it was rough, really rough. Well, when I get there, with my short hair, and my military history (which the students all knew, of course, since I had taught there as a part-time teacher and gotten along great with the students up to that point), they didn't want me there at all. I mean to tell you...It was not anything personal. Here was this U.S. Army major coming in here and we've got to get him out of here. Not only that, the staff people thought I was a pariah, which I was. I was something that caused nothing but trouble in the law school. Well, the guy who had replaced Bill Tennery (they had run Bill Tennery off—he went off to Ethiopia or someplace like that)...They had run him off and nobody had told me this was going on. When I got to Fayetteville...When Carolyn and I came across the country and I got to Fayetteville, there was a letter from a fellow named Robert Goosetree, who had been appointed dean of the law school, and he said, "Bill Tennery is now gone, but we're hoping you'll come on up to the law school." Well, I said, "Gosh, nobody told me." I didn't feel I really had a choice. I didn't have any other job at that point, although I had been offered an assistant professorship at Fayetteville and had chosen to go to A.U. mostly because of the associate dean job. I wanted to be a leader, I wanted to be an associate dean there. Well, when I got to the law school, I told you what happened. It was obvious that this was not going to work out very well for me. So, I called Ralph Barnhart, who was the dean [of the law school] at the university in Fayetteville and I said, "Is that job still open at Fayetteville?" He said "yes," and after

one month at our new residence in Washington, D.C., Carolyn and I moved to Fayetteville.

ED: So you had gotten married? You had gone down to Nashville, Arkansas, and gotten married down there.

WN: Well, I married Barbara in '61 in Nashville.

ED: Oh, yes, excuse me.

WN: But Carolyn and I married in Montgomery County...

ED: Maryland. OK, you covered that.

WN: We got married in front of this assistant deputy clerk and it was her first time and we were standing there and she said to join right hands and we did and she said, "No, your right hands" and I said, "These are our right hands!" I mean, it was a comedy of errors. We were in a line of people getting married and most of them were fifteen and pregnant. But, anyway, there we were, the old folks at the assistant deputy clerk's office. That's the end of that story.

ED: So after a month you head back to Arkansas?

WN: Yeah, we head back to Arkansas.

ED: So you didn't get to teach anything, it was just uproar from the time you got there.

WN: That's right. I just had fond memories of teaching in the evening division before all hell broke loose in Washington. That was such an interesting time prior to that, before I went to Korea, because that was when the Poor People's Campaign occurred in Washington. I had a friend who lived in Arlington Towers across the river—you had to have a military I.D. to cross the river in those days—but I could go over there and look off the veranda or deck on Arlington Towers and watch the city burning. I was made a part of a team that was supposed to keep track of the whereabouts of Martin Luther King, that great subversive person. The Pentagon was anxious to do that and I was in a police station downtown with people who were trying to make sure we knew where he was at all times. It was an ugly time.

ED: Were you there during the March on Washington for Freedom and Jobs and all that? In 1963 when the great march and famous speech at the Lincoln Memorial? You weren't there then?

WN: No, I was not. I was at Monterey. But I remember sometimes after the Poor People's Campaign, you would go across the Arlington Bridge there and the marijuana smoke—the smell—was still there in the air. It was so rampant, it was amazing.

ED: So it's 1970—is it '70 or '71 you come back?

WN: '70.

ED: '70 you come back to Fayetteville for the fall term?

WN: That's right.

ED: So you were an assistant professor, I guess, of law.

WN: That's right—assistant professor.

ED: And Ralph Barnhart is the dean.

WN: That's right, he's the dean.

ED: So what did you teach?

WN: I taught a course called "Domestic Relations." That was the only thing assigned to me—domestic relations—and that's like a two-hour course, hardly a full course. I was thinking, "Ooo, hey! All I've got to do is this two-hour course." Well, Al Witte—I don't know if you know Al?

ED: I know Al.

WN: Well, Al got wind of that and he thought, “What? We’re going to let David do this and not anything else?” He was one of my professors in law school) He went into the dean’s office and raised hell about it. So I was given a course called “Remedies” and it was kind of a new thing where you combine damages, equity (we used to have courts of equity), and restitution. It’s a really, really useful course but nobody had ever taught it. But there was a good casebook out. There was a fellow named Wylie Davis, who showed up at the law school at the same time I did. He had taught there previously, but he was coming from the University of Illinois at Champaign-Urbana.

ED: Wylie—was he later the dean?

WN: He was.

ED: OK.

WN: That’s another story.

ED: All right. Continue with that one.

WN: All right, there I am. Now you’re going to teach not only domestic relations, but you’re going to teach the remedies course. Big casebook. Of course, Wylie was a very experienced teacher. He had taught contracts and really was a wonderful educator. He and I tackled this course at the same time. We really didn’t collaborate at all, but we commiserated a lot with each other. His level of commiseration was much higher than mine, of course. I got interested in that...

ED: So you jointly taught it?

WN: No. He taught his section and I taught mine.

ED: There were two sections. All right.

WN: I got interested in it. I really loved it and developed it, I thought, into something that was really useful and a fun thing to teach. I loved doing it. I also then, later on, got into the civil-procedure area, where I wrote a book, which is now in its fourth edition. It was a wonderful, wonderful teaching experience for me there. But dean-wise, I said there was a story there, about Wylie. Ralph Barnhart had fallen out of favor with not only Al but other members of the faculty and I never did understand all of the reasons why. But they made it eventually pretty clear to Ralph that he needed to move on. I think one of the issues, of course, was the law school here in Little Rock. Ralph was very much in league with Herschel Friday [a senior partner of Smith, Williams, Friday and Clark at Little Rock] and the powers and authorities that be here in Little Rock about having a University of Arkansas Law School here in Little Rock.

ED: Probably [state Senator] Max Howell was probably involved in that.

WN: They were very much interested in that and Ralph thought that was a good idea, which it was, by the way. It was a good idea. The faculty was paranoid about it. They’re going to move us down there; that’s what’s going to happen. I guess Ralph saw the handwriting on the wall and he was, of course, dean of the law school in Fayetteville and also had responsibility for the Little Rock law school, once the university had taken it over. So he came down here, to Little Rock, to do that and he resigned as dean of the law school. Well, Wylie was hot to become the dean. He really wanted the job. I thought that was great. I loved Wylie Davis. It was a good idea. There was an insistence—I’m not sure who insisted but probably the administration as well as portions of the faculty—on a search for the dean. Well, I get this phone call from David Mullins, who was the

university president at that point, and he wanted me to come to his office. So I go to his office and he wants me to be the temporary dean. What do you call it?

ED: Acting dean?

WN: Acting dean of the law school. OK, I'll do that. So I became acting dean of the law school. Assistant Professor Newbern had been there like two years and that all went really well and everyone accepted that just fine.

ED: Al Witte accepted it, too?

WN: Al accepted it. He may have even suggested it. He and everybody thought that was just wonderful, that I would do this, because we all saw the handwriting on the wall—that Wylie was on track to become dean of the law school. So I was dean of the law school from September to like February 1972, and into a little bit of '73. Then Wylie was appointed dean.

ED: And you went back to being assistant professor of law again.

WN: Well, I did, but only for a short time.

ED: This was when the folk festival...All right, are we ready to move into the folk-festival phase of your life?

WN: Sure. Yeah!

ED: All right.

WN: Sure, why not? I'm leaving out a lot of stuff, Ernie.

ED: Well, include some of it if it's interesting.

WN: Wylie received the dean appointment and said, "Well..." I might as well go into it.

ED: Yes.

WN: Charley Sandage...He and his wife and Carolyn and I had gone to the folk festival in '72 in Mountain View.

ED: Tell me a little bit about Charley Sandage first before we get into this, his background and how he's involved in all of this.

WN: Ok. Charley had graduated from Henderson and...

ED: Henderson State Teacher's College.

WN: Yes, and I think he was a combination of political science and education person and served in the Army as intelligence in Hawaii and had come back to Fayetteville to get a doctorate in education. That's where he found me at Ken's Pizza playing music. Charley was a good musician, really knew a lot of folk stuff, knew a lot of Johnny Cash stuff, the heavy-duty country-type things.

ED: Lefty Frizzell and stuff like that.

WN: Yeah. He and I started to play together after he agreed to help me. So we formed a trio. He and a fellow named David Fielder and I formed a trio. Fielder was a law student and a good guitar player. Our trio was called "The Illinois River Valley String Quartet." We played...We had a wonderful time. We played around the campus, wherever anybody would let us.

ED: What did you play?

WN: I played the banjo.

ED: You played the banjo.

WN: Charley and Fielder both played guitar.

ED: Both played guitar in the band.

WN: Yeah, and Charley was the lead singer. He knew the songs. We worked up things and this was when John Denver was just coming in and we got into his stuff.

ED: All kind of folk music and various...

WN: Yeah, it was all folky stuff. Well, you remember this. Back in those days, there was a sort of a backdoor publication in Fayetteville called the *Ozark Mountain Times*. The University administration attempted to ban the *Ozark Mountain Times*. So the campus... You can imagine what we did with that. I wrote a song called—well I don't know what it was called, but I guess it was called "Ozark Mountain Times." "You can't bring them Ozark Mountain Times on campus, we got rules like other schools around here." The final line of it was something like: "The Faculty Senate passed a law, *ex post facto*..." Something like that. It was a fun thing. Well, Carl Whillock was the assistant president or provost or whatever you called it back in those days and he loved it. He thought that was hilarious. So we performed that all around and had more fun with the university administration and the University Senate that wanted to ban the publication.

ED: Faculty Senate and the president? David Mullins was the president.

WN: Yeah, I guess so. Anyway, we had a lot of fun with that. Charley is a great guy and... Here we go with the folk music. Charley was beginning to see himself as the next Jimmie Driftwood, someone who would be a guru for the folk music, Ozark-style stuff, even though he was from the Ouachitas. Anyway, he, thinking ahead, got a job with Bill Henderson at Parks and Tourism as Bill's assistant.

ED: William E. Henderson was the director of the state Publicity and Parks Commission. Or Parks, Tourism and Travel, however it was known.

WN: That's right. He was the man. Charley went to work for him. At that point, [Dale] Bumpers was the governor and the [Ozark] Folk Center was a-building up in Mountain View.

ED: They got federal money to build this big folk center.

WN: They got \$3.2 million in E.D.A. funding.

ED: Economic Development Administration supplied the funds to build it.

WN: Bill's in charge.

ED: Wilbur [U. S. Representative Wilbur D. Mills] got it.

WN: Wilbur got it, and Bessie Moore.

ED: Bessie Moore. Bessie Moore, I think she's a state librarian or assistant director of the state Department of Education or something like that.

WN: I don't remember her title.

ED: She had a title in the Department of Education.

WN: That's right, and she was a cog in this wheel along with Jimmie Driftwood and Wilbur Mills. So here's Charley in Bill Henderson's office and they're courting the legislature. This New York company was building the Folk Center as kind of a for-profit institution. It was going to be Six Flags Over Mountain View (not literally, but that was the essence of it), but they were falling on hard times. Realizing, I think, that this was not going to work for them, [Lloyd] Buddy Surles, who was the parks director under Bill Henderson, and Bill Henderson saw what a great opportunity it was for state parks to take this thing and do something with it. So Charley was running from Bill's office over to the legislature, back and forth, back and forth, trying to get them on board for this and he finally did it.

ED: To make it a state park.

WN: To make it a state park.

ED: Bumpers was behind it, supported it, I guess.

WN: Yes, he did support it. They were far-sighted people: Bumpers, Surlles, Henderson, Charley. So that's how it began and there's a fellow named Tommy Simmons, local guy there in Mountain View...

ED: He was the mayor in Mountain View for a while.

WN: He was the mayor in Mountain View but not at that time. He had been the mayor of Mountain View. Tommy was up there driving a four-wheel-drive pickup truck around on the site and was kind of in charge of supervising the construction. Did you know Wassell Turner? Wassell Turner was an architect here in town.

ED: No, I don't remember that name.

WN: He was an old fraternity brother of mine and a good friend. His grandfather was Dr. Wassell, who was a famous Arkansas folk character of some kind. Anyway, Wassell had been the architect who had participated in designing the Folk Center but—how to say this?—Tommy was up there as sort of the general manager of the construction phase. When it came time to put together a staff of people, he was obviously the logical choice to be the general manager of this new state park. But politics, being what it is—he had been the mayor and was associated more with one faction than the other one. The need for a sewer system at Mountain View was the initial impetus for trying to get the grant to build the folk center. The E.D.A. grant was focused upon the sewer system. We've got to have something up there in addition to putting a sewer system into Mountain View, to spend money on. That was all part of the same deal.

ED: They were going to build a sewer system for Mountain View and a big folk center to celebrate the native music and crafts and whatever there.

WN: Yeah, and somewhere where you could flush into the sewer system. Anyway, the sewer system had been constructed, but there were rumors of infiltration of the sewer system—air infiltration. Who was the mayor? It was Tommy Simmons during the construction of the sewer system. Well, he's part of Jimmie Driftwood's Rackensack Folklore Society. But the Mountain View Folklore Society, on the other side, had slightly different ideas about the folk music and how it should be performed, and a real feud developed. It was awful.

ED: Maybe to interrupt you just for explanatory purposes so people can understand what the situation is: Stone County, Mountain View's county seat, is, I guess, historically almost evenly divided on practically everything. You had the political factions—the Storeys and the Lancasters. Every two years, power would shift and the Lancaster faction would be elected to the offices and two years later the other faction would be elected. It also got down to the music. The community was split over the music. You've got the purists on one side, the old kind of instruments...

WN: No bass fiddle.

ED: No bass fiddle, no electronic instruments or anything. On the other side, the kind of modernists who want to use modern technology and instruments and so forth. So everything is kind of divided in half in that community.

WN: That's right.

ED: Am I essentially correct about that?

WN: Absolutely correct. That's the way it was. Of course Tommy Simmons was associated with one side and not the other. Well, it just wouldn't do to have Tommy in charge of this...

ED: The other faction.

WN: Yeah. They start looking for someone with a white hat and a horse to come in there...

ED: Who wasn't in line with either faction.

WN: Right. Nobody just could have just ridden in, you could see it now...

ED: Above the fray.

WN: Yeah. Charley Sandage said, "How about my friend David Newbern, who is just coming off his stint as dean of the law school in Fayetteville? Wouldn't that be a coup if we could get him to do this?" That's how it started. Without going through what all happened...I accepted the job. One day I got a call from Bill Henderson and I was in the kitchen. Carolyn and I lived out from Fayetteville and she's in there, in the kitchen, and the phone is in the kitchen and I'm on the phone and she could hear me say, "Yeah, I'll do it." I think she nearly dropped a pot of beans or whatever it was she was dealing with. She couldn't believe it.

ED: "You're going to do what?"

WN: Yeah. Yeah. So I took the job and Bill Henderson was so kind and so nice to me and he made sure he could give me a salary that matched my assistant professor salary, which was really more than they had intended to pay anybody up there. I went to Mountain View and Charley went as the program director and Tommy Simmons was called manager, I think, or general manager. I was the administrator of the Folk Center. You know titles.

ED: That was your title: administrator?

WN: I was administrator. Tommy, of course, knew a whole lot more about everything up there than I did and he really kind of ran the place on the nuts-and-bolts level. He'd be up there collecting admission-sales money at the auditorium after the evening programs, making sure it got where it needed to go. He was very good about real hands-on administration and I was up there in the clouds somewhere talking about philosophy and Ozark tradition and blah-blah. So, we opened it. We had a wonderful opening ceremony with Wilbur Mills, in full array and absolutely on top of his game, and Bessie Moore. Had a fellow from the National Park Service who presented us with an Indian basket and stuff like that. It was such a fun thing. But the problem with it was, the legislature had gone along with it after a lot of "We're going to do what? We're going to sponsor music, that's what we're going to do?" You can hear it, can't you?

ED: Yes.

WN: So that was...

ED: I was covering the legislature at that time, as I recall, in seventy...

WN: Well, you heard a lot about it then.

ED: Yes.

WN: They gave us enough money to open the place up and, of course, we were expected, I think, to stand on our own after a very short period of time. Not a lot of money for publicity. There we were, miles from an interstate. The airport at Mountain View—I have a great story about that...Anyway, it was a place that nobody had ever heard of outside of Arkansas and yet we needed to have much greater presence as an advertising proposition and publicity. Well, a fellow named Porter Young Jr., who had been one of my students at the law school (I'm not sure he was in one of my classes, but I got to know him there; he was a student), he was stringer for... Well, I guess he was more than a stringer. He was a reporter for the *Northwest Arkansas Times* back in those days. He came into my office one day—he was a brash guy—and he said, "I'm going to be your publicity guy at that

folk center.” This was before I had moved away to Mountain View. I said, “You are?” and he said, “Yeah.” And sure enough, he was. We hired him. He was a character, but he did a great job. But we still just didn’t have enough resources, you know?

ED: So there wasn’t much of an appropriation of state revenues for it...

WN: I wish I could remember the amounts involved, but basically a pittance. It was enough to open the doors.

ED: So you were expected to generate your own cash flow from ticket sales, or from sales of whatever.

WN: Of whatever, yes. We had a lodge up there, which is another big story. We had a money-generating operation. But it wasn’t generating enough money because nobody either in Arkansas or elsewhere, looking for an interesting place to vacation knew about it and we had a hard time advertising it on the budget that we had. So we came to the end of the first season, after months of counting the cars in the parking lot and “Oh, one more than yesterday” and that kind of thing. Kind of sad. Got to the end of the first season and into October and November coming, getting cold, and nobody showed up. So we realized that we were going to have to shut it down for the winter. I don’t think we had enough money to pay the utilities. So I took carpetbag in hand and came to Little Rock. Tom McRae [Thomas C. McRae] was Bumpers’s assistant.

ED: He was his...I forget whether he was chief of staff or what it was, but Bumpers had brought him in from Texarkana to help him administer the governor’s office.

WN: Yeah, he was one of my old fraternity brothers. Tom and I were good friends.

ED: Well, Tom is from El Dorado.

WN: Yes.

ED: We were both from El Dorado, somewhat contemporaries. I was a year ahead of him, I think.

WN: Well, Tom and I were friends and he was handling me for the governor. So I made my trip to Little Rock and I figured out we needed...I don’t remember how much, but it doesn’t matter. I got to the Governor’s Mansion and I had an appointment to visit with Dale. Tom was there and Tom was kind of grinning like “We know why you’re here, for your handout.” And I said, “Yeah.” Well, Bumpers was around...You remember that sort of breakfast room off the kitchen at the Governor’s Mansion?

ED: Yes.

WN: Dale was around the corner on the phone and he was chewing someone out. I mean to tell you, it was “You are an embarrassment to me! You’re an embarrassment to the state of Arkansas!” He was just laying someone out flat on the floor. And I’m sitting there with my briefcase in my hand and Tom’s grinning. Dale comes around the corner and “Hi David! How are you doing?” Just fresh as a daisy. I said, “Well, Governor, we’ve got a problem.”

ED: You never did find out who he was chewing out?

WN: No, I didn’t want to know.

ED: What year would this have been?

WN: Well, it was on the cusp of ’74, ’73-’74. I explained that we really needed some money to get through to the next season. I thought it was going to be, “Well, we need...” I don’t remember how much, maybe forty thousand. Wouldn’t seem like a lot today, you know, but back then, it seemed like a lot of money. He said, “Well, let’s see here. What about your maids up there at the lodge. Do they do their own laundry?” I mean, we get into this

kind of nickel here, dime there, and so on. Fortunately, I had the information to give him. I know what it would have been like if I hadn't. Anyway, he wound up giving me what I asked for.

ED: Out of his emergency fund?

WN: Out of his emergency fund. So we would get through the first winter. But it was apparent to those of us who were up there drawing the big salaries—mine, Charley's, Porter Young's, and I guess Leo Sutterfield, who was our accountant, our bean counter—that there was no way that the Folk Center could continue to support us with that kind of money being spent on administration. So I talked it over with Bill Henderson and decided that I was going to leave. One of the things that Wylie Davis had done for me back when I had announced I was leaving the law school to go to the Folk Center was talk me into not resigning. Just take a leave of absence. He said, "You may want to come back and we'll want you back." He said, "Just take a leave of absence." Which I did, thank God! Anyway, I was finished at the Folk Center...

ED: So you did one year there?

WN: Oh, no. It was like from late May or early June of '73 through the end of the year.

ED: Nine or ten months or six, seven or eight months.

WN: Yeah. Seven months I guess, something like that.

ED: So was there also a problem there. Did the musical dispute carry over to the Folk Center? Didn't they set up a rival musical program on the courthouse square, which is still going, I guess?

WN: Oh yeah. Of course, it had all been at the square previously. There was, yes, there was that. Jimmie Driftwood was an irascible person. Jimmie always considered himself to be the father of the Folk Center, which he was, in many ways. He was, of course, an incredibly talented guy. I'm sure you know that.

ED: Yes.

WN: He and I never had a cross word but I know that behind my... Well, he was undermining me here and there and he had some...

ED: Was he kind of a purist on the musical side?

WN: No, no. He was a Jimmie Driftwood purist. He was...

ED: He was his own man. You had this group and that group and then you had Jimmie Driftwood.

WN: We had a rule that you couldn't do anything on the stage at the auditorium that was written after 1940. Of course, Jimmie's stuff all came after 1940 and he did it every night up there, every time he appeared on the stage he did his own stuff and, of course, that infuriated all the people that were having to abide by the rule because he didn't have to abide by the rule. Anyway, there was that, and he would do things like... We had a little group up there called the Copeland Kids. They were talented young, young kids from a Mountain View local family and their parents were both part of the music scene up there—Percy Copeland was a harmonica player. They were good. But Jimmie Driftwood got it in his head that we had to sign them up for a recording contract. Well, we were not in the recording business, you know? That's complicated intellectual property stuff. But, Jimmie said, "Nope. If you don't sign them up, somebody's going to come along and sign them up and we're going to lose them." That wasn't about to happen. They're just kids. They looked backwoods up on the stage. That's who they were. I understand they're still around Mountain View. I don't know if they are still performing but I know they're

still around. Anyway, Jimmie, he would come to me and say, "You've got to sign them up!" I had a lot of little headaches going on with the personnel around the Folk Center and I just, I couldn't do that. I could not get involved in launching a recording business up there. A commercial, that's what he wanted, a commercial recording contract for these people. So that tore it as far as he and I were concerned. He would come up there to the administration building and go and closet himself with Tommy Simmons, and I'd know they were in there talking but I couldn't do much about it. So, Jimmie, as I say, we never had a cross word, but we were working at cross-purposes, I'm afraid. Of course, eventually, he fell out with everybody at the Folk Center and started his own Jimmie Driftwood barn thing up there, which is still in business, I think. That's how things were the first semester at the Folk Center

ED: I was familiar with it a little bit because I kind of married into that. My wife is from Fox.

WN: Really?

ED: She's from across the highway from Timbo. Timbo is...

WN: Oh, I know.

ED: You know where Fox is and Timbo. Of course, I knew Jimmie. I'd been to Jimmie's house. George Fisher [*Arkansas Gazette* editorial cartoonist] had this Old Guard Rest Home that was actually next door to Jimmie. So I knew about it...Of course, going up there to the Friday and Saturday night singings on the square. I was up there a few months ago again. I went out on the square one Saturday night and wanted to listen to everybody sing. Did Floyd Holland...Do you remember Uncle Floyd Holland?

WN: Remember him well.

ED: Well, Uncle Floyd, that's Elaine's uncle.

WN: Was he?

ED: Out there at Fox, a little tiny fellow who played the banjo. He'd gotten his hand crushed trying to jack up a car or something and it fell on that hand. But he could still play the banjo with a stiff hand.

WN: I loved him. I thought he was one of the real guys.

ED: He was authentic. He lived up there, out there at Fox...I was courting Elaine and we'd go up there and her family's house. We'd sit around. They had an old wood stove that kept the house warm. Uncle Floyd would come up from down the road some place and pick and sing. I remember one day he said, "Where you from?" and I said, "Little Rock." He said, "Boy, I tell ya, that place sure has changed." I said, "Yeah. Well, when were you there last?" He said, "Lemme think. It was 1934." Or something like that. This would have been 1963 and it had been thirty-something years. But it had changed since the last time he was there.

WN: He was one of my favorites. He and Ollie Gilbert. I don't know if you knew Aunt Ollie?

ED: Yeah.

WN: She lived on sort of the main drag, downtown there. Her son has a family reunion that I go to every year in the fall. He's a very, very successful guy with a shoe company in Austin. But, anyway, they're authentic, they were wonderful. Aunt Ollie had these adding machine tapes with dirty jokes on them, which, of course, she wasn't allowed to tell to folks. She loved to tell them and she'd roll that tape out at and find her stories. There are great stories about Aunt Ollie but I guess we don't need to get into that. I was going to tell you about one other person of that ilk, and I don't mean that in a pejorative way at all. If I can remember his name. Tommy Simmons thought we just can't have this without

this guy. He's up there in Illinois someplace. He had gone to live with his children out there. Tommy went up there to get him and brought him back down to Mountain View. I'll think of his name before we're through. But he was a fellow that played a guitar and did a figure eight as he was playing the guitar like that, with his flat pick.

ED: Kind of like a figure eight on the strings.

WN: Yeah. He was a little old man about Floyd's size and wore a hat and overalls. I was downtown schmoozing people one day, which I thought was worthwhile, turned out to be...I was downtown talking to somebody in front of the drugstore and he came up and just stood there and looked at me. I turned to him and said, "Well, good afternoon, Mr. _____. (I can't think of his name)...How you doing?" He said, "I'm all right. Are you one of them big fat fellows, one of them big fat sons of bitches that come in here to run this place?" I said, "Well, I guess I am." He said, "Well, I know how to fix your problem" and I said, "You do?" He said, "Yes I do. I want to come up to your office and talk to you about it." And I said, "OK, that will be fine. How about right now?" He said, "All right, I'll come up there." So I went back to my office and in he came. He said, "Here's what we're going to do. We're going to build a railroad from the Folk Center (he called it the culture center back then) over to the cave."

ED: Blanchard Springs Caverns?

WN: Yeah, which opened the same year as the Folk Center. He said, "We're going to have a train that will run back and forth from the Folk Center to Blanchard Springs and that will solve all your problems. That will do it. People will come from everywhere to come up here and see that and be a part of that." And he said, "Not only that, but I'm going to be the engineer. I worked for the railroad for forty years. I can sit back and watch that smoke roll."

ED: That was his plan.

WN: Solved the problem. I thanked him profusely and he went on his way. Somehow we never got it built.

ED: Well, you could have gone to the legislature and asked for money to build a railroad. That would have been great to see how Bob Harvey [Robert Harvey, state senator from Swifton] and all those people out there would have reacted to that.

WN: Wouldn't that have been something?

ED: So he never brought it up again?

WN: No, never heard any more about it.

ED: Did he do any singing out there?

WN: Yeah.

ED: He did?

WN: Oh yeah, he got up on the stage and did his figure eight thing with Lonnie Avey and Bookmiller Shannon.

ED: Bookmiller Shannon was a big star up there.

WN: Oh yes, big star. Yeah.

ED: Bookmiller, I guess, was the big star. Who was the woman with her zither?

WN: Well, the main woman singer up there was Alameda Riddle. I don't know if she played autoharp or not.

ED: I don't remember.

WN: She was good.

ED: She and Bookmiller, I guess, were the big, the famous ones.

WN: They were.

ED: And of course Jimmie Driftwood.

WN: Bookmiller was great. I don't know if you've heard this story about Book, but when we opened the Folk Center, it was state of the art. We had dressing rooms. We had tuners on the walls so that you could tune your instrument. The standard tuning note is "A" and the standard "A" pitch is four hundred and forty kilocycles. You turn this thing on and play an "A" just like that. A 440 coming from a machine on the wall. They took Book in there and sat him down and said, "Book, we want to show you this. This is how you'll be able to tune your banjo to get it perfect every time." So they turned it on and said, "That's 'A.'" Book sat there with his banjo and said, "Yes, yes it is!" He knew what "A" was when he heard it.

ED: Well, all right. So that was your folk music career. So that would have ended about the end of the year 1973.

WN: That's right. I went back to the law school for the spring semester.

ED: Spring semester.

WN: Spring semester '74.

ED: '74 and back as assistant professor.

WN: That's right.

ED: Anything else in the teaching career before we get to your—I guess it was Court of Appeals, about five years later?

WN: Right.

ED: Anything else noteworthy about your teaching after you went back to Fayetteville?

WN: I guess the main thing is the Court of Appeals.

ED: You and Carolyn had a daughter at some point along in here.

WN: We did. She was born in '74.

ED: Alistair.

WN: That's right, Alistair. Alistair came along, a little red-haired girl, in '74, and she was born in July...July 21 in '74. I guess there's really nothing about my teaching during those days that comes to mind that would be of interest. The Court of Appeals was created, as you know, as an intermediate appellate court. Badly needed.

ED: We adopted a constitutional amendment in 1978 creating this intermediate court of appeals.

WN: That's right. I don't know why it occurred to me, but it did, that it would be great to serve on that court. It would be for eighteen months. I could not succeed myself because appointed people can't do that.

ED: These judges would start the Court of Appeals and would serve until the next election when regularly elected appellate judges would be chosen.

WN: Yes, that's right. So I decided that I'd like to try for that. Of course, [Bill] Clinton was the governor and had been a member of the faculty at Fayetteville. So we were well-acquainted.

ED: So when he goes to work there in 1972 or '73 I guess...?

WN: It was some time after that. I want to say no earlier than '74.

ED: Because he runs for Congress in 1974. So he had joined the faculty there...and Hillary too.

WN: Well, another story. You ready?

ED: You can tell these in whatever order.

WN: Well, let's talk about Clinton for a minute.

ED: OK.

WN: My job at the law school, perennially, was chair of the faculty appointments committee. That's the committee that seeks new faculty members to be recommended to the law faculty and ultimately to the university administration. Of course, I had not done that while I was at the Folk Center. But when I got back to the law school, I resumed my chairmanship of that committee. There were some things that had happened while I was gone, that I didn't know about, personnel-wise. One of them was, there's this person named Bill Clinton who is a Rhodes Scholar, and someone who is a Yale Law School graduate, and so forth, and he is interested in a faculty position. OK. That's great. So Dean Wylie Davis, I guess, had made the arrangements (which I would have done had I been there) for Bill to come and interview. In my resumption of the job, about the first thing I did when I got back was to go and find Bill Clinton at the Holiday Inn in Fayetteville. He had come to town to interview for the faculty position. I didn't know anything about him. I had heard a rumor or two about how he was famous, in some quarters, as a scholar—Rhodes Scholar, Yale graduate, blah-blah. So I went out to the Holiday Inn to find Bill Clinton and take him to the law school. Well, I get out there and I can't find him until I look in the coffee shop and there is Steve Smith, a politician and legislator from Madison County with Bill Clinton and they're closeted like two bugs in a rug. I mean to tell you!

ED: Did you know Steve Smith?

WN: Oh, I knew Steve Smith. I did not know him well, but I knew who he was and I knew this was politics personified right there. So my antennae went up at that point.

ED: Steve had been the youngest member ever elected to the Arkansas legislature. He was elected in 1970, probably, to the state House of Representatives from Madison County...

WN: From Huntsville.

ED: And I don't remember at that time if he was still in the legislature... Yeah, he was still in the legislature.

WN: I think he was. Yeah.

ED: And I think of pot-smokers kind of stuff as well.

WN: Yeah. I thought, "Ooo, look at this!" So I got Bill in the car and we headed to the campus. Well, he starts this traditional round of visiting with faculty members and all of that and I'm starting to go around and ask questions about who this guy is and what he's doing here. I didn't get a whole lot of good answers. But I gathered that he had at least dropped hints here and there that he was very much interested in running for office. So, before he had his exit interview with the dean, I said, "Come with me." So we sat down in my office and I said, "Listen, I just have to ask you: Do you want to come here because you want to be a law professor or is it because you're looking for a steppingstone to a political career." Stupid question. The answer, of course, "Oh, I want to teach, and I have no current plan to run for office!" Well, he hadn't been there six months before he's orchestrating this campaign and poor old Judge Meriweather, one of the old faculty members, is looking for him to write him a check. Things were just...

ED: Carl Whillock, of course... I don't know what his job with the university at that time was, but he was encouraging him to run for Congress.

WN: Oh, I'm sure. And by the time it became obvious and Bill was starting to organize a campaign, he had charmed everybody in the law school. We all thought he had hung the

moon. He probably had. We were all not only tolerant of that, we were behind it. We were anxious for him to succeed.

ED: So he was running for Congress against John Paul Hammerschmidt.

WN: That's right.

ED: The unbeatable Republican congressman from the Third District.

WN: Unbeatable is the operative word here. Anyway, that's what happened. About that time, Hillary started to show up in town. Of course, they were not married at that time, but she was obviously his girl and that was headed in the direction it wound up going. We hired her, too.

ED: So did you hire her that fall?

WN: I want to say it was later. It was in the spring or the next year. I can't really remember.

ED: So that race for Congress would have been...He wins the primary in May or June [1974]...I guess he would have won that primary in May or first week in June. So the general election would have been in the fall and he gets beat, narrowly, by John Paul Hammerschmidt in November. But he's still on the faculty. He's still teaching.

WN: Yes. Well, he did take a leave of absence.

ED: He did take a leave of absence?

WN: Yes, I think he did. Almost certain.

ED: Then, right after that...Did you interview Hillary?

WN: Yes, she came and, of course, she had a stellar record. Somebody, anybody would want to hire her as a fledgling law teacher and she was good, too. She did something that really was good. She established the first viable legal clinic at the law school. You know, clinical education is "the" thing these days, as far as lawyers are concerned. Very much like medical education. It's very important. She established this clinic for indigent people to be represented with the help of law students and, and did a wonderful job. I worked with her a little bit on that when she would ask, because I was a procedure expert at that time and she needed help with that kind of thing. But she was wonderful. She did a great job at the law school.

ED: Do you remember anything about the interview?

WN: No, I don't. I really don't.

ED: Except that she was impressive.

WN: Oh yeah.

ED: Obviously had a great academic record plus she had been with the Watergate, John Doar...Was it the Watergate Commission she was with? Yeah.

WN: Oh yeah. She was John Doar's main man. She was right up there. She was like being on railroad tracks to the faculty. There was no question that she was going to be offered a job, no matter what. Of course, she was hot to get married to Bill, I guess, and that all transpired.

ED: So then, in 1976, both of them are still on the faculty, he runs for attorney general of Arkansas and gets elected. We all know what happens after that. I assume you obviously supported his race for attorney general.

WN: Sure.

ED: And governor in '78. He's elected governor in 1978, the same year that the constitutional amendment is ratified that creates this Court of Appeals. You were interested in that Court of Appeals. Did you call Clinton and tell him you'd like to be considered for that?

WN: I think I wrote a letter to him asking to be considered. I remember Wylie was supportive. He told me that he thought I'd have a good chance of getting it.

ED: You would take a leave of absence from the faculty?

WN: Yes. That's right, another leave of absence. It was an interesting thing. Maupin Cummings, who was a circuit judge in Fayetteville and, I think, had just retired from that job, really wanted to be on the Court of Appeals from that district (the Third District).

ED: Yeah, they were appointed by districts, right?

WN: That's right.

ED: Six judges, all by districts.

WN: That's right. Maupin, I'm told, really wanted the job. In fact, his son called me and asked that I support him for the job, I guess not knowing that I had applied for it. But, anyway, Maupin had a lot of political chips, so Clinton was put in a spot. He had me on the one hand and I think he thought I would be significantly different from the other members of the Court of Appeals, background-wise, so it would be a good thing. But he had this other thing. So I thought it ultimately—certainly for Bill in those days—a gutsy appointment putting me on that court, which he did and for which I am eternally grateful. I came to Little Rock and the rest of that is kind of history. What a wonderful, wonderful experience that was for a law teacher. I told people it was like being a kid who had to stand outside the toy store at the mall and just wonder how the toys worked (looking at them and thinking here's how they did this one, here's how they did that one) and then to be turned loose in the store. To actually manipulate...

ED: Were there six or seven judges? Six...

WN: Six judges.

ED: Even number of judges and you had to create this court out of whole cloth...

WN: That's right.

ED: And no pattern to work from, except there had been courts of appeals elsewhere around the country.

WN: And nobody cared about us much in the Supreme Court, with two exceptions—Supreme Court Justices Conley Byrd and John Fogleman.

ED: Conley Byrd had been instrumental, by the way. For some years he had been lobbying to create the Court of Appeals to give the Supreme Court some relief from this huge caseload.

WN: That's right, and he would come up there to our offices in the Justice Building and look around and see what pitiful situations we were in. We had been given no money for law clerks but we had secretarial salaries. So we hired desperate law graduates with those secretarial salaries to become law clerks, and the secretariat was kind of catch as catch can. Conley wanted to make sure we had the right kind of furniture and that kind of thing. He would come up there to our offices frequently and really try to figure out how he was going to get us situated.

ED: So you all had offices on the second floor of the Justice Building.

WN: That's right.

ED: The old Justice Building.

WN: Yes.

ED: And they had kind of moved out the Workers' Compensation Commission and the Transportation Commission...

WN: Yes, the Transportation Commission.

ED: And the Public Service Commission. I guess they moved them all out.

WN: They were all gone.

ED: And you took over those quasi-judicial commission offices.

WN: That's right. My office was right above the smokestack at the Wrape Lumber Company. You opened the window and boy! Even if you didn't open the window it was really bad—where the Episcopal School is down there now. Conley was very supportive and John Fogleman supported us on the issue of getting salaries for law clerks. He went over to the legislature and said, "If I can't have my law clerk, I quit. You've got to have that."

ED: So you got an appropriation in the '79 session of the legislature...

WN: Must have.

ED: For some law clerks and so forth.

WN: Yeah.

ED: Who were the other members of the court at that time?

WN: I'll never forget them. The chief judge was Ernie Wright from Harrison—great man. And then there was Jim Pilkinton from Hope, a senior, senior lawyer and former chancellor. There was Marian Penix from Jonesboro...

ED: She was a federal magistrate judge, married to lawyer Bill Penix of Jonesboro.

WN: George Howard.

ED: George E. Howard, Jr. of Pine Bluff, a black civil rights lawyer, who had, I think, served...David Pryor had put him on the Supreme Court, briefly, I think.

WN: That's right. He was appointed. George was the guy who really knew what to do because he had been there, he had been on the Supreme Court and he knew how to operate the system in terms of assignments of cases and the conference procedures and so forth. He had it all because he had been there. He really knew what to do. Let's see, have I named them all? Ernie Wright...Oh, Steele Hays of course.

ED: Ernie Wright, Jim Pilkinton, and you, George Howard, Steele Hays and there was one other. George Cracraft?

WN: No, no.

ED: He wasn't on there?

WN: No, that's six. Chief Judge Ernie Wright, Jim Pilkinton, Steele Hays, George Howard, Marian and I were the members of the court. Great people. It was really good. Nobody had an agenda of any kind. Ernie Wright was an old, kind of curmudgeonly guy...

ED: He had been a chancellor or circuit judge. Chancellor...

WN: Chancellor in Harrison.

ED: For a number of years.

WN: Yes. Just very knowledgeable and very good at leading. Good chief.

ED: His daughter, I think, is a famous poet.

WN: Famous poet, yeah. She had been a law student.

ED: Oh yeah? Of yours?

WN: When I was acting dean she was a law student and she did not like law school. She hated it and she came into my office...

ED: You can't write opinions and not have any iambic pentameter, I guess.

WN: Well, there are a lot of things about it that she didn't like, having mostly to do with the treatment of the students as if they were slaves, although she put it in less suitable language.

ED: Yeah.

WN: She came to my office and she sat down and she was fuming. She said, “I’m leaving here, I’m going away. “Oh! You are leaving? That’s probably the best thing for you.” She’s never forgotten it. She thanks me when she sees me. She says, “Thank you for saying that. I needed to get out of there and you made it possible for me to leave because you told me that it was the best thing I could do. That I just wasn’t suited for this.” And I said, “Yep, that’s right.” Anyway, she said that. But those people were wonderful. They were all really experienced. Ernie and Jim...Of course, Steele was such an affable guy, a wonderful person to be with. Ernie and Jim, of course, were old-school judge-lawyer types.

ED: I think Pilkinton had also been a circuit judge.

WN: Who?

ED: Jim Pilkinton had also been a circuit judge. [Pilkinton also had been the Democratic nominee for lieutenant governor in 1966, losing to Maurice L. “Footsie” Britt.]

WN: Yes, he had. I think by appointment, I don’t think he had been elected.

ED: OK.

WN: By appointment down there, and I think he was a chancellor though, not a circuit judge. Anyway, he was great. But I think Ernie Wright, in particular, and Jim at first couldn’t understand why I was there. Because I did not come through this—the battlefields they had come up through—and I just wasn’t somebody. I was the professor and didn’t know anything and so on.

ED: Ivory-tower thing.

WN: Yeah, ivory tower, and that lasted just a couple of months and until I really started making contributions to keep them from stepping on themselves. We got to be close, close friends. I mean, really close. It was a wonderful eighteen months working with those people.

ED: So you had, not only, as you say, the procedures of how you conference and how you assign cases and just how you keep the work flowing and keep from getting behind on cases.

WN: You know, the Supreme Court had a huge backlog. They were just absolutely inundated. So our first job was to do something. I remember the first few weeks of that court, maybe months, we would do twenty-some odd cases a week. Turning them out. A lot of them were workers’ compensation and employment security and so forth, but they had to be done. They were important cases.

ED: Well, who decided? Was it the Court of Appeals or did the Supreme Court decide that these are the kind of cases that are going to directly to you and these cases will go to the Supreme Court?

WN: They had not made anything clear about that. They just assigned us cases. They would just send them to us.

ED: So the Supreme Court would just send them over?

WN: In bulk. “Here, take these.” Some of them were significant commercial cases, contract cases and that kind of thing. We worked. Gosh! The work was just...Especially not having the kind of personnel that you really needed to do it. We worked extremely hard for most of that time that we were there. It’s interesting that each justice on the supreme court has a number, 1 through 7, designating his or her seniority, although the chief justice, who is elected as such is always number 1, regardless of seniority. As I grew in seniority on the Supreme Court—you start off as number seven and you go up to six,

five, four as the court changes—and as I got to become a senior member of the court, I became the person who was in charge of determining assignments to the supreme court and to the court of appeals. We developed rules for that. There was a little set of rules that George had written.

ED: George Rose Smith?

WN: Yeah, he had written about what we would take and I think one of... They were by categories, like tort cases. One of us would have the tort cases. Well, you know, some tort cases are fender benders on Kavanaugh and some of them are assaults by medical personnel that leave a person in a vegetative state. Assignment of cases is a hard thing to deal with because they're incredibly significant because of their facts, and some of them are incredibly significant because of the issues that are in the law that have not been settled and they deserve to be settled by the highest court in the state. To take a category of cases and say, "OK, you do the tort cases" makes no sense. During the time I was on the supreme court, and the court of appeals had been doubled in number of judges, we tackled the question of case assignment. We set up criteria by which we could decide whether a case was one of "first impression" with respect to a matter of law or was one that had other aspects that recommended going to the supreme court rather than the court of appeals. We even hired a staff lawyer who advised me after reviewing all of the cases to be submitted, and I made sure that I notified the other justices when there was a case about which I had doubts. I made recommendations that were subject to ultimate decision by the majority of the court.

ED: That's when you were on the Supreme Court, in the later years?

WN: Yeah.

ED: So they were continuing to send... The Supreme Court says where the cases go.

WN: Yeah. I don't know whether back in those days we had a mechanism in the court of appeals for deciding that we should transfer a case to the higher court.

ED: But you took all the workers' comp cases and they've always gone there.

WN: Yeah.

ED: And most criminal cases.

WN: A lot of criminal cases, yeah.

ED: They'll go to the court of appeals.

WN: I wish I could remember. I can't put back in my mind how we ultimately resolved all of that. A lot of that became discretionary, which to some degree it what it has to be. You have to have someone saying "Here's something that really belongs in the top court" either because it is a significant difficult issue in the law or for some other reason it belongs up here rather than down here.

ED: So that's eighteen months?

WN: Eighteen months.

ED: Eighteen months. So you and Carolyn and Alistair moved to Little Rock.

WN: That's right. We came down here and had a little town house over on Sanford Drive, just off of Reservoir Road. A two-story town house and brought our cat, left our dogs in Fayetteville with a fellow who was a visiting professor, and his family, who moved into our old house there in Fayetteville and took care of our dogs while we were gone. That's what we did.

ED: So 1980, they elect the first elected permanent members of the Court of Appeals. You went back to Fayetteville, back to the law school.

WN: That's right. Back to the law school, teaching the same courses and a few additions. I taught a course in Federal Courts and became a member of the Federal Practice Committee for the Western District Department of Arkansas. Did a little work there. At about that...Let's see...In '79...'77, '78, '79...I guess it was '79 after I got back to the law school, Carlton Harris called Wylie Davis...

ED: Carlton Harris was the Chief Justice.

WN: Chief Justice and he called Wylie Davis and said "We need somebody who is a procedure expert to help us develop rules of civil procedure. They had always been governed by statute, but we're going to have rules like other courts. We are going to have our own court rules." So Wylie appointed me to that committee and I went to work on the rules of civil procedure and courts in Arkansas. They were adopted...

ED: Adopted by the Supreme Court?

WN: The Supreme Court in, I guess, 1980. It's hard for me to sort out years here. That was a big deal. I was the first reporter for that committee until I apparently insulted the son of a legislator, one of my former students. Insulting law students was part of the trade as a law professor but I apparently made him angry and he would not...The chair of the committee was Andrew Ponder from Newport, Judge Ponder. Ponder really wanted me to be the reporter, thought I knew what I was doing and could work with this committee. This legislator...I can't remember his name...blocked this appointment by refusing to allow the appropriation of funds for the committee with me in the reporter job.

ED: You remember where he was from?

WN: I want to say Hope or somewhere down there in that part of the state.

ED: House or Senate. Do you remember whether he was in the House or Senate?

WN: House. He was in the House.

ED: Wasn't Talbert Field, was he?

WN: No. Maybe I'll come up with it by the end. Anyway, there was going to be a reporter's stipend, of small something, to pay for equipment for this, that and the other and no, no...You're not hiring this guy. So I said, "OK, that's no problem. Just hire somebody else." So they hired Walter Cox, a great lawyer in Fayetteville, to be the reporter. But I did continue to work on the rules as a member of the court's committee, and about that time I had been asked by the Harrison Publishing Company in Atlanta to write a book on Arkansas practice and procedure. So I had begun work on that as well. That took a lot of my time, writing the book and writing those rules.

ED: Did that book...That book was published when?

WN: '85. It's now in its fourth edition and I am no longer doing anything except armchair editing.

ED: OK. Editing, revisions, from time to time.

WN: Yeah, revisions and pocket parts, updates.

ED: OK, so you're back at Fayetteville at that period of time, and what year did you run for the Supreme Court? '86?

WN: We got another race to talk about before we get there.

ED: OK, that's right. Let's do that.

WN: '82.

ED: '82. All right.

WN: My old friend Lamar Pettus and Phyllis Johnson, who was his law partner, had a young associate in the firm. He was a very bright lawyer, but perhaps too "nice," and open to

being cruelly intimidated by a judge. There was in Fayetteville, a circuit judge, who had been especially bullying to young lawyers and in particular the Pettus firm associate. Well, Pettus doesn't take stuff like that and Phyllis doesn't either. So they said, "Look, you've been on the Court of Appeals. You can run as judge. Why don't you run for circuit judge..." Who me? Oh! I thought, "Oh, now wait a minute. I'm not sure I want to be a circuit judge." But, this is a worthy cause; it seemed to me at the time. So I agreed to do it. We ran a heck of race, I mean to tell you. I got out my old Dodge truck and I had signs all over it in and went out in Washington and Madison counties and just ran a campaign. I didn't know I could do it, but I did it. I really worked it. I took a leave of absence from the law school. Worked hard at it and Frank Sharp of Ozark Mountain Smokehouse fame was my campaign chairman. But Lamar really took it over, Lamar Pettus. He raised some money and put together a really heated—I didn't, but we put together a really good campaign and beat Judge Jameson in Washington County, hands down. But on election night, those absentee ballots from Madison County—they're still counting those.

ED: The Madison County absentee vote was always one of the highest percentage of votes in Arkansas.

WN: Oh yeah.

ED: Others absentee votes might be two percent of the total vote. In Madison County it may be thirteen, fourteen or fifteen percent.

WN: My opponent, the incumbent judge, was from Madison County. We kept waiting for those votes to come in from Madison County. Well, it kept getting closer and closer and finally that absentee ballot total came in and I lost by, I think, four hundred some-odd votes out of the seventeen thousand cast, something like that. I lost. It was bitter. It was a bitter thing. Carolyn had worked really hard for me, to help me, and had done a tremendous amount of basic campaign work, secretarial work and that kind of stuff—how to deal with this, that, and the other. She had been really good. She took it harder than I did. It was a bad night. But, boy did I learn a lot. I learned a lot in that race. So I was ready for 1984 when it came along.

ED: That was '82, right?

WN: That was '82 and I continued to teach at the law school then. But then, when it became apparent that Justice Frank Holt's death left an opening on the Supreme Court, I said, "That's for me" and I went for it.

ED: So in '84 they were running as Democrats and Republicans in those days?

WN: Yes, I ran as a Democrat.

ED: This is before we had nonpartisan elections.

WN: Right.

ED: So the election was in the Democratic primary.

WN: That's right.

ED: And you're running and Bobby Sanders of Arkadelphia who, I think, had been municipal judge and maybe he'd been a prosecutor—I've forgotten—by the point. Or maybe even a prosecutor later.

WN: I don't know.

ED: And our prosecuting attorney down here in Little Rock...

WN: Dub Bentley.

ED: Wilbur “Dub” Bentley was a candidate. So, did you go into that race feeling pretty confident?

WN: I didn’t know what to think. I figured it was just probably going to be a miracle if a fuzzy-headed professor from Fayetteville could get elected to anything, much less the state Supreme Court.

ED: And that was going to be the issue. This fuzzy-minded academic...

WN: Plays the guitar and all that.

ED: Yeah.

WN: I mean, golly! I had one thing going for me that was irreplaceable and that was fourteen “student generations” of lawyers who had been my students at the law school and who didn’t hate me enough not to vote for me. They got me...They went to work for me.

ED: All over the state.

WN: All over the state. I had someone everywhere that I knew, some young lawyer out there who was really willing to do it, to get the vote out for me.

ED: One of your opponents was from the state’s largest county—Little Rock, Pulaski County. Wilbur “Dub” Bentley was well-known, had been a prosecuting attorney, high-profile prosecuting attorney. Of course, he had his own problems with Tommy Robinson, the sheriff.

WN: Did he ever. He did have his own problems and he did not run a good campaign, unfortunately for him.

ED: It was kind of boring.

WN: It was kind of boring and I remember him showing up, like at a rally. He and his wife would come decked out in red, white and blue and he’d have on a sailor straw hat with a red, white, and blue band on it. They’d come dancing in trying to work people up and people would just kind of look at them like “What is this?” His speech would be: “I am a fifty-odd-year-old (however old he was) prosecuting attorney, blah, blah. Did this, did that and I am running against a forty-two year-old guitar picker from Fayetteville.” People would say, “Yeah!” I remember one time we were out there in Benton out front of the Courthouse at a rally and he made that speech. I got up and said, “I’d hate to accuse my opponent of being a prevaricator, but I have to say that I am now forty-five years old, not forty-four.” Or something like that, so we had a little fun.

ED: And you’d pick your guitar.

WN: Oh yeah, I did that.

ED: I remember going to these rallies and you’d make speeches and get up and sing and song and play your guitar.

WN: Mount Nebo.

ED: I was there in Mount Nebo. Always a big event—the Mount Nebo Chicken Fry.

WN: Yeah! Yeah. I’ll never forget that. Dale was running for governor and Elizabeth Young was co-chair of my campaign and Lamar Pettus was the other co-chair. That’s a formidable, formidable combination.

ED: Yeah, it is.

WN: Well, she showed up there. She had her husband’s old judicial robe and she showed up there with that thing on. [Elizabeth Young’s husband had been U.S. District Judge Gordon Young.]

ED: At the Mount Nebo Chicken Fry?

WN: Yeah and with “Newbern for Supreme Court” bumper stickers on front and back, everywhere. She was wonderful, sweet bird.

ED: She’s a widow of a federal judge.

WN: Yeah.

ED: By that time he had died, I guess.

WN: Yeah.

ED: Gordon Young.

WN: Yeah. Gordon Young. She was amazing. She came up there and the thing I remember was Dale [Alford] was my next-door neighbor here in Little Rock.

ED: That’s right, he lived right next door here. Did he then?

WN: Yeah. He showed up there and had this huge motor home that was his campaign vehicle, and he came up that hill being towed by a tow truck, sitting up there, he and...

ED: Cause the motor home wouldn’t make it up the mountain.

WN: No, he couldn’t get it up the mountain. But here he comes being towed up the mountain by this tow truck. I thought, “How wonderful.”

ED: Mount Nebo was always wonderful for those kinds of scenes, they were always kind of nutty.

WN: Yeah. Mine was as nutty as anybody’s because she was out there signing and carrying on, handing stuff out with this robe on. Wonderful woman.

ED: And you would get up and you didn’t say much. There wasn’t much to say about running for the Supreme Court. But you would play the guitar.

WN: Somebody put me up to it and said, “Heck yeah, I’ll do it” and I got up and did.

ED: Do you remember what you sang, the songs you sang? Any particular one?

WN: It was a Jimmy Rogers song, probably “All Around the Water Tank.” Some hobo song or something like that.

ED: Well, I was there at the Mount Nebo Chicken Fry that year when you were...I don’t remember why I was there because I was no longer a reporter, I was an editorial writer. But I would go out to some of these events just for old times’ sake because I went to them for many, many years as a reporter for the *Gazette*. Now, I’ve forgotten, did Bobby Sanders start using this debate issue then or in the runoff? He wanted to debate you.

WN: Did he?

ED: He wanted to debate both of you.

WN: Oh yeah. I had forgotten that.

ED: He had demanded that...He had a list of things he wanted to debate—the death penalty, pornography and obscenity. I think the famous *Deep Throat* porno film had come out and had been down here circulating in Little Rock and he wanted to debate obscenity. And he wanted to debate the school-desegregation case, because we had had this mammoth case here in Pulaski County where the federal judge, Henry Woods, had ordered the consolidation of all three school districts. The state had come along and supported the desegregation and it was a monumental issue all over the state of Arkansas. Everybody was mad about it statewide. Sanders wanted to make that an issue in the campaign. But I’ve forgotten if that was in the runoff because in the first primary, I guess, you led the ticket. I think you got about forty-two percent and Bobby Sanders of Arkadelphia was second with about thirty-three percent and Dub came in third with about a fourth of the vote, maybe twenty-five percent or something.

WN: That’s right.

ED: So there was a two-week runoff after that. You declined to debate. Did that worry you?

WN: No, I stood behind the Canons of Ethics.

ED: That's what it was— Canons of Ethics. So you couldn't do it. You were not supposed to go out and campaign and take a stand on...

WN: Unfortunately, he doesn't understand, he doesn't know that you can't do that.

ED: He probably didn't know.

WN: He probably didn't.

ED: Bobby Sanders probably didn't know. But that was the big issue in the race

WN: I guess it was, wasn't it?

ED: Your refusal to debate Bobby Sanders. He wanted to go on television or something and have a debate.

WN: He was catching up. Polling showed that he was doing better, and better, and better. I think if it had been a three-week delay we might have had a problem. But, fortunately, we got through it.

ED: I may have the figures here. I may have looked them up yesterday. Yeah, in the runoff you got a hundred and seventy thousand to his one hundred and twenty thousand, roughly, in the runoff. Of course, the runoff vote slumps from the first primary because it's the only race on the ballot.

WN: Yeah.

ED: So you essentially said that the Canons of Ethics prevent you from taking stands on issues that might come before you. You might declare yourself in advance how you're going to vote on issues.

WN: No way I'm going to talk about those things.

ED: Of course, later on, the U.S. Supreme Court said the First Amendment extends to judicial candidates and Bobby Sanders could do it. He could run now and he wouldn't violate any canons, I guess.

WN: More's the pity.

ED: So that was maybe ten years ago when they...

WN: *Minnesota v. White*.

ED: *Minnesota v. White*. Scalia wrote that opinion, as I recall.

WN: Yeah, and the woman judge from Arizona...

ED: O'Connor. Sandra Day O'Connor.

WN: Sandra Day O'Connor went along with it. She at least had the decency to say she was sorry she did that.

ED: Yes, she did, later on, say it was a big mistake.

WN: Big mistake. It is a big mistake. I feel terrible. Wendell Griffen...Wendell is a friend. I love Wendell, but he just never quite got it on that issue. He asked me to support him when he was running for chief justice and I had to tell him, "I'm sorry. I'm on the other side on that issue about that." He couldn't believe that I didn't want him out there talking about these things that he'd have to vote on. I had kind of forgotten about all that stuff with Bobby Sanders wanting to debate. You're right, that was the issue.

ED: I don't know how the vote broke down, but I assume you carried Pulaski.

WN: Oh, I'm sure I did. Yeah.

ED: Because the younger lawyers were for you.

WN: Not just the young lawyers, but the people in the firms here and so on. I didn't go and talk to them. I didn't ask them for anything.

ED: The lawyers in Arkadelphia were for you, too, where Bobby Sanders is from.

WN: Why, yes sir, as a matter of fact, except for...Who was the big guy down there? One of the people you were talking about earlier. It wasn't Lookadoo. It was...

ED: Was [Jim] Gooch still around at that time?

WN: It wasn't Gooch. I can't remember. Anyway, I remember going in his office one day and he said, "That Sanders guy is a _____, but he's our _____."

ED: Yeah. Well, I know Dub Arnold and a lot of those lawyers were supporting you down there. All right, so you're elected to the Supreme Court and in the same election [Chief Justice] Jack Holt is elected to the Supreme Court. Richard Adkisson had been chief justice between...After Carlton Harris had retired and he [Adkisson] had decided to resign in the middle of his term.

WN: That's right, he did.

ED: So Jack Holt was elected in the same election, in '84, to fill out that term, when you were elected. You were the only two elected that year.

WN: That's right.

ED: So you had five holdovers you served with. George Rose Smith was on the court at that time and Jack Holt, Darrell Hickman and Bob Dudley. Tom Glaze came along two years later.

WN: Steele Hays.

ED: And Steele Hays.

WN: And John Purtle.

ED: John I. Purtle. All right, so John Purtle was a distinctive character on that court.

WN: He was a distinctive character.

ED: Very controversial.

WN: Yes.

ED: I remember...If I can tell this story, it happened that same election...Now, Jack Holt beat Justice Jim Johnson for chief justice that election. So here you had kind of an unusual circumstance for a Supreme Court race because, in your case, you had Bobby Sanders hammering you, wanting to debate all these issues and violate the Canon of Ethics and Jim Johnson was running the same kind of race over there against Jack Holt. Very personal, bitter, nasty campaign in that race as well. As I recall, from the outside, both looked kind of bitter. Although, you tell me that Bobby Sanders was personally a very gentle, friendly guy.

WN: Yeah, now that you mention that debate issue, I think Bobby told me at one point...I'm sure he did...He came up to me at some point while we were together and he said, "I hated to do that, but you've got to do something."

ED: Well, sure. Right. So anyway, in that same election, Walter Mondale is the Democratic nominee for president. Ronald Reagan is the sitting president and Mondale taps Congresswoman Geraldine Ferraro of New York as his vice presidential running mate. Shortly before the election, she comes to town, to Little Rock. Mondale does not, so the Mondale campaign in Arkansas is Geraldine Ferraro. And there was a big, big rally downtown, I think at the Convention Center or someplace downtown, the Camelot or...A big rally, and so...Ferraro, of course, although a Catholic has a record of being pro-choice, and antiabortion forces are out *en masse*. All these women show up down at the Convention Center carrying signs protesting Geraldine Ferraro's pro-abortion stance. I'm down there and I've talked to them and here is Justice John I. Purtle of the Arkansas

Supreme Court. He is there, in the crowd, carrying Geraldine Ferraro signs—as I recall, one in both hands, very prominently for the television cameras and everything. And these women are there to protest Geraldine Ferraro when she goes up on the stage. The TV cameras are all filming this little group of women protestors and John Purtle of the Arkansas Supreme Court leaps in front of them and is waving his sign so that the camera can't see the anti-Ferraro signs. A justice of the Arkansas Supreme Court. You remember that incident?

WN: I do remember, now that you mention it.

ED: It makes the pages of the paper.

WN: Oh yeah.

ED: So, ethically, there are some problems on the Supreme Court about that time, because John is unapologetic about that. Because he was a Democrat and he supported Democratic party principles very strongly, he was for the little guy and he's sort of like Wendell Griffen in that way. He stands for those things and doesn't try to hide it.

WN: That's right. He didn't act like a judge.

ED: That's right. So I think the court... You all thought this was problematic for the court, demeaning for the court to undermine public confidence in the court.

WN: Of course, I wasn't there. I can imagine how George Rose Smith would have been livid.

ED: He was and I don't remember whether it was Darrell Hickman or Tom Glaze who told me that... Might have been Jack Holt, too, I don't remember. In my talks with him about it, he said that George Rose was particularly upset with John because John would come into conference wearing chains—open necked and chains, kind of hippy, peace symbols. So he'd come to conference with all of that and it just grated on George Rose Smith.

WN: I think it was... We sat in certain spots. You moved around according to your number on the court, around the conference table. I'll never forget John showing up one day in that open shirt and a big gold medallion of some kind hanging on it and somebody on the other side of the table made a comment. I think it was probably Hickman.

ED: I'm sure it was Hickman.

WN: He said something about it. Well, John unbuttons another button and somebody says, "John, are you going to disrobe?" and he said, "Well, you seem to want it!"

ED: Was it George Rose Smith who would have asked him about it?

WN: No, I don't think so.

ED: I gather it really did upset him, about all of his...

WN: I think that was after John had been indicted and been tried for insurance fraud. I think he was... He had stayed off the court. He didn't resign or take leave, he just didn't show up for a period of time during the trial. Didn't feel like he should, I guess.

ED: Jack Holt or Hickman talked about that and they had wanted him to resign from the court and he would not. But, they finally persuaded him to not sit on any cases for a while. So he just didn't sit on cases, so he wouldn't be writing opinions or participating sometimes in cases that might be affected by the same kind of issues he was being tried for.

WN: Yeah, it was bad for the court. Any way you cut it. It was a bad thing. I was interested, at that time... I had become a member of the board of directors of the American Judicature Society, which deals, among other subjects, primarily with judicial discipline. I think people assume my assuming a prominent role with that organization had something to do with John, but it didn't. Nonetheless, I was looking at these issues of how judges were to be evaluated and judged in terms of their conduct, and we ultimately adopted rules.

ED: Well, they had adopted it and amended the Constitution to provide the set-up for a system for reviewing judicial conduct and dismissing or suspending judges for disability or unjudicial conduct.

WN: I was the first leader on that, the first chairperson of that. But it rankled Hickman because I was junior to him and I could tell that he was really upset about it. So I says one day, “Darrell, why don’t you do this? Why don’t you take this over?” He said, “All right.”

ED: That became his baby.

WN: Became his baby and I supported it.

ED: And Jack Holt...

WN: Oh yeah, Jack went out and campaigned for it.

ED: Campaigned for it, I’ve forgotten when, ’92 or sometime? No, I guess it might have been after Jack left the court. Might have been ’96.

WN: No, he did that while he was on the court.

ED: So he was on there from ’84 to ’94.

WN: Yeah, so it would have been...

ED: Probably about ’90 or ’92.

WN: I’d say ’92. ’92.

ED: But, Purtle was not really the cause of all that. I think a lot of people thought maybe he was...

WN: No, I was the cause of it. I went to a meeting of the American Judicature Society in Chicago, where their headquarters is. I don’t know, I was just interested in seeing what it was about. I wasn’t even a member of the American Judicature Society. Well, I got involved in discussions up there with other people and I remember when I went to register, they said, “Are you with the Arkansas Commission?” I said, “The what?” They said, “Are you with the Arkansas Judicial Discipline and Disability Commission?” Well, we didn’t have a judicial discipline commission so I said, “No, I’m a judge on the Supreme Court.” So, “Oh, you’re one of the judges on the Supreme Court...” So I got away with that and then it wasn’t long at all before I was appointed to the board of that organization and became interested in having such a thing. Of course, there was resistance to it on the court. Darrell was resistant to it. It was something like we had gone along so far without that thing, so why do we have to have it.

ED: People elect judges and people rule.

WN: That’s right. People do rule. If some judge gets in trouble they’ll vote against him next time around, eight years later. So I started that.

ED: But eventually, everybody comes around.

WN: Oh yeah.

ED: Eventually, it is a unanimous thing with the court.

WN: But it took a lot of, not jawboning, but at least persuasion on my part to get people to see that we wouldn’t be out there doing something different, that the world has ways of dealing with judges who get in trouble. As you say, people went along and it’s a good thing.

ED: And eventually the voters adopted it pretty decisively.

WN: I think we made a mistake. The mistake we made was to have a single-tier system. In other words, so that the commission not only investigates and decides whether to charge judges with offenses, but it also adjudicates those charges. We should have gone to a two-tier system, which I think is the prevalent way of doing it—having separate groups to

deal with one and then the other. I wish we had done it that way. But I felt that we'd have a better chance of getting it adopted if we just went with the single-tier situation and we did, and it has worked fairly well. There has been some real serious question raised about it because it does seem like you are the prosecutor and the judge at the same time—the same people are doing those things. It should have been done the other way, I think.

ED: Yes. OK. Well, I guess there was one overriding case before the Supreme Court during that period of years and that is school quality and school finance, though, ultimately, that carried on beyond the time you were on the court. But back before you went on the court, a year before you went on the court, I guess, the Supreme Court handed down the decision in *Alma School District v. Dupree*, the first of the big school-finance cases. The court essentially said...I think there were eight school districts that sued, alleging that public education in Arkansas was unconstitutional because it resulted in vast disparity in the quality of education based on the wealth of a school district.

WN: Sounds familiar, doesn't it?

ED: Yes. So that case was decided and that was the law of the land but really nothing happened. They never equalized it, didn't do anything really substantive to address either the quality or suitability of education. They just had a decision out there and the legislature, I think, monkeyed around with the school finance formula and made some changes and passed a sales tax to put some more money into the schools. But by the early '90s, again, the little Lake View School District over in east Arkansas—a very poor school district—sued and got into the court of Chancellor Annabelle Clinton (I don't know if she was Annabelle Clinton Imber by then, but I guess she was). She handed down a decision saying that no, the system violates the Constitution because we are not providing a suitable education nor is it equal. So that gets kicked up to your court, the Supreme Court, right after that. I think originally the Supreme Court sent it back, didn't it? Sent it back to...

WN: Collins Kilgore.

ED: To trial court. I've forgotten what the issue was that needed to be addressed, but they didn't say she was wrong in her basic findings but they had to go back. So the case gets kicked over to Collins Kilgore and he conducts extensive hearings and takes all the evidence and he hands down his decision that yes, this is unconstitutional and the state has to address it. So it goes back to the Supreme Court again. Were you on the court when it comes up? It keeps going back and forth, as I recall, during that period of time.

WN: Yeah. No, I was not when it finally...

ED: 2002 I guess it was when they finally handed down the ultimate decision.

WN: That's right and I was gone by then. That's right. I was gone. But I came back.

ED: Well, yes, you had much to do with that case for years after that. We'll get to that. I don't know if this is the proper time, but we'll get to that when you leave the court.

WN: All right.

ED: We'll go back to the years when you were a master...

WN: Special master.

ED: Special master.

WN: That's right.

ED: But talk a little bit about the court. George Rose Smith and you overlapped, I guess, two years. You went on the court in '85 and he would have left in January of '87. Tom Glaze [was his successor]... You served two years with George Rose Smith.

WN: That's right.

ED: He was kind of like Bob Leflar in Fayetteville, wasn't he? He had that same aura. Because of his intellect and his knowledge of the court he was looked upon as kind of a saintly person. Although, he was sort of prickly, I gather.

WN: Prickly.

ED: What was your relationship with George Rose Smith?

WN: Well, I will never forget some things about George. The first case assigned to me on the court was a very, very difficult oil-and-gas-pooling issue, about which I knew nothing. I had never dealt with that area of the law at all. My law clerk, Bart Verdon, and I sat looking at each other trying to understand it right up to conference time, and I was to report on the case. I think he just wished me luck and I went into the conference. I had come to a conclusion, as I was supposed to do in my report to the other justices.

ED: To affirm or reverse.

WN: To affirm or reverse, whatever. And they'd all read the briefs. This was a hot court. Everybody went to those conferences prepared to talk about the cases. So I got up and went to an easel and starting drawing things. You can imagine—balancing this and that and so on. I'll never forget, Purtle piped up from one side of the table and said, "Oh, the professor! The professor has gone to the blackboard!" Oh, OK, all right, John, that's fine. I went through the whole rigmarole and I think I finally said that the case has to be affirmed and there was a silence. They may all have been just as confused as I was, I don't know.

ED: I imagine.

WN: But George piped up and said, "Well (and he got red in the face), of course it has to be affirmed!" He was mad because I had gotten it right. He was furious. He was all set to just jump all over me and tell me how wrong I was, but I had gotten it right. Whew! But, anyway, that was my introduction to George.

ED: Great relief.

WN: Yeah, really relieved. But it was a great way to be there, for the first day, with those people.

ED: Was it unanimous? Did everybody affirm?

WN: Yeah, I think so. I think so. It was so interesting. My relationship with George, as you know...I had had this little spat with him, we talked about that...

ED: Tell me about that little spat. That was years earlier.

WN: Yeah, that was earlier when I was on the faculty at Fayetteville and we were debating the issue of publication of opinions and he had written this article and Doug Wilson and I had written an opposing view. So we had this spat.

ED: Tell me what the issue was about, whether the publication of...

WN: Well, the Supreme Court had a rule that the court's opinions in cases that had no legal significance would simply not need to be published and the court would decide which of its cases would be published and which would not. The insignificant cases that made no contribution to the law would simply not be published. They felt inundated by the number of cases that were being published, books being published with all of these decisions. Of course, the problem with that is, every law student learns that the reason why these things are published means you can hold the court's feet to the fire the next time a case like that comes along. This is what you did last year, you've got to do that this year because precedent is the heart of the law. Well, somehow George had decided

that “no, we don’t really need to do that and I can handle this, whatever comes along and we don’t need to publish these things.” That was the issue. We got into this argument about it. I thought that Doug Wilson and I just went out and found cases where they had said one thing one year and something else the other. But one of them was not published so you could not cite it. You were not allowed to cite these unpublished opinions of the court. You could find them, because they’re out there. Somebody won, somebody lost, they’re in the records of the court office, the clerk’s office. Doug found these things and I was working on the law aspect of it and he was working on the facts aspect of it and we got this beautiful article together and published it. That’s what put the fat in the fire. So that’s what that was about.

ED: He wrote an opposing view.

WN: He wrote an opposing law-review article that was published in the *Arkansas Law Review*.

ED: In the next issue?

WN: I guess.

ED: Simultaneously?

WN: He...No, it was simultaneously. You’re exactly right, now that I think about it. The law review staff had asked for him to write one side and for us to write the other side.

ED: Probably said OK. Had he seen your article? Probably?

WN: No.

ED: OK.

WN: Of course, when they appeared, he did not take kindly to the article we had done.

ED: My guess is his article was much shorter than yours.

WN: It was. It was much shorter. We had a lot more ammunition than he did. We had facts. We had stuff to point out why this rule is terrible. You should never have...Of course, eventually, the rule disappeared. That’s what that was about. I’ll never forget one incident with George and Darrell Hickman. We were up there in the summertime. We had been appointed [to the Court of Appeals] and were just working our tails off that summer. We had very little in the way of resources, including a good conference room with a lot of *Arkansas Reports* and statutes and so forth and that library. So we would go down into the Supreme Court conference room and use that and did a lot of work there. They were gone. So I was in there one day and walked into that conference room and they had come back. So George and Darrell were sitting there at the conference room table. I thought, “Oh Lord...” They looked up, “Oh David!” You know George. “How are you doing, David?” I said, “Well, you’re back!” I had a beard—about four, five weeks of ugly beard, of bad-looking beard. They looked at me, George looked at me...

ED: That would have offended George.

WN: George looked at me and said, “You’re growing a beard?” I said, “Yes, yes I am, matter of fact.” He said, “Why? Why are you growing a beard?” I said, “Well, winter is coming.” Hickman pipes up and says, “Bullshit!” George said, “Well, will you shave it off on the vernal equinox?” I’ll never forget that. “Will you shave it off on the vernal equinox?” I said, “Sure, George, but I’m not sure when that is.” But that was the way George and I talked to each other. He talked to me.

ED: There was another incident involving the spelling. Was that an outgrowth over the earlier dispute over the opinions publications?

WN: Yeah, it was. He had sent a letter addressed to Judge...It was when I was on the faculty, after I had been on the Court of Appeals, I guess when we wrote those opposing articles.

He had sent a letter addressed to me at the law school and he had misspelled my name. So I wrote him back.

ED: Probably B-I-R-N, or something?

WN: Something like that. I don't remember what it was. So I wrote him back. I thought, I'm going to get him! So I wrote him back and I said, "Dear Justice Smith..." I said something about "I don't know exactly who you had in mind in your letter, which was addressed to..." Then I spelled it the way he had spelled it. But somehow I wrote, I wish I could remember exactly...I wrote that I was embarrassed about something and I misspelled the word "embarrassment" and that's when he wrote me the letter back.

ED: You left out one "s" probably.

WN: Yeah, left out...

ED: One "r" or one "s" or...

WN: Yeah, something like that. He wrote back with that one-sentence letter that said, "My embarrassment is as great as yours but mine is spelled correctly." That was the end of that. I wrote him back with a one word letter, which was "Ouch!" So we had a little relationship before I went on the Supreme Court. We knew each other a little bit. But I liked him very much. I'll never forget one incidence in which we had a question come up about briefs and how they should be organized or something like that. Some members of the court were saying it should be one way and George said, "Well, no, that bothers David. We don't want to do that." I thought, "Huh?" He was really concerned. He didn't want me to be bothered. He wanted me to not be bothered and I thought that was really big of George to do something like that. There were other little things like that that showed he had, in a way, an affection for me, as a junior come-along. Maybe he thought I was going to be like him someday. I never achieved that, for sure. I think he liked me and I liked him.

ED: Was there kind of a deference toward George in the decision-making process? "Well this guy, he's the greatest judge and if his judgment is this way then maybe I'm wrong." A tendency to kind of yield to him? Hickman told me he did that once or twice. He sometimes did that because he said that George knows and he would change his mind because George said so.

WN: George...

ED: Although, he said later, one decision he deeply regretted making was one decision in which he deferred to George and later concluded that was wrong. It was the wrong decision. I don't know what the case was. But did you do that? Did you sense that people did that much, defer to George because he was George Rose Smith?

WN: No. What I did was, with respect to George, I came loaded for bear. I never went after George on anything where I didn't know for sure that I was right and he was wrong. I never...He had that...That was a wonderful contribution to the court because you knew you had to please George because George did know. He remembered. He had a system of organizing his library so he could go and put his finger on cases that he could recall from the past. He could recall from the past, he could find them instantly and have them in front of him. He was an excellent judge, just an excellent, excellent Supreme Court justice. People criticized him for the short opinions, which I tried to emulate.

ED: I loved his opinions as a reporter because they might be five or six pages long and John Fogleman's opinions might be forty-eight pages long and you'd have to read all that. George could tell you right at the front. You could almost copy his opinions in the

- newspaper because they were all very clear, simple declarative sentences and he told you what the issue was immediately. He wrote your story for you.
- WN: Yeah. I adopted that and taught it for years, that what you do in that first paragraph is say what you are going to do and then you go and do it. You've got to have your reader come with you from that point on. We're going to affirm because the issue is this, we're going to affirm because of that, and now we're going to discuss it. That, to me, is the art of writing.
- ED: It sure made it easy for the newspaper guys to see what the issue was.
- WN: Yeah. The other effect that George had was...Let's see, what was I going to say? Well, I've kind of lost my train of thought. I remember so often that George...Well, it's more of the same really. It was just that he was erudite and he was mercurial, in a way. He would blow up a little bit if you couldn't see what he was trying to explain. But I think deep down he was a good guy, he really was. Not a nice person in common parlance, but somebody whose heart was in the right place.
- ED: Prickly I guess is a good word to describe him.
- WN: Very good word.
- ED: As a reporter, I had some occasions...He'd have to read my stories when I had written about his opinions. He critiqued newspapers. He would write newspaper columnists and reporters about their language and word usage. Like an old English teacher, he would correct them.
- WN: The other effect George had on the court was the workload. That is, he could handle large numbers of cases. He had that Supreme Court work so hard because he had such a good memory and was so conversant with so many areas of law. He could handle cases quickly, really quickly and the rest of us are out there struggling trying to figure out how we're going to go on this and what needs to be done. He was just so quick and that led to the Supreme Court getting to the condition it was in 1979 after 1978 when the court finally went along with creating the Court of Appeals. It was in bad shape because they were so far behind because they were trying to do way too much, handle way too many cases. But he could handle it.
- ED: Any other memorable characters? Hickman was something of a character on the court and he wrote these...I guess he wrote the weirdest opinion, which starts off, I'll never forget it—the opening line was, “Amendment 59 is the Godzilla of constitutional amendments.”
- WN: That was colorful, wasn't it?
- ED: Unjudicial sounding way to start off an opinion. I don't remember if it was a majority opinion or a dissent or...
- WN: It was a majority opinion.
- ED: I guess it was on some issue dealing with Amendment 59. [Amendment 59, adopted by voters in 1980, altered the way property was assessed for tax purposes in Arkansas.]
- WN: I'm sure it was. We couldn't understand Amendment 59.
- ED: Oh, it was a nightmare. They didn't understand it. When the legislature adopted it, it was written piecemeal over a period of a couple of months, throughout a whole legislative session, as a response to the Supreme Court's decision outlawing the property-tax system. There were huge disparities in property tax assessments all over the state and they had to come back to fix it and desperate to avoid a tax increase. The legislature worked on it that whole session, along with Bill Clinton mucking around with it from the governor's office

and sending up things like “it needs to say this—hobby farmers need to be protected.” So they amended it so many ways that, eventually, every paragraph made no sense—it just got too complicated.

WN: I said that was a majority opinion by Darrell, but I’m not too sure of it, come to think of it. I wrote an opinion on Amendment 59 and it may have been a concurring opinion with what I wrote.

ED: It could have been. I don’t remember either.

WN: The thing that I remember, which is interesting to me—There was a fellow named Larry Crane, who is now the [Pulaski County circuit and county] clerk.

ED: He was then the Assessment Coordination Division director.

WN: He was. Of course, that’s Amendment 59. Larry was a law student when I was teaching in Fayetteville. I don’t think he was in any of my classes but...

ED: He’s now Pulaski County clerk.

WN: Yes, and I knew him and I wrote an opinion of Amendment 59 (and this may have been where Hickman wrote the Godzilla opinion, but maybe not, maybe it was a different case). I’ll never forget it, Larry Crane had apparently been deeply involved as a Clinton staffer, or something, in writing Amendment 59 and he called me up, just called me on the phone and told me, “You got it wrong. You’ve got to change that! Here’s what we meant.”

ED: Somebody had to do it.

WN: I mean, that takes either a total lack of understanding of how you deal with judges or else a kind of chutzpah that no one ought to have. So I told him, “I’m not going to discuss this with you.” “But wait a minute,” he said. “This is what we meant. Let me tell you...” I finally said, “Larry, I don’t care what you meant. It’s what you said that counts. It’s what you said in Amendment 59, if you wrote that.” “Oh, well, yeah, but you’ve got to know the background.”

ED: Well, the whole thing was nightmarish. I knew Amendment 59 pretty well myself having been there, being a reporter for the *Gazette*, at every committee meeting and the Farm Bureau would come in and say, “Well, we need to take care of this” and the timber industry would come in and say they’d need to do this. Marcus Halbrook, the director of the Legislative Council, would then have to go off and craft an amendment. It just kept growing bigger and bigger and bigger. I’ve forgotten how long it was.

WN: No wonder it was so awful.

ED: It went on and on and so Marcus later told me, about a year later, “I wrote nearly every word of it. Not all of it, because some downtown lawyers at a law firm would bring out someone and they wanted something changed.” He said he called Bob Harvey in the Senate and John Miller in the House. They were the two who were kind of pushing this constitutional amendment, to keep from there being a big tax increase after the reassessments. Marcus told them, “Look, I’ve been reading this thing and it doesn’t make any sense. No one can understand it. Let’s pull this thing back and redraft it so it makes some sense. Otherwise it is going to be a nightmare, a bonanza for the lawyers that will be sitting over this thing for years.” John Miller said, “No. Marcus, just let it be. We want to adjourn next week. We need to get this thing done and if we don’t get it done this week and adopted and send it to the ballot it won’t get done. It will be two years. Just leave it be, we’ll come back in two years and fix it, amend it.” Of course, there’s no way to fix it

once the assessments are under way. So it was, it was a nightmare. I guess we are now just starting to come out from under Amendment 59.

WN: I hope so.

ED: But as I say, I don't remember if that was a majority opinion or what. But I just remember that he seemed to suggest in that opinion—he almost invited a lawsuit challenging the constitutionality of Amendment 59 as a violation of equal protection. I asked him about that and he said, “Well, I don't think I really meant to do that.” But anyway, he seemed to be inviting a lawsuit.

WN: It was, as you say, a nightmare.

ED: Yes. What other cases? You had one big high-profile criminal case, I guess, and that was the West Memphis Three. That case...When were those murders? Those three boys? '92 or '93? It was along in there someplace?

WN: Yeah. Brad Jesson, I remember, was chief justice.

ED: When it comes up to the Supreme Court, that would have been probably...Jim Guy Tucker appointed Brad so that would have been '95 or '96 when the case comes up to the Supreme Court.

WN: Yes, when it comes to the Supreme Court.

ED: You all affirmed it, unanimously.

WN: Yes, Bob Dudley wrote the opinion, maybe the longest opinion I saw the whole time I was on the court. He worked his guts out. He just did such a great job with that case. People talk about it as if everybody involved, including other members of the Supreme Court, were just so careless and so prejudiced and this, that and the other. But when you have a case like that, where the issue on appeal is not whether these guys are guilty. That's not the issue. The issue is, did they get a fair trial? And you've got a confession to deal with, a confession that implicates all three of these people, and what do you do? What you do is you comb that thing as hard as you can comb it to see if there is any reversible error there and if you don't find it then affirm it. That's what we did. Dudley worked his heart out on that thing and I watched him do it. We discussed it at great length. It was a big case, a godawful case. Not only the children who were murdered, but the fact that it has become commonplace these days that teenagers would do this kind of stuff. That's all I can say about it, really.

ED: Then, later on, in the last few years I guess, it developed...I don't know whether it was new evidence or questioning some of the old evidence in the case, but it reopened the thing and it looked like the court was going to send it back for a new trial based on that. Was it earlier this year? Whenever it was. The prosecutor reached an agreement and the boys pled guilty under...I forgot what it's called.

WN: Alford.

ED: The Alford rule and they were free. Anyway, it was the biggest criminal case in modern times in Arkansas and the school case, which we'll talk some more about, was the biggest civil case in the last thirty or forty years, at least in the Arkansas Supreme Court.

WN: Yeah. I did not participate in the Jennings Osborne case. That was another notorious case when I was on the court.

ED: Which case?

WN: Jennings Osborne case.

ED: Oh, Jennings Osborne case.

WN: The lights case.

ED: Oh, the Christmas lights case. That's right. You didn't participate.

WN: No, I didn't.

ED: You recused.

WN: I did. My friend and the daughter of my campaign co-chair person, Elizabeth Young, is Kathryn Cockrell, and she was one of the people who brought the lawsuit. I thought, I better not be in that. So I was not in it.

ED: Basically the Supreme Court said that Jennings Osborne had a vast Christmas lights display, millions of lights out there, and people came from many states to see these lights, creating mammoth traffic jams out there. So the court declared, I guess, that it was a public nuisance.

WN: Yeah, it had been held to be such, at the trial level and I think they affirmed it.

ED: Yeah, they affirmed it and people were mad about it because they wanted to see those lights. Pilots said you could see it from afar.

WN: It was almost as big as the scoreboard at Fayetteville.

ED: And the traffic at Christmastime would go for miles up and down Highway 10—traffic stacked up for miles.

WN: Yeah, it was miraculous. I got called all kind of names. People, of course, don't know whether you participate in the case or not... The Grinch and all kinds of things.

ED: Did you get much feedback, publicly and privately, from decisions you made on the Supreme Court? People on the street, neighbors, friends, why did you rule that way?

WN: No.

ED: You never got any, other than Larry Crane calling you on the Amendment 59 case?

WN: No, I had a few death threats from people who were upset about this, that and the other. They were not real overt, like "I'm going to kill you." There was none of that. I would get these letters that would have oblique references to maybe...

ED: I know where you live?

WN: That kind of stuff and I would turn them over to the State Police and usually it was some crackpot mad about a property dispute, usually, a borderline. That's the kind of stuff that people get exercised about. I had one, two or three of those, but nothing as ominous as a letter I got once when I was teaching. We had a guy in a class, and I hardly ever knew he was there, I'm not sure I ever called on him to recite or anything, but he was kind of an older fellow, sat in the back of the room as I remember. Months after he had left the law school (maybe graduated, but I doubt it)—he had gone away—I got a letter from a woman who said she was his sister and that he had been diagnosed as schizophrenic and he regarded me as the source of all of his problems and that she wanted me to know that he was capable of doing something that we would all be sorry for. That's scary.

ED: It is. That does sound like schizophrenia.

WN: Yeah, paranoid.

ED: Paranoia, yeah.

WN: Anyway, I didn't have very many of those. We had this wonderful woman, I guess she's still there: Sue Newberry, who is the criminal justice coordinator, who deals with the prisoners. They write in all this stuff. They want a rule to get their sentence reduced or cut loose or this, that, and the other. She deals with all of that and gives us the cases—gives the court the cases that need to be reviewed and so on. She got wonderful letters from the prisoners and one of them she shared with me, which I thought was so funny. Some guy wrote her. He had been writing her for some time about his case and how he

could get it reheard. Finally, he announced that he was in love with her, that when he got out they would run off and get married. His final remark was, “I sure hope you got good boobs and, if you don’t, can you give this letter to somebody who does?”

ED: Well, the guy had a sense of humor. I hope Sue had a sense of humor.

WN: Sue said, “I think I’m giving it to my sister.” A lot of that stuff got handled through administrative people and personnel like that. So I don’t remember any serious issues. One or two that I turned over to the State Police and they didn’t find anything.

ED: I am thinking about Steele Hays. You all overlapped quite a few years. In fact, you both retired about the same time. Maybe a little bit earlier.

WN: Steele retired before I did. I think he went off in 1998. No, ’96 I think Steele went off the court.

ED: And you went off in 2000?

WN: No, I went off January 1, ’99. So ’98 was my last year.

ED: OK, so you didn’t run in ’98.

WN: I didn’t run in ’98, I left before my term was up. My first term was from...I was elected in ’84 and served until the election in ’92. I was reelected in ’92 and I left after six years. So there were two left on my turn and Lavenski Smith was appointed to replace me.

ED: But Steele has always acknowledged that he was a fierce opponent of the death penalty.

WN: Mmm hmm.

ED: Never said it on cases but affirmed convictions in death cases. In the case of the West Memphis Three, I don’t know whether he was in there when that case...

WN: He was not. I don’t believe he was on the court at that time.

ED: Did you have any feeling about the death penalty?

WN: Yes. I did have and continue to have feelings about the death penalty. It’s not an emotional thing with me, it’s not so much that as it is—and maybe I’m just telling myself this—but my position is that it is not worth what we pay for it, in terms of its disruption of society. That people fight about it and argue about it all the time and the courts have to deal with it, spend an enormous amount of time dealing with it trying to make sure it is applied properly. Very expensive, extremely expensive in terms of judicial resources, resources of lawyers, resources of the penal system, and so it’s just not worth what we pay for it, either as a social phenomenon or as an economic phenomenon. I think it ought to be abolished. That’s my position on it. I guess you’d say I’m anti-death penalty and those are my reasons. I don’t have a religious attitude about it, which is Steele’s feeling. Steele was a real Christian guy and that’s where he came from.

ED: And he’s not a Catholic. He’s a Baptist.

WN: He was an Episcopalian, as life went on.

ED: Right, OK. But he was a Baptist early on. His daddy, Brooks, was head of the Southern Baptist Convention.

WN: He was the man in Southern Baptist...

ED: I don’t think the death penalty is a Baptist doctrine. Baptists are not opposed to the death penalty but Steele was, because he used to debate it before he went on the court. He debated the death penalty.

WN: And people are still debating and carrying on and weeping and wailing, gnashing of teeth. Well, just get rid of the thing. It winds up costing so much more in terms of just dollars and cents here and there, both in the prisons and in the legal system. People would say, “Well, you have to support the guy for the rest of his life, that’s expensive too.” But it’s

not as expensive as I think the system generally is. In campaigning, Ernie, I would go to civic clubs and places where I knew what was on their minds and that was it. I would begin my presentation to the Lions or whoever it happened to be by saying, "I'm running for the Supreme Court and I know what you're thinking." To the business guys sitting in the front row, "I know what you're thinking. What you're thinking is, the jury said he was guilty, the judge said he was guilty, all the courts said he's guilty. How comes it takes twelve years to cook him?" They'd all say, "Yeah! Yeah!" Then I'd say, "Beat you to it, didn't I?" Then we'd have a discussion about everything but that and it just defused the issue at the civic club right away and I thought it made them look foolish and they agreed.

ED: Yeah, well that was the issue. Election of judges. Looking back, and where we are now with the...

WN: The Koch Brothers?

ED: Yeah, that and the Minnesota ruling and so forth. Is the election of judges, does that work well?

WN: No. It has worked well in Arkansas. We've had good judges, we've had remarkably good luck, but that's changing and will continue to change, not for the better. I really think that some kind of modified Missouri plan... And I know Bob Brown [Justice Robert L. Brown] says that's politics, too. Well, of course it is. Appointment of judges is just as political as electing judges, but at least you can have some kind of system that purports to select people based on merit as opposed to their political ability.

ED: And now, their cash-raising abilities.

WN: Boy, you're telling me.

ED: Which is the way it's heading.

WN: That's right.

ED: And Bob, I think—I don't whether he'd stand on that—is now concerned about that aspect of it.

WN: Oh yeah, he's concerned. But he's still an election guy, he still wants to have judges elected.

ED: Glaze did, too. I was talking to Glaze about it and you can make a pretty good case on Arkansas history, because you can look at, for example, the sodomy case. The majority of the U.S. Supreme Court had upheld state sodomy laws, in a Georgia case about 1988, but it was the Arkansas Supreme Court that broke the ice. An elected Supreme Court threw out the sodomy law, which everyone thought would be suicide... Homosexuality in 2002 was not where it is today with people. At that point, about ninety percent of people thought the death penalty would be proper for homosexuality.

WN: You know, but in that case there was an Arkansas Constitution issue, not a federal constitution issue.

ED: She [Justice Imber] had to deal with the Arkansas law [the Declaration of Rights in the Arkansas Constitution] because under federal law it was legal, at least according to the U. S. Supreme Court.

WN: That's right, but the Arkansas case—and I can't remember the style of the case—was a case in which the Arkansas Constitution's privacy provision had been interpreted in a pretty strict way, to say, "Yeah, you have these rights under this constitution." In other words, she wasn't in the dark here, it was a well-crafted...

ED: But it was kind of like the federal constitution—privacy was not spelled out in the Arkansas Constitution, and it wasn't spelled out in the federal Constitution.

WN: But the equal-protection law in Arkansas had been interpreted in a way that lent itself to the...

ED: Still, it was kind of a courageous decision, I thought.

WN: Well, yeah, sure.

ED: The two justices.

WN: Yeah, it's just like Judge Chris Piazza's decision in the marriage-law issue this last year or two years ago. It's a courageous decision, but it's one with the judge acting like a judge who looks at the precedent that says, "Yes, we interpret this broadly, to cover a lot of things that the federal constitution doesn't cover."

ED: By judges who are going to be elected, or re-elected.

WN: That's right.

ED: That was not... Back in 1968, a similar case, the creation science case, went before the Supreme Court and I think they just panicked. Carleton Harris and John Fogleman and Conley [Byrd] and all the others. They panicked over that thing. It was split four to three to reverse [Pulaski Chancellor] Murray Reed, who had thrown out the evolution law of 1928, an initiated act. They kicked it round in court, in chambers, for a year and couldn't... Carleton refused to release the opinion until, finally, George Rose Smith and J. Fred. Jones agreed to back off their dissent if they would tear up John Fogleman's majority opinion. They would not concur in that opinion but they would go along if it was just made a per-curiam order, an unsigned order without any justifying language. But Carleton thought it would just tear the court up if they came out with a divided opinion to throw out the antievolution law. All the people would be ready to lynch the Supreme Court. So they came out in conference and [Justice] Lyle Brown said, "I want to be recorded as 'no'—I dissent." So it came out six to one with a per-curiam order and, of course, the U.S. Supreme Court overthrows it unanimously and gives the Arkansas Court a kick in the teeth over that. But anyway, things have changed. Since the '90s I think I would be hard-pressed to point to cases that were obviously politically decided out of fear.

WN: Well, yeah. I wanted to be a purist and wanted always never to have an agenda of any kind, political or otherwise, and I thought that's the way judges should act. By and large, I think that's the way the Supreme Court of Arkansas acted during the years I was there. You can say, "Oh well, Purtle was political" and he was. But, by and large, when it came down to it, he dissented. It was a court... I was proud of it. I thought it made good decisions and I thought they were almost always deferring to the law. The idea was to apply the law to the facts and bingo! You've got the decision. That, to me, was the essence of being a judge and I'd like to think it's still that way. Who knows? I don't.

ED: Well, in 1998 you decided to retire.

WN: Yeah, I did.

ED: Were you just kind of worn out?

WN: I was. I had worked very hard. I always had a tree-in-the-forest problem and it takes me a long time to get to the tree. I worked, probably, too hard. I don't have any regrets. Late nights, weekends, really worked very, very hard for all those fourteen years. I just got to the point where I felt I wasn't doing quite as good a job as I had done for years. I was tired. I didn't feel comfortable any more doing that. I was a gung-ho for all those years

and worked too hard. I know that I was flattered by the fact that they really fussed at me on the court. Tom, especially, didn't want me to go.

ED: Tom Glaze?

WN: Yeah, didn't want me to go. I don't know. I just decided that I just didn't want to do it anymore. I was eligible to retire. Judicial retirement is a good thing, as you can tell. I continue to eat and do things I want to do. There is another aspect of me that we touched on and that is the music thing. I really probably should have... If I hadn't become a lawyer I would have been a musician or a band director or an orchestra person or something like that. And here I was, we had begun the Little Rock Wind Symphony and I was the president and chair of the board of the Little Rock Wind Symphony. What a project that was for me. We started it in the early '90s, like '93. Wendel Evanson had retired as the head director down at Henderson [State University] and was coming up here to be the director. I had hired him on the phone, as a matter of fact. We started that thing and gosh, it was a wonderful, wonderful group and I was spending time on that. I knew I probably shouldn't be spending as much time on it as I was, not only as a musician but with the administration of it, trying to keep it going. Carolyn was working hard with me on it. There was that. I was deeply involved in that. I started a working brass quartet and we played everywhere—civic occasions, churches would hire us to play, the city sent us to the Empress Hotel in Victoria to play at a trade fair, and stuff like that. I was deep, deep into that and the deeper I got into that the more I thought, "I really ought to just throw in the towel on the court because I am tired, I am worn out with that. I've got all these other things going for me with my horn and playing." I played in folk bands. I played with this group called Sugarhill for a long time, sixteen, eighteen years. We played all over the state. We played in bar functions, we played here and there a lot, had a lot of fun with that kind of stuff. That was an avocation but it was becoming more than an avocation. I thought, "Well, it's time for me to make that change." Glad I did. It turned out to work very well for me.

ED: But, that was in 1999. You go off the court and then in 2002 this *Lake View* case that we talked about keeps going back up to the Supreme Court and back down on lawyers' fees, and other issues, back and forth, back and forth. Finally, in 2002 it renders the ultimate decision and it tells the legislature you've got to do something about this. So it's kicked around after 2002, I guess, for another five years and actually down to just this last week. It's still going on. So the issue arises after the 2002 decision about whether the legislature, whether what they have done meets the test, complies with the court's mandate. The Supreme Court appoints you and Bradley Jesson in Fort Smith, who had been the chief justice by appointment for a year or so back in the mid-'90s, as special masters. Dub Arnold—was he the chief justice at that time? I've forgotten. Or was it by that time [James] Hannah?

WN: He was.

ED: Dub Arnold was chief justice?

WN: Chief justice.

ED: So they called you? Did Hannah or, I mean, Dub Arnold or somebody call you about that? You didn't volunteer to do that, did you?

WN: Tom Glaze called me.

ED: Tom Glaze called you?

WN: It's interesting. There's a lawyer who lives around the corner here named Mary Cameron, who works for the Revenue Department. I walk my dog past her house all the time. She said to me, "You know, I think they ought to make you the special master on that education thing." I just laughed at her and said, "Ha, are you kidding me? I wouldn't touch that with a ten-foot pole." I forgot about it, but the next thing I know Tom Glaze is on the phone saying "We want you to do this. In fact, we want two of you to do it. You and you're going to like the other person we've selected." When he said Brad Jesson I said, "I'm in."

ED: You all had a good relationship, you and Brad?

WN: Oh yeah! He was a breath of fresh air on the court. He was great, great as a justice.

ED: Funny.

WN: Funny, hard worker, masterful, good with the lawyers in oral arguments. He had been around so long, done so many big cases in his law firm in Fort Smith and did such a good job as chief justice. So I was just flattered to be asked, I was really was. Bob Brown and Tom Glaze came up here and we sat at that table. Carolyn made coffee and cookies. We sat up here and discussed it and I agreed to do it. It was a good experience. I enjoyed it. It was hard work.

ED: So what you all did is dive in and look, I guess, at all the statistics and the record in detail of what the legislature had done, the financing and...

WN: We held court. We had hearings. We started off in the courtroom at the Justice Building, with the attorney general's office on the one side and the plaintiffs on the other side. We put them to it, said, "OK, show us. Show us why it's adequate or why it's not." They came up with all this, reams of materials on what the legislature had and had not done. We had witnesses, school people, school superintendents, people who lobby for the schools. We just had a lot of people from the Education Department. Mike Beebe was attorney general and he would come as a point of privilege and speak to the court. They referred to us as a court, but we weren't. But we held hearings. We held more hearings the second time around. We held them in the old judicial courtroom in the Capitol. It was very formal and we would go back and sift through what had been presented and try to reach conclusions, and so we did.

ED: So you reached conclusions and this is your first incarnation as the masters. You concluded that they had not met the full extent of the decision.

WN: A number of deficiencies.

ED: Yes, deficiencies. So the court adopted that and the legislature had to come back again. Was that in 2005? Special session? I don't know. I guess that's not important when they did it. But ultimately, they came back into session and Huckabee was still the governor and they passed some taxes—a sales tax—and consolidated some schools. They passed a modest school-consolidation bill and a variety of other steps to try to equalize education.

WN: Equalize is a funny word. I'm not sure that was what they were trying to do. What they were trying to do was make sure every child had an adequate education.

ED: Every child had an adequate education.

WN: Yeah. Equalize is the issue now.

ED: Yes. So they came back and did all of that and then you were appointed again. I've forgotten what the timetable was, but there was a dispute again still about whether it was adequate.

WN: That's right. Another session had occurred and as some people said, they had backslid. We finally gave them, well, not finality. We did give them a good report the second time around and the court adopted that and then there was another session...I wish I could put dates on these but I can't...But there was another session...

ED: That was 2007 under [Governor] Mike Beebe.

WN: Yeah, they undid some things they had done previously and that caused the court to take umbrage, so we had to say, "Nuh uh. That won't work." And ultimately we wrote a report after they came back in a special session and corrected the things that had gone wrong. We gave them a good report and the court adopted that.

ED: So you were masters three separate times? Can you call it three separate times?

WN: No, I don't think we were actually reappointed.

ED: You weren't reappointed, you just carried on?

WN: We just carried on.

ED: You just carried on.

WN: That's right. I believe that's correct.

ED: But you were appointed twice. The second time you came back and they called you again and asked if you'd do it again.

WN: Yeah, and we agreed to do it. We had a little staff. We had some of the law clerks around the building and some of the Administrative Office of the Courts people helped us with the things that law clerks do. We had a real good thing going. The consolidation issue was, of course, the big emotional aspect of it. We had a lot of testimony about that, about how towns would just dry up if they couldn't have their school. I was very sympathetic to that and Brad was, too. We understood that. But that wasn't the issue. The issue was not supporting the town but it was educating the children, and so we took it from that point of view. Ultimately, we provided a service. I think it was a good thing that we were appointed and I think we did a pretty good job of giving a good view to the court, and that's really all we were doing. A special master's job is not to decide a case, it's to make recommendations to the court to decide the case and that's what we did.

ED: You're fact finders basically.

WN: Fact finders basically. But, of course, we put in what we thought, at the same time.

ED: Sure.

WN: That was cake frosting for us. We would do that. There's only one thing about that that I have regretted since and that is on the school-district consolidation. I wish we had done what I had thought at the time (and Brad and I never discussed this seriously). It would make things so much easier for education in Arkansas if we had, say, seventy-five school districts, one in each county with provisions for schools that are on the county line or whatever, things that need to be adjusted to that system.

ED: Seventy-five administrative units?

WN: Yeah, seventy-five units.

ED: Well, Jim Guy Tucker talked about that in 1995 or so. He went out and threw out that idea and caught hell about it immediately.

WN: Oh yeah! It causes people to go apoplectic. Really, it does. I think it would have been a real service if we had made that kind of recommendation. I am not sure the court could adopt it; it would require the legislature to adopt it, but I think as far as...I wish we had said it. We didn't say it.

ED: If you were in federal court, Henry Woods would have said that. But the legislature might not have appropriated another dime for the Supreme Court again if you had said that and they had adopted it.

WN: Right. You just don't do that lightly.

ED: Well, it was a big service and I think that it was generally acknowledged that it was a milestone for Arkansas education for what they did at that point.

WN: What's going on today is, of course, this issue over the twenty-five mills and the difference between what it takes to get the six thousand two hundred and seventy-six dollars, or whatever it is, per student and then what to do with the money leftover if the twenty-five mills produces more than that. That's the issue today. People are saying, "Oh well" and people are talking about that as if that is being done to equalize education among the school districts. That word. No. Nobody is focusing on the real issue, in that respect, which is that a lot of school districts get a whole lot more than twenty-five mills. Their property tax will be a lot more than that.

ED: Little Rock, for example, levies far more than twenty-five mills.

WN: Washington County, I'm paying their taxes too. Really, it is...there is no way to equalize as long as we have that system where a county can raise whatever it wants to and give the students as good of an education as they want to give over and above the six thousand dollars. Nobody is equalizing anything. What's going on here is the task that was established by the Supreme Court that we had to deal with and that is adequacy.

ED: An equal floor. You have to do this.

WN: You have to do this to have an adequate education.

ED: Everybody has an adequate education or an adequate opportunity for an education.

WN: When asked to define adequate you...

ED: Yeah, that's what they're still doing every two years is defining adequacy. OK, well, I guess that wraps it up. Can you think of anything else we need to cover about your life and career and times?

WN: Well, we haven't got into the Public Service Commission.

ED: That's right! That's the other thing that you got appointed to.

WN: Yeah.

ED: And that would have been about 2007 or '08, somewhere along in there. I guess to summarize that case: We had Southwestern Electric Power Company [SWEPCO], the parent of the thing, and they wanted to build a mammoth coal-burning generating plant down in Hempstead County, around McNab, I guess.

WN: Fulton or McNab.

ED: Fulton or McNab, whichever side you lived on.

WN: One is a little town outside the other.

ED: Yes.

WN: Or each is a little town outside the other.

ED: So they had to get, in order to do those things, get a permit...The 1971 law...You had to get from the Public Service Commission a certificate of necessity and convenience and environmental compatibility or something like that. I guess I'll let you carry on from there. The Public Service Commission had rendered a decision, had given them that certificate, partially. They had rendered an opinion of necessity—that they do need the power plant. But then they had to come along and decide if there was environmental

compatibility and convenience, or whatever it is. So at that point, there's a vacancy on the Commission?

WN: Well, here's how that went.

ED: OK.

WN: Sandra Hochstetter was on the commission, and I think she may have been the chair of the commission. No, she wasn't. Paul Suskie was the chair. Sandra Hochstetter had taken a job—she was planning to resign from the Public Service Commission. She had taken a job with Ozark Electric Cooperative, which is one of the companies involved in the Turk Plant.

ED: Yeah, the cooperative. The Arkansas Electric Cooperative was going to be...

WN: One of the owners.

ED: Purchasers. Minor ownership.

WN: She had taken a job with them and she was going to work for them. When she was asked about that—here you are having to rule on the issue of the permit for this coal plant in favor of the company that's going to hire you—she said, "Oh, I can handle that. Don't worry." Well, Mike Beebe said, "You what?" He just said, "No, that won't work."

ED: Clearly. It was a no-brainer, really, wasn't it?

WN: So Sandra departed the Public Service Commission at that point.

ED: Did she resign the commission or did she just step aside on this case?

WN: She resigned.

ED: She resigned.

WN: She resigned. I think that's right. She resigned and I was appointed. Yes, I was appointed to take her place, just for this case, this one case. So I did. We had hearings. It was supposed to be... This was in August of whatever year that was. Must have been...

ED: 2008 or so.

WN: I was going to say 2008. The governor called me (he was one of my former students, by the way, one of the brightest). He called me and said, "Now, I want you to do this, just for this one case." I said, "Fine." It was going to be a two-week deal. We were going to have hearings and decide on the permit. August. So we started having the hearings. I was not happy with the environmental aspects of this thing and one thing led to another and we had more witnesses and then more witnesses and more witnesses. Then this person, that person, another person wanted to testify. S.W.E.P.C.O. had these people... That's really the A.E.P. [American Electric Power Corporation].

ED: That's the parent organization.

WN: The parent organization. They have all these guys from M.I.T., engineers and people like that, who are going to come and explain everything and make it all just fine.

ED: To these rubes down here.

WN: Oh yeah. Yeah. Come down and... They found some trouble on the Public Service Commission. The thing started going on and on and in December... This was a two-week case in August... In December we wound it up. It was a two-to-one decision. Suskie and Darrell Bassett, who was the other commissioner.

ED: Bassett, I think he had been appointed by Huckabee.

WN: That's right.

ED: And Suskie was Beebe's, and by now you were his appointee. Bassett, I think, was the only Republican Huckabee holdover.

WN: That's right. He was the one. Anyway, they voted to grant the permit. I wrote what I think was probably the best decision I ever wrote. I mean the best opinion I ever wrote.

ED: I thought it was. I cited it.

WN: Oh, did you read it?

ED: I read that opinion and wrote a column or two in which I was fond of...

WN: That's right, you did!

ED: Pulling out some good phrases there.

WN: Yeah, yeah, thank you. I remember now that you wrote about it.

ED: I agreed with that opinion one hundred percent. I wrote a lot of columns about the Turk Plant.

WN: I worked my tail off on that and really enjoyed doing it. Although, I hated losing.

ED: But, it was still the right opinion.

WN: Turned out to be.

ED: Now more so than ever.

WN: Yeah. That's such a travesty, the whole thing. I tell you, I couldn't believe the arrogance. I could not believe the arrogance of that A.E.P. outfit and that woman who was the C.O.O. of S.W.E.P.C.O. Those guys and people could not understand. They simply acted like the only thing that's important is for us to get this done for our ratepayers. Our ratepayers—never mentioned their stockholders. Never mentioned that this was a corporation and they've got a lot of stockholders out there who are looking for dividends on their interest in this thing.

ED: The only ratepayers they needed. You might someday need the power down in Texas and Louisiana, too, but not Arkansas.

WN: That's right. Anyway, you are thoroughly familiar with that.

ED: Oh yes.

WN: But anyway, I liked that experience. I had a steep learning curve because that is a very complicated, as you well know, a very complicated issue to tackle. I felt very strongly about it, as you know. I guess I am as proud of that as anything I wrote when I was on the court. I really feel good about that. I feel that it was right. And was vindicated both in the Court of Appeals and then later in the Supreme Court and I was very happy about it.

ED: Unanimously in both places. The Court of Appeals and the Supreme Court adopted your position unanimously.

WN: Yes. At the Court of Appeals, the majority opinion, and there were concurrences, but the majority opinion went off on the procedural aspects of it, not the environmental aspects. They wrote that it was not proper, as I had said, that it was not proper to divide this into...

ED: The necessity and the environmental. It should all have been dealt with in one issue.

WN: Because, by the time the necessity issue is decided ahead of time, as you know, the train is leaving the station.

ED: They're already building the plant down there.

WN: Oh yeah.

ED: And now you can't stop it. "Look, we're already building this plant."

WN: Yeah. Suskie, actually bearded them on that well. He said, "This doesn't sit well with me. You're down there continuing to build this thing." "Oh, well, we have to. Our investment, our ratepayers have invested in this." God! They're just...Never mind.

Anyway, that is the way that thing went and I just feel really good about what I wrote. I was going to say, the Court of Appeals went off on the procedural aspects of it.

ED: But there was the dissenting opinion...No, not a dissenting opinion but a concurring opinion by...What's her name, up there?

WN: Jo Hart.

ED: Jo Hart from around Batesville, or Mountain View.

WN: She took up the environmental issue and...

ED: Hammered them.

WN: Hammered them.

ED: Hammered Beebe, hammered the attorney general.

WN: You bet.

ED: Hammered the Game and Fish Commission, the state's Soil and Water Commission, she hammered all of them.

WN: Oh yeah. She got them all.

ED: They were all working against her when she went to the Supreme Court, too.

WN: Yeah, and she beat them.

ED: She beat them.

WN: Again.

ED: She did. She's Elaine's cousin.

WN: Huh?

ED: She's my wife's cousin. [Actually, Josephine Linker Hart was married to Elaine Dumas's cousin.]

WN: Oh is she really?

ED: Yeah.

WN: She was a law student when I was teaching up there. She didn't have class with me, as I recall, but I knew her and she was...

ED: Tough ole' gal.

WN: A tough Army officer. Boy, she was good. Anyway, when it went to the Supreme Court, as you know, it affirmed what the Court of Appeals had done and discussed some of the procedural aspects of it. The thing that was best, I thought, about the Supreme Court array of opinions in that case was Bob Brown's concurrence, in which he said, "We haven't really gone into the environmental issues here" and the hint of it was "If you come back here, if you ask for a rehearing, you're liable to get it. Then we're going to talk about the CO₂, the mercury, all these things that will be produced in this place." It was a really good concurring opinion.

ED: Yeah, I thought so, too. I loved Jo Hart's opinion. I quoted a lot from it too, but also Bob Brown's and your P.S.C. opinion were remarkable, all of them on that case.

WN: I loved writing that and worked very hard on it. Paul Berry came up to me one time. He said, "You may have done some nice stuff on the Supreme Court, written some great stuff, but this was the best thing I've ever read." I thought, "Yeah!" I'm proud of that, I have to admit.

ED: Yeah. Well, thanks for bringing that up. I had in my notes to ask you something about that but it was about to slip my mind, to ask you about that Public Service Commission case.

WN: Well, that was, I guess, my swan song as far as public service goes.

ED: The law.

WN: Yeah, I suppose so. Once and a while I'll do something for somebody. Somebody will call me and want me to review something and I'll agree to do it. Every once and a while, just little things, but no more. No more public service.

ED: All right, so you and Carolyn are living blissfully here on Ozark Point.

WN: We are and we have our house in Fayetteville as well. We go up there. I go up there quite frequently because I'm playing with this band up there. I go up for rehearsals. We have this neat little bungalow up there on the street where I grew up and Carolyn, of course, grew up there, too. So we like it up in Fayetteville. We get up there pretty often. I don't know how much more we can do that. They're going to take my driver's license away from me at some point.

ED: Well, I hope not. No time soon. We're both kind of approaching that period. Well, judge, it's been a pleasure. Thanks a lot.

WN: It's been great. I've enjoyed reliving my life.

ED: Good. We'll shut it down here.

WN: All right.

ED: OK, we're back. We're going to talk about one other issue.

WN: Yeah, this is something that is an important thing to me. In 1985, my first year on the Supreme Court, I attended the senior appellate judges seminar at N.Y.U. [New York University] in the summertime. That was a seminar that was instituted by Chief Justice [Arthur T.] Vanderbilt of New Jersey, but Bob Lefflar was the driving force in that seminar. He went up there every summer to teach in that seminar and was a member of a faculty, which included people like the chief justices of Wisconsin and Pennsylvania and there were luminary judges who were members of that faculty and knew top court, meaning state supreme courts, and knew federal appellate judges, like the Eighth Circuit, who would come to that seminar and be instructed on administration, opinion writing, all the basic crafts of being an appellate judge. I couldn't believe my ears when I picked up the phone in 1986, the next year, and the person who was the administrator from the law school at N.Y.U. said, "We want you to be on the faculty of the senior appellate judges seminar." What an honor. I was just flabbergasted. So I did that for five years and became the senior member of the faculty. I was the leader of the faculty up there in that seminar and got to meet and greet and know judges from many states and federal judges as well. That is something that I count as one of the really good experiences of my professional life. I wanted to just mention that.

ED: I'm glad you did. That's worthy of note. With that, we'll shut it down.

WN: That ought to do it.

ED: We'll shut it down.