

THE ORAL HISTORY

OF

JUDGE JOHN W. REYNOLDS

AS TOLD TO

COLLINS T. FITZPATRICK

CIRCUIT EXECUTIVE

UNITED STATES COURT OF APPEALS FOR THE SEVENTH
CIRCUIT

1997

Today is Wednesday, October 8th, 1997. I am in the chambers of Circuit Judge John W. Reynolds in the Milwaukee Federal Courthouse. We are doing his oral history. My name is Collins Fitzpatrick. I am the Circuit Executive.

CTF: What I would like to do is, as I said before, start with the Reynolds family. How did they get to Green Bay and how did they move across this country and settle in an area where they could get season tickets for the Packers?

JWR: They came from Ireland.

CTF: When?

JWR: About 1869. One of them, or two, I guess, were in the Civil War. But my grandfather came about 1864 or '65, thereabouts. And his brothers had preceded him, and I guess a sister. And his father then came over. They were a large family, ten kids, from County Longford in Ireland. A little place called Granard and a little intersection called Kilasong.

They settled in Wisconsin and they went in the land business, lumber business. I think the first one that got here worked in the land office in Madison and he told the others where to go to get rich. Three of them went to Door County. John, Charles and my grandfather, Tom, went into the logging business. One went broke and became a farmer. That was my grandfather. Charles, his brother, became very rich; in those days rich. They both went into politics, as a matter of fact.

CTF: How did the one brother go to Madison to work in the land office? What attracted him? It's a big country. What attracted him to Wisconsin?

JWR: I don't know how he got to Madison. There is also another publication on the Irish genealogy, something like that, that has the Reynolds family all mapped out. It's a matter of record.

I think it is very interesting but I think my best contribution could be to talk about my 32 years as a judge.

CTF: Well, we'll get there.

JWR: I have a lot to say. But anyway they settled in Door County. My grandfather, who was the farmer, only thing he could raise profitably were children, on a very poor farm. Door County is sort of like Ireland. A lot of rocks, a lot of stone fences, not very good farming land. So when he went broke trying to be in the lumber business, why, he wound up on the farm and raised ten kids. One drowned. And they all became, I think, remarkably successful for a first generation family.

He was in politics. He was in state legislature. His brother was in state legislature. My dad was in politics and I am in politics.

CTF: Were they Democrats at that time?

JWR: Everyone was a Republican. There's really no history of the Democratic party in Wisconsin from the Civil War; no meaningful history as an organization from the Civil War until after World War II. There are two interludes where they had a Democratic governor. Peck, of Peck's Bad Boy fame, was elected governor because the legislature passed a law way back in the 1870s saying that everyone had to be taught English. It wasn't the official language of the state, but everybody had to be taught it. The people of German descent were so upset about that, they voted Democratic. The other Democrat was Al Schmedeman who was elected with Franklin Roosevelt in '32.

CTF: As was F. Ryan Duffy?

JWR: Yes. Those Democrats were referred to maybe unkindly by the liberals who were the liberal Republicans. We had liberal Republicans and conservative Republicans. The conservative Republicans were called Stalwarts. Those Democrats were referred to as "post office Democrats" because they were mainly interested in patronage. They didn't really elect anyone in Milwaukee. Couldn't even elect people here because the socialists were strong and had a relationship with what became the progressives.

CTF: Where did your Grandmother Reynolds come from?

JWR: She was a Foley. Her name was Foley, from Milwaukee. And that Foley family was pretty well settled here when she married my grandfather. Why and how she married him, I don't know. She was 16, he was 29. And she came from a family at least that was comfortably well off, I guess, in those days. And she graduated from St. Mary's. It wasn't a convent, but some kind of Catholic high school. We still have her etching on the wall that she made when she was in high school. But she left at the age of 16 and went up to live in the woods in northern Wisconsin with my grandfather. How that ever happened, I don't know.

CTF: Now, your grandfather was in the assembly?

JWR: Yes. He was in the state legislature, the assembly, a couple terms. And his brother was in the state legislature. He was always active in local affairs in Door County.

CTF: Did they represent the same district?

JWR: They ran against each other, as a matter of fact. They had a falling out. I think Charlie, who became rich, was always very nice to my father and his siblings, who were his nieces and nephews. He had one boy who graduated from Notre Dame, and died of TB at the age of 21. Charlie and his brother Tom didn't speak, but one became a conservative Republican and the other became a liberal Republican. They ran against each other one time for the job in the assembly. The poor guy dislodged the rich guy.

CTF: It is probably better than some of the southern families that were fighting each other in the Civil War.

JWR: That's right. Kind of a strange development. But actually, Charlie had one daughter who became a nun, and whatever he had, I think, wound up – I used to tell my first wife, who went to Rosary College in Chicago, that the organ there came from my Great Uncle Charlie which I think it did.

CTF: Where did your mother come from?

JWR: She was a Flatley. And they were from Green Bay. Her father died at the age of 36, very young man, of TB. And he left a widow, my grandmother, who was then 26, with six children. Both of my grandmothers got married at the age of 16, I have been told. My daughters know that, but I don't encourage that.

CTF: So she was raised by her mother?

JWR: She was raised with her mother. Her husband was a merchant in Green Bay, had a big general store, and then her brother took over the store and she raised six kids.

CTF: Did they come to Green Bay in about the 1860s, too?

JWR: No. Her maiden name was Calligan and her father and her mother, I believe, came to Green Bay through Canada, also from Ireland, and they came down the St. Lawrence. I think the story is her mother, by the time they got to America, or days before, came over here as sort of an orphan. At least she came to Green Bay. And that would be my great grandmother.

In my family, none of us got married very early. That is, my father was almost 50 when I was born, and I have children who are still in college, one boy 20 years old, so that the generations go back big leaps. And so we're talking about way back before the Civil War.

But my great-grandfather Calligan came to Green Bay, and I don't know how. The story was, which may not be true, that he was a sailor. Some say he was a captain.

I don't think he was. But at least he sailed. That is, my grandmother Flatley's father was a captain. He was shipwrecked in Tasmania, Australia, spent a year there reading the bible until he got picked up eventually and got back to Ireland.

CTF: Why don't you describe what life was like in the Reynolds household growing up.

JWR: My dad was a lawyer and he was a hard-working lawyer and politician. He read all the time, my recollection.

CTF: Where did he go to law school?

JWR: Went to Madison.

CTF: Did he go to undergraduate there, too, or was that just a one-shot deal in those days?

JWR: No, in those days he went through grade school, one year of high school, and then he got a job teaching school. He taught all age grades. At the age of 15 or 16 he was teaching school, and then he peddled books for awhile. And he was in Michigan, and he decided one day he would like to go to college and took an entrance exam. And as he told me, they asked him about Shakespeare. And when he was the book salesman he used to read Shakespeare all the time. Nothing else to do at night. So he could answer all the questions and they admitted him to the University of Michigan.

He went there two years and then he came over into law school at Madison, graduated in 1902. By that time he was 28 years old, I think. He went up to Green Bay and followed the traditional pattern of young lawyers in that day, elected district attorney, ran for Congress, ran for attorney general, was elected Attorney General of Wisconsin. He was always active in the LaFollette progressive movement. In fact, when we had a third party my dad was the last state chairman. He was state chairman when Phil LaFollette was defeated, last time Phil ran.

CTF: What was life like in the Reynold household?

JWR: Well, I would say it was – my memory is a very pleasant one. My mother was not a well person. She had a rheumatic heart, I guess, that she picked up as a child. But we had always a pleasant home, middle class.

CTF: Sort of upper middle class, wasn't it, if your dad was a lawyer in those days?

JWR: Well we never thought of ourselves as being upper middle class. We were always for the people, you know. But in those days you didn't have to be very upper class

to have live-in help. We always had live-in help because mother wasn't well. And so we always ate at a big round table, with a table cloth, all that kind of stuff. It was very pleasant.

I have very fond memories of my childhood. I was the youngest in the family by far. I had a sister 14 years older, a brother 12 years older, another sister seven years older, and then I came along. So as I was growing up, I was in a sense I won't say an only child, but my oldest sister

CTF: Definitely the prince? Prince Reynolds?

JWR: They were all very nice to me, my brother and sisters. They all went to college. When I was seven years old, my brother probably was in college. I can't remember where he was then. It was a close family and they were never contentious. Pretty happy family. I hope everybody has such a nice family.

I must tell you, we are fortunate that our ancestors settled in the area that eventually became a resort area. And the fact that my grandfather settled in Door County with a big family resulted in most of his children having summer homes in Door County. They originally had log cabins up there, and now some have more substantial summer homes. And we're always going to Door County.

I was going up there as a child and my memory is, during the Great Depression, how poor people were in Door County. Dad was always interested in politics and getting roads built and things like that. The crews always would have their lunches at our log cabin. So I enjoyed it. We had a beautiful log cabin. I have a picture of it on the wall. It's still a beautiful cabin. My niece has it now.

CTF: I take it you would have a lot of family get togethers at Thanksgiving, Christmas, because you have a lot of family up there.

JWR: In Door County? The odd thing is there were ten kids on the farm, and none of them – only one stayed on the farm. That was Sydney, who was a lovely, charming guy. I worked for him in high school on the farm. Two great summers working for Sydney. But he was very poor. I was always struck when I was a child by the fact that Sydney, who stayed on the farm during the Great Depression, the farm depression started in the '20s, the '30s, you know, how poor he was. He had no electricity. And you know, his brothers were doing really quite well at the time. That dichotomy always struck me.

But anyway, yes, we still all go to Door County. But none of them settled there. But we go up there. And my brother had the good fortune of being born on the

Fourth of July, so everybody goes up there for Tom's birthday. Tom is 88. We still have his birthday there.

So I can describe it as idyllic. Maybe there were problems, but there were no serious economic problems. There were no serious problems. Everybody grew up, everybody was expected to go to college, and they all did. What else is there to do?

CTF: Now the Depression doesn't sound like it affected your family directly, your immediate family.

JWR: It didn't affect it directly, but I certainly was terribly aware of it, because a lot of things happened in Green Bay during the Depression. Although Green Bay was relatively depression proof in the sense that our products were paper. And as poor as people are, they tend to scrape up enough money to buy toilet paper. So the mills kept operating. They went through receiverships and things.

Then a new industry started in Green Bay at that time which was processed cheese. Wisconsin is a big cheese state and the idea of processing cheese was relatively new. So that as a youngster, young fellow, like most young people in Green Bay, you worked in the paper mills in the summer or wound up in the food industry. I wound up in the food industry -- cheese, things like that.

So the economic base of the Fox River Valley wasn't hit nearly as hard as the rest of the country. But our banks failed. The head of our pea cannery shot himself in order to save the company. The head of the bank killed himself -- the president of McCartney National Bank. All this happened. My grandmother lived upstairs over the old store, and she could see down in the bank where they were all running around. He was a pretty bad fellow, but he killed himself. But the chairman of the board, who had been the mayor of Green Bay, went to prison. So all these things affected me.

My father never complained much, but he invested in Chilean bonds and they went broke. I remember him talking about that. But in terms of personal deprivations, no, we didn't have that.

CTF: Growing up in Green Bay, was there much of an Irish American community there?

JWR: No. It's interesting. Although I am 100 percent Irish descent, I never grew up in an Irish neighborhood or an Irish community. We did have a St. Patrick's Church, and mother and dad were married in St. Patrick's church. That used to be referred to as the Irish patch on the west side. But it was mainly railroad workers in those days who lived around there. But it wasn't an Irish group. The largest ethnic

group in Green Bay are people of Belgian descent. Our minorities were Protestants. I used to feel sorry for the Protestants, because they were the minority. Everybody was either French Catholic or Belgian Catholic. So the poor Protestants, we felt sorry for them. But they managed to survive. As a matter of fact, I think they survived quite well economically. Probably better than the others.

CTF: When do you get the storm warnings about trouble in Europe.

JWR: In where?

CTF: Trouble in Europe. At some point before Pearl Harbor comes along, people have an idea there's a problem, although Wisconsin is really the heart of the isolation area.

JWR: The fact is that my father was a LaFollette supporter -- Robert M. LaFollette, Sr. And he was Attorney General starting in 1926 in Wisconsin, elected in '26. So the isolationist movement, dad was really kind of a passivist, although not really. He wanted to go into World War I, I guess. But anyway, he got married a second time, and his wife was kind of a pacifist. She said I could stay in the basement for World War II. I said no, I would rather go in the Army than go in that basement.

In any event what was going on in Europe was very much a matter of concern in our house. You have to remember that -- you don't have to remember, but the fact is that my siblings were so much older. So my sister Ruth, who got her degree in social work in Madison and who went to the University of Wisconsin and the University of Chicago, would come home and be telling what's going on in Europe and the Soviet Union. And the intellectual community as reflected through what Ruth would say about what was going on in Madison, they were extremely interested in what was going on in the Soviet Union, studying the prison system in the Soviet Union, how they were going about trying to solve their social and economic problems. So that we were quite aware.

And then the war in Spain, the Franco War, I remember when I was painting the front porch and I had the radio on, and we were very much interested in what was going on in Spain. So the whole subject of fascism and the role that isolation had, what role we should have was a subject we were quite conscious of. And I think the family, my dad and all of us, had to work our way through this isolationist background to move into a position to recognize the responsibility America had in the war.

I went to hear Ralph Immel, who was Phil LaFollette's key guy who became a general, and he gave a great speech at the American Legion Hall in Green Bay about how Japan couldn't fight a war because it didn't have any gold. Phil

LaFollette gave a great speech, after he was defeated as governor, in the Music Hall at the University of Wisconsin, about 1939, how we should have a ring of steel around North and South America. We should isolate ourselves from the problems of Europe.

But on a personal basis, by this time, 1936-37, I was a very enthusiastic supporter of Franklin D. Roosevelt. So was my father. So Roosevelt won us over pretty early in the game, too.

CTF: Now you mentioned that Ruth, your sister, would come back from the University of Wisconsin because they were following what was happening in Russia which was at that time always considered to be very progressive because of the Marxist revolution.

JWR: That's right.

CTF: And then the summer of '39, the Russians and Nazis got together and invaded Poland.

JWR: I was a sophomore in college. When the Germans invaded Russia, I was at a dance at the Oneida Country Club in Green Bay. I was the only one of my group that was interested in and excited about the news. I always had, throughout my lifetime, two groups. The groups, I won't say the playboys, and then I had a group of people interested in more serious subjects. And I was at a dance, I remember. I can tell you who I was dancing with if you want to know. The word came that Germany invaded Russia. None of the other people my age seemed interested at all in that, at this affair. I thought that was pretty interesting.

CTF: When you were in high school, were you active in school activities, newspaper?

JWR: I went to high school during the depths of the Great Depression and there was almost no activity. There was no school album. There was no school newspaper. Talk about the impact of the Depression. They shut everything down except the football team. The football team was there and the Packers played in the high school stadium. So the Packers were started in 1919 and they survived everything. Even when I was in the military and was in New York City one time and I was very proud. There I was going to watch the Green Bay Packers fight the New York Giants. And we won. The Packers would always win.

CTF: Now you went to the University of Wisconsin?

JWR: I went to the University of Wisconsin, yes. Before the war and after the war. I was there – I used to say I lived in institutions, between living at the university seven

years, law school, undergraduate, in the Army four years. I didn't know what it was like to be out on my own.

CTF: When your dad was the Attorney General, did you move to Madison?

JWR: We lived in Madison when dad was attorney general for three years. I think dad liked campaigning better. He certainly didn't like living in Madison. And my mother didn't care for it. But we lived on there for – I think I moved down there at the age of six, and came back at nine and a half to Green Bay.

But dad was basically, I think, a person who enjoyed life in Green Bay, and he enjoyed politics, but he didn't enjoy it in Madison. He liked to read all the time. He didn't like to go out and – he never took a drink. Speaking of the Irish, our family was dry personally, but was wet politically. His mother never allowed any alcohol served at the farm. And dad had two uncles. His father had a couple of brothers who liked to drink a little bit. And they were welcome to stay when they came to visit as long as they wanted to, but they couldn't have a drink. So they never stayed very long.

And dad, when he had his log cabin, used to have it written on the wall: "No Alcohol Served Here." Right on the wall. Very dry personally. But he would go into the saloon when campaigning, always buy a round of drinks for everybody at the bar, and he would have a cherry pop. And the men would all see that, and that's the way he operated. I think it helped him frankly. It showed that he was politically wet, but personally dry.

CTF: Good term.

JWR: Dad used to say the Germans could drink, but not the Irish. I think there may be a little truth to that. The family eventually got away from that point of view.

CTF: You were at the University of Wisconsin, undergrad. What years?

JWR: 1938 to 1942. And then I went in the Army for four years and I came back and went to law school.

CTF: Why did you pick the Army?

JWR: All my friends were going in the Navy. I went down. I flunked the eye exam. I couldn't see. You may notice I don't have glasses on now. I have two artificial lenses in my eyes, having just had cataract surgery in the last three months. They are still working on it. So I have those for reading. So I went in the Army. I didn't really think about it. My friends were going in the Navy or the Air Corps. That

seemed more interesting. Being a doughboy never seemed very exciting but actually my military career was pretty interesting.

CTF: So this is May of 1942?

JWR: Summer of 1942.

CTF: And where did you report?

JWR: I went to Fort Sheridan, Illinois. I always remember it. I went down there as an enlisted man, a private, and I was 21. And the guy next to me was 33, 34 years old, and he was a successful broker, securities broker from Green Bay. I knew him and his family. We were told to clean out the urinals. I didn't mind that at all, but I thought that poor fellow, this must be a terrible comedown for him. But I worked on Uncle Sydney's farm, cleaning out the barns. But I do remember being at Fort Sheridan.

Then I went to Mississippi. And I knew the train was going south. I could tell by where the sun was. And we got off the train at Shelby and that very night a black kid was lynched. Right there. I didn't see it, but everybody was talking about it. He was hung from a trestle, railroad trestle. And that was my introduction to what I considered the most foreign place at the time that I had ever been and that was southern Mississippi. It was so different than anything I had experienced that later on when I got around the world, it didn't shock me nearly as much as what I found there.

When I was there, I was assigned -- I wound up as an enlisted man in Third Army Headquarters. We had troops, black troops, and the sheriff in Centreville, Mississippi one day saw a black guy, black soldier holding down a white MP, which in Mississippi at that time was a capital offense. He walked over and put a bullet through the black soldier's head. Our troops revolted. It was the 364th Infantry regiment. They were all black. They were brought to Mississippi so that the black soldiers could have lady friends. That's what they said anyway. They revolted. They wanted to get their weapons to march on Centreville. It was a traumatic experience for me. For everybody, I guess.

To make a long story short, we called out a white division to bring them under control. They brought them under control, of course, but they started a series of court-martials and everyone down there was -- not everyone, but just hundreds of soldiers, black soldiers, were being tried. Everybody was getting 99 years or unbelievably long sentences for disobedience of orders because they were told to drop their weapons and go back in the barracks. They didn't all do that. So I always remember there was a very nice young lawyer, didn't seem young to me at

the time, in the Judge Advocate General's department down there running these court-martials, and he could see -- by this time I was a sergeant major, believe it or not, of the headquarters -- he could see I was very concerned about what was going on, how the blacks were being treated. He took me aside and said don't worry, they all get 99 years, but we ship them to a retraining place and they get sent overseas.

I was concerned enough I wrote dad and said, you better have Bob LaFollette, who was a United States Senator, look into this situation. But anyway, it all turned out pretty well. It was my first experience with, really -- in Green Bay we only had one Afro-American when I grew up. That was John. We called him John the boot black because he ran gambling on the side. But other than that, I had never met a black person except students at the university. It was a very interesting experience.

CTF: Whatever happened to the sheriff? Nothing I assume?

JWR: Nothing happened to the sheriff. Nothing happened.

CTF: Now this black unit, did they have white officers?

JWR: Yes. They sent in a colonel. He used to walk around with two police dogs, and had big leather boots, shiny black boots. And they sent him in to take over control of the regiment. He did a good job. But this was the beginning of the war, remember. Later on the Army got a lot more black officers. Later on I became an officer. I served with black officers.

This all comes to mind because as recently as yesterday, when I am talking with -- maybe you don't know this. I had a case in 1974 with the Milwaukee Police Department, and still have it. It's an institutional case. They never go away. Anyway, I mentioned that I think it's important we have black police officers, not on any affirmative action basis, but just a more efficient way to run a police department. The Department of Justice has taken that position in the case that was pending in the U.S. Supreme Court. I just read their brief. So the Army had to have black officers. But in 1942, I don't remember any black officers -- maybe this was '43 by that time -- in that regiment. But there may have been some.

CTF: Where did you go from Mississippi?

JWR: I went to officer candidate school. We were shipping people out overseas. And it was kind of an odd thing. Here I was a master sergeant, sergeant major in the infantry, and I had never had basic training. That was just the way it worked out. They needed somebody in headquarters and I could type.

CTF: Did they give you basic training at Fort Sheridan?

JWR: I never had it at all.

CTF: What was at Fort Sheridan?

JWR: That was a reception center. They would process you. I was only there five days, I guess, and they shipped us out to Mississippi. I got to Mississippi and they didn't have computers, computer cards, but they had some way of -- some where along the line they knew I could type. Because I took typing in high school, they put me in headquarters. And I found it a fascinating place to be. I was in the file room. I read all the files. It was very interesting. The confidential secrets.

I learned that the British -- we didn't know the morale of our own troops. According to confidential files, the British were telling us what the morale was of our troops. We didn't have any intelligence service within the military going on. And everybody was always bitching about Roosevelt. Whose army am I in? But anyway, I learned that your interest in a job, to have an interesting job, you're more apt to have it if you're at the top echelon than if you're at the bottom. It was very interesting. When I was commissioned and told to go out and give the troops calisthenics, that wasn't very interesting. What a difference it is to be in Army headquarters versus being out with the troops.

So the net result was that I was kept there and promoted, etc., and never had basic training. Although I had the rank and the grade of being an infantry sergeant, and a master sergeant in the infantry was pretty tough, it wasn't at all. So I had to handle that problem. At least, I didn't want to go overseas without getting some training. As it turned out, I never went overseas. I got commissioned and they put me in the counter-intelligence school, and sent me to Japanese language school. By that time, the war was over.

CTF: Was that in preparation of the invasion of Japan?

JWR: That's right. They wanted officers -- they taught us Japanese language with a phonetic alphabet. Made no effort to teach us with the Japanese alphabet. It was a very interesting experience, because by this time we were all officers. Half of the students who were officers were Americans of Japanese descent. They grew up speaking Japanese. Here I grew up in Green Bay and we're in the same class. I thought this was kind of goofy, but that's the way it worked. I became very good friends with them.

CTF: When did they send you to that school?

JWR: That was about 1944 they sent me to that school. I was with the troops out in Fort Warren, Wyoming. I have had only two jobs that I didn't like. One was selling shoes, and the other was battalion adjutant out in Fort Warren. The Battalion Commander was really one of the worst people I ever worked with or for. He felt in order to have discipline, one should, in my view, be obnoxious and mean-spirited. And he would -- I was his aide -- and we would go down in the mess hall and he would order steak while the troops were eating hamburger, and I just didn't believe in that. That just was contrary to my whole experience, my background, to do that.

I finally went to see the personnel guy, the general's staff. His name was Foyer, as a matter of fact. I said I have to go. I just can't be here. You have to give me another assignment. Well, he said, we're sending people to Okinawa. I didn't want to go there, but it was a critical point. I had to leave. And that was my only option, so I took it. When I was home saying goodbye to all my loved ones, why, orders were switched and I was put in the Japanese language school. Well, that was a whole new world.

CTF: But that language school was here, right?

JWR: Here in Baltimore. A whole new world. Lot of OSS people. A different world, another wonderful experience. And the OSS officers were coming back, many of them had been in Asia, were coming back for language courses and things. I enjoyed it. I always enjoyed almost everything, I guess.

CTF: Now in April of 1945, the Nazis lose, and at that point the focus then becomes much more on Japan?

JWR: Yes.

CTF: But you don't know, nor do most people, that we've got some atom bombs.

JWR: Harry didn't tell me.

CTF: And so at that point, then, how long did it look like you were going to be in the Army?

JWR: Oh, I think that at that time we thought it was going to be a pretty long pull before we conquered Japan. As you said, we had no knowledge of the A-bomb. And we really had no knowledge of the complete devastation of the air raid on Tokyo and major Japanese cities. But even before we dropped the A-bomb, the Japanese cities were very fragilely built, and they had wooden shacks. And the fire bombs, I

saw later what they did to Dresden. They blew everything up in Dresden. But at least the European cities in theory were more resilient than the Japanese cities.

So in fact I think it turned out after the war that Japan -- I don't know how long she could have maintained this war. You know, when people are fighting for their survival, they fight a long time, as we learned in Vietnam. So I thought it would be a major job, be a time-consuming effort to conquer Japan.

You have to remember, by that time I wasn't in an echelon to know very much. Makes a big difference if you're working for the court of appeals than if you're working for a magistrate. It does. They let you know what's going on. That's true in the military.

CTF: Later on, after the war was over, there are people who have doubts about whether the bombs should have been used on Japan. That's the whole question of President Truman's use of the bomb.

JWR: The simple question is, do you want to have your own people killed, or kill them? I don't think President Truman had any options. That's why they built the bomb. And we learned in the Civil War in this country, the way you win a war is to kill everybody. You don't win a war by killing the soldiers. War is a really terrible thing, and we learned it again in Vietnam.

CTF: When were you mustered out?

JWR: In April or thereabouts, 1946. So I always thought I would wind up in California, but I got out one day and went to the University of Wisconsin almost the next day.

CTF: So you came back here and started in law school?

JWR: Yes.

CTF: Okay. Was there a special program for returning soldiers?

JWR: Yes. The program was they ran the school 12 months out of the year. We all felt that we were very anxious to get out. We all felt very old. We were. And we used to stand on the steps at the law school and see those little co-eds walk by, they looked so young to us. Now they don't look that young. But anyway, they did then. So they ran the school 12 months out of the year, so the classes were all mixed up. At the time it was fine. I got married after I was only there a year. And so

CTF: Was your first wife from Madison?

JWR: Well, she was teaching at Madison. She taught in the French department. Her name was Patricia Brody. Maybe you know Pat Brody, the lawyer, is her cousin. She was from La Crosse. Small world department, her father was actively involved in the progressive movement, too, but he was a younger man than dad. So we got married, and she was teaching at the University.

She was teaching French. The reason she did is because they brought all the returning Vets, they had a lot of graduate students teaching. She also went to law school for a course. I went to law school. I was also clerking in the Attorney General's Office. Wonderful job. Loved it. And I graduated. I thought, you know, if I stay here, which I could have -- I thought, if I stay here, I can never make politics a career. The law was something that you do to make a living. I never thought it was an end in itself. Some people do, but I never did.

CTF: So you were going back to Green Bay where the family had family roots and also political roots.

JWR: That's right. I knew the people couldn't wait for me to arrive. I immediately ran for Congress, which was unusual -- when I say immediately, within the year. They couldn't get anyone else to run and I was happy to do it. We put on a vigorous campaign.

CTF: You were running against a Stalwart?

JWR: Yes, John Byrnes. But this time I was a Democrat. I really was a Roosevelt Democrat before the war. The La Follette progressive movement had collapsed. Phil was defeated in the 1938 election, although the progressives did elect a gentleman by the name of Loomis as governor in 1942. That was kind of a fluke. He died before he could take office.

So then I became a Democrat, a liberal Democrat.

CTF: So somewhere in law school, I assume, or after law school, you met people like Jim Doyle and Tom Fairchild?

JWR: When I was at the university, the first time I met Jim Doyle, Tom Fairchild, Horace Wilkie, the whole group of us who formed the Democratic Organizing Committee to take over the Stalwart Democratic Party in Wisconsin. Well, they weren't all Stalwarts. There were a couple liberals in the group, including Robert E. Tehan and Jerry Fox, people like that, who opened up a lot of doors for us and really facilitated our efforts.

CTF: Fox later runs for Senate, doesn't he? In the '60s?

JWR: No, Jerry Fox was from Chilton, Wisconsin. It was between Fox and Tehan who should be appointed judge here in 1949. But they were all very nice to us. You have to remember there was almost a generation -- as I look back it wasn't a generation, but we thought of it as a generation. These people had been well established. Jerry Fox was elected to the legislature in 1932. He was a Democrat. They were the good Democrats as we saw it. And I think they were.

But the group that formed the Democratic Organizing Committee was centered around Madison. When I was in law school, I worked on the campaign. I think that the first time I met Tom Fairchild he was running for Attorney General. I was a law clerk in the Attorney General's Office. Tom was my boss, as a matter of fact. He's been a good friend ever since. So that in itself was an interesting time. But I went back to Green Bay and practiced law with my dad.

Why don't we talk about the Court.

CTF: Okay. Let's do more of the family, too.

JWR: Whatever you say.

CTF: You get married. You move back to Green Bay?

JWR: That's right.

CTF: You run for Congress. And since you run against John Byrnes, and I know he was around forever, you obviously don't defeat him.

JWR: I remember driving to a Labor Day picnic in Kewaunee County and I had the radio on in the car, and I heard that Harry Truman sent troops to Korea. I knew that was the end of our chances of winning because we were in the Fox River Valley. Joe McCarthy had defeated Bob LaFollette in 1946. There was a great deal of confusion in America at the time.

On the one hand, Harry Truman was the only guy who was really standing up to the Russians, and on the other hand, they all said he was soft. It was very difficult and people were very confused about it. America had just conquered Nazism, defeated Japan. So the idea that anything in the world that was bad from the point of view of America, bad for America, could happen just seemed it was all due to the fault of our government. So we lost Red China. So all this was going on in the Fox River Valley and the fact that we had all these problems in Korea was just incomprehensible to people. Why can't we take care of those North Koreans? We could beat the Germans, but couldn't beat the North Koreans. Later on we had the

same problem in Vietnam. We couldn't beat the North Vietnamese after we had all this power. It's very hard to understand. Based on a false premise.

I jump ahead. When I was Governor -- down in Washington, President Johnson -- you know, Robert McNamara, he thought he was the smartest man in the world. They talked about the kill rate and all this kind of stuff. All the assumptions were that people would rather live than die. The fact is that turned out not to be true. Some people would rather die than live under certain conditions. That doesn't or shouldn't surprise us.

I remember when I was at the University in 1939 we had a peace convocation at the University. Harold Laski the great British socialist came over. By this time Germany had started the war. They hooked Harold Laski before Germany started the war. He gave a speech and said, "I would rather die fighting on my knees than give in to Nazism." That was how the peace convocation turned around. But in a sense that was true. We never believed that was true of the North Vietnamese or the Koreans. So it was very hard for Harry to accept the fact.

CTF: I don't think the Israelis believe it about the Arabs.

JWR: That's right. They don't. I said as much yesterday. I said you know, when we came to America, we could get rid of those Indians. There weren't very many of them. And between TB and venereal disease they were destroyed. They all would have died if we didn't have penicillin. Penicillin saved them in 1939, 1940, when that was invented, because the TB was just rampant. That's right. You can't kill them all especially if there are a lot of them.

CTF: Now the war breaks out, you lose the election. You then go into a job

JWR: I lost the election and then I had another fun job. That was when President Truman appointed me as head of the Office of Price Stabilization. There I met the Chicago politicians who were a marvelous lot. I had never met such people before. Mike Howlett, who died recently, was regional director. I was the district director. And I was always the youngest of everything for a long time, anyway -- until recent years, the youngest director in the country. We had all these problems with civil service, all this stuff. But anyway, Mike taught me the Howlett Rule. He came up to Green Bay and said, "Reynolds, you're in charge here. You have as much authority as you dare take in government." End of training, he went back. "As long as I don't hear any trouble." Well, we never had any trouble. I used to have the Howlett Rule and then I realized after Richard Nixon got impeached, I learned that was certainly not true. Certainly not true of the president.

CTF: Why did you take that job?

JWR: I needed the money, I suppose. It was a very interesting job. I was always more interested in government than I had been in law. More interested in public policy. I noticed in Hugh Dillin's personal history he said after he got to be judge, they had him take a Minnesota Multiple Personality test. They asked me to take the same test. He scored number one as a social worker and so did I. I thought it was a pretty accurate test.

CTF: Your failing grade was as a CPA?

JWR: I don't know but my interests were in social work.

CTF: After the war they dismantled the Price Control board. You come back?

JWR: I went back to practicing law.

CTF: What about family? Kids?

JWR: Well, Patty and I had three children. Katy arrived in 1952, Molly in 1957, and Jim in 1962.

As soon as I left OPS, I went back to politics. I used to say some people like to hunt and fish and play golf. My hobby was politics. My interest probably is still political. I keep up on things. The only drawback now is that I can't be politically active.

CTF: Which is a change in the federal judiciary, because for a number of years, clearly, federal judges were very active.

JWR: Yes. But I don't know, at least in Wisconsin, Bob Tehan always kept a good working relationship with people, but he never went to any meetings or anything like that.

CTF: But I think of a person like Bill Campbell.

JWR: Oh, I suppose Bill did. Well, Chicago is a little – even in Wisconsin, even the state judiciary was pretty unpolitical after they get to be on the bench. It's part of our tradition. And furthermore, Wisconsin, the difference between the parties, I used to say, is quite ideological, but not too partisan. My impression is that in Indiana, there's not a big ideological split, but probably a big partisan difference.

But here, furthermore, the Republicans who get elected are really quite moderate. The current governor, Tommy Thompson, he's not a right winger. And I think that

Mr. Neumann, who is running against Senator Feingold, probably won't do well because he's too far to the right for Wisconsin.

Down in Milwaukee, you don't realize we have a big Scandinavian area in our state. They may vote Republican, but they are not right wingers. They are moderate.

CTF: Let's talk about your children. You have Katie. And then what are the ages of the next two?

JWR: Well, Molly is about five years younger than Katie, and then we have Jimmy.

CTF: How many years different from Molly?

JWR: About five. We have three kids. And Patty died. That was before I became a judge. And I got married again, had four more. I have seven kids.

CTF: So Patty dies in 19...?

JWR: 1967.

CTF: So just shortly after you came on the bench?

JWR: Yes. December of 1967.

CTF: But you're left with three kids. The oldest is about fifteen?

JWR: She was fifteen, yes.

CTF: And the other two are substantially younger.

JWR: Yes. About ten and five.

CTF: How did you cope, being both a federal judge, which is a busy job, and raising a family?

JWR: My sister Ruth was in town, and Ruth had a cleaning lady who, although she was born in Dunbar, Wisconsin, was Ukrainian. And her husband had been born in the Ukraine and she was a widow. So anyway, her name was Mrs. Davido. And I hired her as housekeeper, and she would come Sunday night and stay till Friday. She taught me to eat soup. I always remember that. I didn't think about having just soup for dinner. But I would get home at night and there was soup. It was very good soup, all home-made.

I tell Sofron Nedilsky, who comes from the Ukraine, the housekeeper wasn't born in the Ukraine, but was part of a Ukrainian community which I didn't know we had in Dunbar, Wisconsin. But she made soup, very good.

CTF: So you are a federal judge. Was the job what you expected it to be? Now, here you come from the position of being the former governor of the State of Wisconsin.

JWR: The job was not, well, what I wanted to get into is the job has changed so completely in the last 32 years. When I arrived here it was very much a public policy position. It wasn't a partisan position. But the issues, the cases, for the first ten years people would say under the Warren court the institution of the court was entirely different than it is now.

CTF: Because of the changes both in the civil rights as well as in the prisoners? How we dealt with defendants and prisoners?

JWR: The changes took place in the . . . the laws changed, to start out with, and the economy of Milwaukee changed dramatically.

The Civil Rights Act was passed in '64, and there's always about a ten-year lag or longer really, between the time of the adoption of a new law either by the Court or by Congress and before it gets out to the bar.

Old lawyers, old dogs, can't learn new tricks. In those days we had no continuing legal education programs. So that the Civil Rights Act, although passed by Congress, wasn't being implemented in the practice of law very much for at least a decade or longer. Although the U.S. Supreme Court revived Subsection 1983 cases in 1964-65, it never really got out to the practicing lawyers in Wisconsin for at least a decade. And some of the Milwaukee lawyers, recent graduates, would pick it up, starting in 1983.

I will jump ahead. We had what we used to call a State Federal Judicial Council. And we were getting, the federal court here, a lot of 1983 actions, and no one would go to state court. One reason they wouldn't go into state courts is because there was a state precedent that you couldn't raise a constitutional issue at the trial court level in the State of Wisconsin. That was reserved for the appellate courts.

CTF: But there were no appellate courts?

JWR: Well, I mean for the Supreme Court, the only appellate court they had. But only in the Supreme Court. So the practicing lawyer was in a dilemma. Even if he wanted to raise an issue, he was told he couldn't do it. If you got to the Supreme Court and he hadn't raised it, they said, why didn't you raise it? It was a Catch 22 situation. So we used to have the State Federal Judicial Council. Maybe they still do. And Hallows was our

Chief Justice of the State Supreme Court. So I personally said to him, Harold, why don't you fellows -- they were all men at the time -- tell the bar of Wisconsin that they can bring those 1983 actions in the state courts? And so he did, and within a year-and-a-half they had the case, and they sent the word out they could bring 1983 actions in the state courts. In fact one of the first abortion cases that took place in the state court, the state judge said I can't handle it because it raises a constitutional question.

So anyway by this informal relationship we had with our State Supreme Court, we got the state to change the laws. So 1983 actions eventually could be brought in the state courts. And now, they always used to be complaining that the feds were doing all this work, being activist, things like that, but now we have a peculiar situation that when the lawyers go to the state courts, if the defendant municipalities can transfer to the feds, they do. That is the defense. The cities now transfer things back here to federal court because they think the federal court has a reputation of being a little more conservative than the state courts, which is true. Our state judiciary in Wisconsin is more plaintiff-oriented, if that's the way you define it, than the federal courts are.

CTF: The early cases that you remember from, let's say the 1960s, what were they?

JWR: Well, you have to break them down. We had, as you know . . . when did you become a law clerk?

CTF: 1971.

JWR: Well, in the same period of time we had a lot of patent cases in the Seventh Circuit, and a lot in Milwaukee. A large law office in Milwaukee at that time was the patent department of Allis Chalmers. I think they had 150 people working in the patent department. That included so many lawyers. It was a big operation. And in addition to that, the Seventh Circuit had a reputation of being pro patent. They favored the one who got the patent and the Eighth Circuit didn't like that position. And some others didn't. So a combination of things brought a lot of patent work here.

A patent case is like working on an interesting mathematical problem. It was intriguing when you got into it. There's no strain, there were few motions. You know, no problems, no legal problems really. Just to understand what are they talking about. And we had a lot of marvelous patent litigation. It was a diversionary thing from the day-to-day turmoil, I might say, of the court.

So you have the patent cases. And now we have almost no patent work in comparison to what we used to have. I used to spend a lot of time on it.

CTF: A lot of patent cases are now filed over in Madison.

JWR: Madison?

CTF: And it's because of the time.

JWR: Because of their time?

CTF: They can get a quicker decision.

JWR: Well, that's a good reason. I keep preaching, but haven't convinced anybody, that probably the most important thing that a judge can do is decide things. The quicker you decide them. I don't think anyone – even as our good friend Judge Posner said – no one pays attention to what trial judges say anyway. At least he said don't cite them as authority. I think that's true. I don't mind that at all.

But anyway, the fact is, the lawyers, the practicing bar, they pick up the case, they want to win or lose. If you lose, you can appeal. If you don't get a decision from the trial court, you can't do anything. But in order to be quick like they are in Madison, you know, I kid John Shabaz about it, at least he keeps everybody hopping, and they never get an adjournment. You have to have a personality to do that.

I have a very hard time. I have had lawyers here pleading for adjournments. So I have a hard time turning them down. Especially when both sides agree to it. The practicing bar, they have to live with each other the rest of their lives so most of the time they get a stipulation.

CTF: The problem, as I see it, is they then go back to their parties and say that the court postponed the case.

JWR: Sure, I know.

CTF: The courts become the fall guy.

JWR: That's a function the courts have to play in our society. And that is, you know, we take the blame for a lot of unpleasant things. In our police case I had yesterday, they want me to retain jurisdiction on and on. The city does. Well, I don't think we should. I don't think there's any reason to retain jurisdiction forever. As far as I can see, the Milwaukee Police Department moved from three percent black to twenty-some percent black. It's an exemplary record. I don't know why the Milwaukee Police Department should be under the wing of the court. But I do know, which they won't tell me, that politically it's easier to say the court wants us to do these things.

The school case, I terminated jurisdiction, after ten years, over. But for ten years after that, a twenty-year period, they kept saying well, the court wants us to do this and that.

Well, I didn't want any of it. They are on their own. But I think politically, an elected official needs cover at times. I don't think it's an improper function for the court to give them cover. Now there are some people that don't agree with that.

CTF: Now the Milwaukee police case, it was a suit to, in effect, integrate the police department.

JWR: Yes.

CTF: Brought by?

JWR: The original one was brought by what we call the League of Martin, which was a group of black police officers. They brought a class action lawsuit way back in 1974. The Department of Justice later joined. The Department of Justice, their position changed based upon the elections, and they never really could figure out what their position was before we got to the next election. The result was, eventually this court, I just entered a decree based upon the League of Martin case because the Reagan administration couldn't figure out the correct language to use to avoid the use of the word "quota," and whether you call it goals or quotas or proportional. But it all boils down to the fact we had to have more than three percent blacks.

But the Department of Justice is still in it. They are nice people. They were still here yesterday and they still are struggling with this problem.

CTF: Was the American-Mexican community part of the lawsuit?

JWR: Well the odd thing is that they know about it and no one has moved to intervene in the case. Someone filed a paper, they didn't have any supporting documents, and I denied it without prejudice thinking maybe they would refile. I don't know why they don't. You see, I think one of the unforeseen consequences of courts being active is that people become complacent. They think it's in the hands of the court, there's nothing to worry about. At the moment, the Latin community and the League of Martin are not parties to the lawsuit. And I don't know why. Now, whether they will join. . . .

CTF: Well, who is?

JWR: The City and the Department of Justice today.

CTF: That's all?

JWR: That's all. But one of the marvelous experiences I have had is handling Menominee Indians. And that's a long story. But in a nutshell, when we had the reservation, which we still have, the Indians are under the umbrella, so they assume certain things are going

to be taken care of just because they are under the umbrella of the federal government. When they are not, everybody is surprised. But I think this may play a part in the court's role in these things, that people assume their interests are being protected just because there's a lawsuit pending. And in a sense they may be right.

But anyway, to get back to the history, so we had a lot of patent work. Then when the lawyers, young lawyers, did find out about the U.S. Constitution, they were able to raise constitutional questions. They would go into criminal court, and if they thought they were getting a raw deal, they would run over here in the morning to get an injunction to stop the state court judges from proceeding with the criminal proceedings. And it got so that every morning I would get down here and they would be almost lined up waiting to be heard. I used to have a motion calendar. They would all be lined up. I decided this was kind of goofy. So if they filed a motion, we would have a hearing the same day on the motion, which meant I had to be around here quite a bit.

Anyway we had the hearing the same day. When I denied a motion, they would go back to the state courts. Younger kind of decided that.

Then we had another, especially during the Vietnamese War, we had the underground newspaper being published, and they were always being picked up by the police department. We had a chief here, Chief Brier. He wasn't very popular with the dissidents. And they had bad cartoons about him, gross, obscene cartoons of the Chief on the front page. And so they were always being arrested for peddling these newspapers.

CTF: Peddling without a license, peddling why?

JWR: They were obscene. And they were. I don't know if they were legally obscene, but some of them were pretty gross. Anyway, frequently they would come in and be picked up peddling this literature, and we would have to issue injunctions on the First Amendment to prevent the police department from arresting people from selling the newspaper in Milwaukee.

CTF: Did you have many three-judge court cases back then?

JWR: We had a lot of three-judge court cases. In my view, upon reflection, some bad decisions, but I learned that what we did here that was bad or turned out to be in error, I think, was being done around the country.

I remember Sprecher was on it, and I think Myron and myself. We declared the Wisconsin mental commitment laws unconstitutional under the premise that the mentally ill should have the same rights as the criminal defendant at least. We declared the state commitment laws unconstitutional. It was called the Alberta Lesard case. She

was a nice school teacher who was hanging on the wall in West Allis. She was going to jump or something. Anyway she was locked up without a hearing. We said you couldn't do that and the net effect was the state legislature eventually changed all the commitment laws of the State of Wisconsin to give the mentally ill all these rights. Only the past three, four years they started changing things back. But the premise we were operating on I am not so sure was correct.

See, the problem is it is very difficult to come up with a rational reason for everything you do. And if you don't come up with a rational reason, then the theory is you shouldn't do it. Well, I can't argue with that premise. But the fact is, to say that a person was mentally ill, members of the family would come in to somebody and say that person should be treated and locked up against the person's will. The standard is different than when the government wants to lock somebody in jail. At least it should be, in my view today.

But anyway, we had the three-judge courts. We had Father Groppi, who stormed the state legislature. One of the women supporting Father Groppi was a nun. Have you ever heard about Father Groppi?

CTF: Sure.

JWR: One of the women

CTF: I went to Marquette.

JWR: Yes. One of the women who was supporting Father Groppi is now married to the Governor of Wisconsin. She was a nun at the time. I talked to her this week, yesterday, a couple days ago. Shows Tommy [Governor Thompson] can't be all bad, right?

So, we had a lot of litigation. In the Vietnamese War we had all the draft cases. The Jehovah's Witnesses would come in and it was almost a religious experience for them to be sentenced. They were all young, 19. They all had brides, got married young, all the elders of the church were there, the man in the black robe was me, and I had to sentence them to Stillwater, I guess, wherever they went.

One day I decided that this is foolish, because they are people of conscience, they just believe in God and they believe in God in the sense that Jehovah's Witnesses said everyone is a minister, and they claim to be ministers, and the government wouldn't recognize them as ministers, and that's why they are being sent to prison. They argued that, anyway. So I said, well, instead of putting them in prison, I would put them where we put the conscientious objectors, in the hospital.

CTF: Why didn't they claim CO status?

JWR: Because they wanted to be treated as ministers and ministers were exempt. And they were not against war. They were just ministers. And so the distinction was, in their minds, very important. And so just to try it out I said, you're guilty and you go to Wisconsin General Hospital instead of prison. And they accepted that. I thought, gee, I was pretty novel! Judge Duffy had sentenced all their parents in World War II, and here I am running around sentencing these people in the Vietnamese War. And it was a big experience for the church.

I went to a sentencing institute over in Michigan around that time. A few years later I found out a lot of other judges in the country were doing the same thing. So I wasn't novel then.

CTF: That was at Milan?

JWR: Yes.

CTF: Milan, Michigan. The sentencing institute.

JWR: Near Detroit. Dearborn. We stayed at Dearborn. But then, back to the work of the court, then we had a lot of product liability cases, which we don't have any more, which is strange because we have, in theory, a more active plaintiff's bar than we used to have. But the printing business is very big in Milwaukee, and we used to have a lot of these poor printers that put their arms in presses. Now they don't use the presses. So the result was we had a lot of those cases.

CTF: Let's go back to the sentencing, because that reminds me we don't have sentencing institutes any more, because there really isn't the same

JWR: They don't believe in rehabilitation.

CTF: And the judges don't have much impact on the sentence.

JWR: That's right. I would say the most disappointing experience I had as a judge was being on the Criminal Law Committee.

CTF: Criminal Law Committee of the Judicial Conference?

JWR: Of the Judicial Conference, because I was the minority of one on these sentencing guidelines. I had no support from the other judges because there's a mind set against judicial review of sentencing. I thought we should have judicial review of sentencing because I think any judge can be a little goofy at times. In case he's irrational, for whatever reason, and reaches an irrational result, let somebody review his decision to see whether it's reasonable and rational.

But the sentencing guidelines -- Judge Gerald Tjoflat, who was chairman of the committee, had a powerful personality. He was convinced that Congress was going to pass something, and therefore we should have, as he put it, some input into it. And so, of course, you had this unholy alliance between liberals and conservatives to make these guidelines. The liberals were concerned about the issue of fairness. They thought the disparity was unfair in the sentencing, which is true. And the conservatives wanted to get rid of these soft-headed judges who were giving all these light sentences. And there's a little truth to that, too. So they had this unholy alliance, and Steve Breyer went and engineered it for Ted Kennedy. They put it through and put Breyer on the commission.

Anyway Breyer has a massive intellect. He's pretty hard to argue with, I found. But anyway, the net result, I thought, ran contrary to my whole training experience -- that there's no such thing as rehabilitation. And this idea that the punitive way is the way to go . . . I found it hard to accept. There was a professor at Harvard one time who came out with the theory to just lock everybody up until they were 35. Anyone who violates the law -- lock them up until they are 35 and they are less rebellious.

CTF: That's James Wilson?

JWR: Yes. If that's what we're going to do, say lock everybody up until they are 35. But I suppose what propelled me to become a senior judge was to drop the criminal calendar.

CTF: Are the guidelines bad across the board or are they bad because of drug cases?

JWR: Well the impact is there in all cases. Everybody like to have notches on their belt. So if you are a prosecutor, you can prosecute a lot of people very easily through these drug laws. And if they are black, you can prosecute them easier. And I think the blacks have a point of view.

I have friends whose kids have had drug problems and they live in the suburbs and they don't go to jail. And I know people in Green Bay, our best families, their kids have problems, and they get all screwed up with drugs, but they don't wind up in prison. But the black people do. Every time I go down to the garage and see -- we have them isolated, the prisoners. Did you know we have them all isolated here? We have a private elevator. So anyway, Jack Coffey got here and we cleaned things up. So anyway, we don't run into the prisoners walking around in chains, but they are practically all black in the orange jumpsuits, and I think politically it all sounds good to lock everybody up.

CTF: Let me bring you back to my question, which is, if it wasn't for the drug laws, are the guidelines bad? In other words, let's take bank robbery. Let's take tax fraud.

JWR: I think they are bad because in theory, everyone should be treated as an individual. See the word “guidelines,” they are not guidelines; they are mandatory sentences. Guidelines are what they have in Minnesota and which they have in the state system of Wisconsin.

CTF: I think they are more mandatory in the Seventh Circuit than they are in the other circuits.

JWR: Here there's almost no discretion in the matter. But it completely means if you don't treat people as individuals, it can also mean that the system can become so mechanized, so mechanical in its application, that you don't care about what problems anyone ever has or will have. And I don't think we're capable of reaching any kind of a just decision that way. I think life's too complicated to fall into a mathematical problem.

CTF: I don't know if you remember, John, the Sentencing Institute that we did with the Fifth Circuit judges down in Fort Worth? And that was interesting because

JWR: Fort Worth, Texas? I didn't go there.

CTF: This was the one that dealt with . . . well

JWR: I went to Tallahassee, Florida.

CTF: That was a subsequent one.

JWR: Okay.

CTF: But this one I always remember because there's a discussion group, and judges from Louisiana had a completely different view than judges from Chicago on how much time somebody should spend for taking welfare checks out of the mail. It was clear. Somebody said, “I put them on probation,” the other guy said, “I put them in jail for two years.”

JWR: That must be after I was a senior judge then.

CTF: I think it was before. Maybe you just missed it. But it was clearly a revelation because the same check, same theft of the mails So the question I have is whether or not the guidelines are haywire in the drug cases because the relevant conduct is so ephemeral. It depends an awful lot on what the agent is that makes up the case. You know you can create the crime by asking if you're willing to sell a quarter ounce or go to trial for selling two pounds.

JWR: Yes.

CTF: And so you in effect create the crime by the deal that you put together. Whereas when the bank is robbed, we do know whether there's a gun, we do know whether there's a threat to the teller, we do know how much money is taken, and you can't play games with it.

JWR: Well, I certainly think I agree there's a difference in the way it's being applied. At the beginning of time, which means when I was a child or beforehand, coke was very common, all the medicine men were running around selling potions that included cocaine. I think it's an open question if it's nearly as harmful as people say it is. I think it's harmful. I think alcohol is harmful. I think tobacco we know is harmful. I assume that these drugs are harmful. I don't really know if they are or not.

CTF: Some are, clearly. Hallucinogenic ones.

JWR: Well, yes, but the whole thing is so – I think the impact is to lock up a lot of people, a lot of people who are probably dangerous. I think it's a reflection of the difficulty that we're having in handling crime in an African-American community in our inner cities. I think the problem of crime in the inner cities is so bad that if they were white people, we would have marshal law. I see no reason in civilized society to permit all this crime to go on.

Some of my civil liberty friends are always worried about the government having any power. I am personally willing to do whatever is necessary to eliminate crime in the inner cities. I think it's unconscionable. In Milwaukee there's a killing almost every day. The impact it has on the public opinion is that the only thing they ever see on TV in Milwaukee, and I think it's true of the United States, is the crime being . . . most of the things they see are crimes being committed in the inner core because that's where the TV cameras are. The TV stations are downtown, the courthouse is downtown. And we have a lot of cameras in the courtroom now in the state system so the result is you turn on the TV at night and you always see the Afro-Americans being picked up.

Now if someone is picked up in Ozaukee County, just 20 miles north of here, and goes to the jail in Port Washington, the court is in Port Washington, he's not on TV. And the overall impact of this is very bad for community relations. It's reflected in such little things as should we have light rail in Milwaukee?

Now the whites in the suburbs don't want light rail because they think the blacks will come out there and work. Of course the mayor of Milwaukee takes the opposite position. He wants the blacks to work. Even the governor says he wants the blacks to work. Well they can't work in Milwaukee. There's no factories left in Milwaukee. All the new factories are in the suburbs. I think it's a national problem. So it's a by-product, one of the unforeseen consequences of all this locking everybody up on drugs.

I am talking about two things. If you're interested in law and order, if I was in charge, I would do anything and everything that's necessary to have law and order. Not everything. There's always a limit, of course. But anything that's rational and reasonable. If that means having two cops on every block, have two cops.

CTF: Getting back to some of the cases. One of the cases you were mentioning, just sort of touched on and passed over, was the school desegregation case where you appointed John Gronouski as the master, or mediator, or whatever.

JWR: He was the master.

CTF: Maybe you want to tell us a little bit about that case.

JWR: Well Milwaukee, like many or most northern cities, I suppose, although Milwaukee is unique in that our African-American community was relatively new to the community -- they did not come up here in large numbers before the war. They came up here primarily after the war -- quite a bit after the war, mainly from Arkansas and Louisiana and Tennessee. I don't know what the African-Americans who migrated here after the war did in the South, but at least they came up here and had very little schooling and they worked in foundries and did a lot of hard work. So we really had, in the African-American community, two groups. We had the old group, which was relatively small in comparison to the new immigrants, who were all educated, and they had been assimilated, not in a physical sense, but they were part of the community.

So you had a group of established African-American families who had a lot of influence, who were important. And then they were overwhelmed by migration. Migration started I suppose in the late '50s. But even when I became attorney general, there weren't really a lot of African Americans here. But within a ten-year period, there was a big migration. And it's still going on, as a matter of fact. So in order to accommodate them, the Milwaukee neighborhood school system developed what amounted to segregated schools. When the neighborhood schools became overcrowded, classes would be bussed intact to white schools. The result was that the visiting classes were segregated, mainly because the amount of education and training that the new immigrants needed was really different than what the children in the neighborhood had. It was felt they should be kept intact, i.e., segregated.

So they may have had good intentions as they argued their case, and I never doubted it. In fact, my good friend Judge Tone wrote for the 7th Circuit that I was internally inconsistent. That's a bad thing to be. Anyway I said the school board, the school administration, intended to do the right thing from their point of view. They were trying to educate people and weren't trying to solve racial problems. But the law at the time of trial said intact busing was unconstitutional.

We had to desegregate the schools, and I ordered busing. And that was done. Milwaukee was a city of historically German and Polish communities. They are the two largest ethnic groups and they are both law-abiding, relatively speaking. So there was no real opposition to the court order here in an organized way. There may be some discontent, but the civic leaders, the newspaper, everybody was supportive. But in order to bring it all about, John Gronouski was appointed the master to facilitate the integration.

CTF: Let me ask you a question. Did the Milwaukee school system distinguish between kids that had gone to Milwaukee schools, elementary schools, and were assimilated, so to speak, as opposed to those that were the children of more recent immigrants to Milwaukee?

JWR: Well, the historical black community was relatively small. When I was running for attorney general in 1958, I would drive back and forth to what is now the inner core. But it was a very small group, maybe 10,000, maybe 15,000 people. The old black settlers were subsumed by the new ones, and the whites left. So that when they would move a class of black children, they kept – instead of sending the kids to another school, they would just pick up the class and bus them and keep them segregated in the new school, and they couldn't have lunch with the others. They had different lunch periods. The school said, and it's probably true, the cafeterias weren't large enough for this influx of people so they would feed them at separate times.

I was thinking about what you said about filing patent cases in the Western District. I think it's true that it gives them – I think it's true that they are very fast, but it appears to me that in a patent case, the plaintiff has had a long time to prepare and choose its time. The defendant doesn't have all that time to prepare. If a defendant is forced to go to trial in 90 days, the effect is they always want more time. We're talking about the patent cases. So I find that when people ask for time, if it's a reasonable request I give it to them. I had a huge patent case between General Motors and some kind of converters and all this stuff. You know, the people who brought this case, they were doing a lot of work on it. Now to tell these people they have to go to trial in six months, or even a year, may or may not be good.

CTF: True, although one has to keep in mind that the rate of change of technology is becoming so rapid. We're not talking patents on presses produced by Allis Chalmers.

JWR: Oh, I agree with that.

CTF: We're talking about a microchip that six months from now might be outdated.

JWR: I also want to say that when I came here, on a different subject, about the rate of change, the State of Wisconsin had computers 32 years ago. Computers aren't really as new as

we sometimes think. We had every taxpayer in Wisconsin on computer. You had big wheels. We coordinated the federal taxes and the state taxes, put them together. So I thought -- well after Teahan retired and I became Chief Judge -- one thing I am going to do is computerize this court, at least for inventory purposes, because I go to Sears Roebuck, and if you want to buy a pliers, they have a perpetual inventory.

So we had a big search committee to find somebody who knew about computers, and Sofron Nedilsky was recommended by Nat Heffernon. We still don't have a system of keeping track of our cases, really, on computers. It just boggles my mind why this is so difficult. One reason I am talking to you and your proposed executive here is that they will not allow the law clerk to change the things on the docket sheet.

Now, I don't know whether they should run two docket sheets, one for the real world, so when I pick up the docket sheet of cases that are pending, and all this kind of stuff, what was going on, it doesn't reflect what is really going on in the judge's working file.

CTF: The problem was the computer systems that have been developed have been built by the Administrative Office for purposes of providing statistics for them and for providing information that the Clerk's Office has to provide to the AO. They haven't been designed with lawyers or judges as users.

JWR: But by now we ought to have a separate system just in chambers, so the law clerks . . . in other words, if I rule from the bench, you know, all motions are gone.

CTF: Just go 70 miles down the road. Right now, for example, in Madison, when a probation officer wants to notice up, as far as I know the probation officer sets the sentencing. They know when their PSI is going to be done. They look at the judge's calendar, they put it in.

JWR: Where do they do this?

CTF: In Madison. I think you need to look over there.

JWR: I don't know who should. I will tell Sofron to start looking. But they have two judges.

CRF: You know, that argument is the one that the AO always likes to use, the argument that, oh, well, that's Madison. That's different. There are only two judges. That's why it won't work. We took the Madison system and put it in Indianapolis.

JWR: Is it working?

CTF: Yes, it works.

JWR: Well, good. I will mention it to Joe.

CTF: Before lunch, we were talking about cases. I don't think we finished with the Milwaukee desegregation case.

JWR: Well, the desegregation case, I don't know where we left off, but in a nutshell, the schools were integrated. At that time the black population was a lot less than it is now. And the concept was that we would have, hopefully, choices in schools. We set up magnet specialty schools. People who wanted to go to the magnet school could go. Those who didn't could go any other place where they were assigned. Well, it developed that the magnet specialty schools were very popular. Health sciences, industrial sciences, academics, things like that. So there wasn't enough space in the magnet schools for the applicants.

So then we were faced with the dilemma -- this was after I got out of an active role in the case -- of how to select the students. They figured the most democratic way was by lot. Well it may have been democratic, but it meant a lot of talented people didn't go to pre-college schools. A lot of people who had no interest in education, or who, for one reason or another didn't attend school, they were going, they would get these coveted positions.

Finally an African-American on the School Board by the name of Todd said, no, we should let the kids who do attend school, whose absentee rate is low and who indicate academic interest, get into the magnet schools. It's still a very controversial issue in Milwaukee.

Another part of the school program which has been very successful wasn't directly part of the case. As you know I had a very good personal relationship with Pat Lucey, who was then governor. Anyway the result was the 220 Program, where the black students could go to the suburbs, suburban schools if they wanted to. The state would pay their tuition and the transportation and they wouldn't charge it against the Milwaukee system. So the result was there's a big financial incentive for the receiving school district in the suburb to take the children, and there's a financial interest in the Milwaukee school system to have them go. It didn't cost them anything and they still keep the state aid as though they were present in the city.

That program is still in effect. It takes about 4,500 students a year that go into the suburban schools from Milwaukee, mainly minority students. You know, it's a dilemma in a democracy. Do you spend your resources on educating the talented or on trying to educate the slow learners. Well, that's an argument which I can't resolve now, but I do think it's nice if the talented people get a chance to get ahead.

So I think in terms of the ability for people to move up in our society, the school program is pretty good. The magnitude of the problem of educating disadvantaged children was overwhelming, and I don't know how much money it would take. I don't know what it takes to stabilize family life and the total environment for kids. I would say for the masses, they still have a long way to go in Milwaukee.

CTF: Would you have done anything different in that case now, in retrospect?

JWR: Larry Hammond, who is a very able lawyer, argued it for the School District at the time. Larry's whole pitch was it would be bad for education. I always said it really had very little to do with education, only in the broad sense. That basically it was a constitutional problem.

Would I have done anything different? Well would I do anything different today?

CTF: Knowing what you know now, would you have done anything different?

JWR: I don't think that busing really helps. I think that just mixing people up – I lay greater emphasis on opening doors. I think pulling people, whatever support people have in their neighborhood, in their families, to pull them away from that was not a good idea. It didn't work out well.

The desegregation case didn't solve the problem. What really helped most in Milwaukee was the 220 Program and the specialty magnet schools. Those that had the motivation and the drive to get out and go to a better school could do so. This was the result of the litigation, but at the cost of doing away with the neighborhood schools.

We all know what it involves, all the sociological things -- the neighborhood, the family support groups. If the kids don't go to school, they are not in the classroom, the absentee rate is 45 percent, the poor teachers are almost warehousing the kids. So I think I would put more emphasis on opening the doors. It also taught me, at least it made me think – I haven't become more conservative as I have grown older, but I am more willing to recognize the limitations on our court's ability to do things. The fact is you can issue all the orders you want to, but the people aren't going to comply with them unless they want them.

When I was young, I didn't think -- people used to use the argument that if we tax the rich, they will all move out of Wisconsin. I didn't believe it. Well they all moved out. They go to Florida to escape our inheritance taxes. So people can move, and it's easier for them to move now than it used to be with airplanes and the interstate system.

Certainly the way our society has grown, the whites have all left the city, are leaving it in big numbers. And it's still going on. Maybe they are not doing it for racial reasons and I

don't think it is racial. I think there's a big distinction between racial and just plain simple security.

In our most integrated neighborhood which is Sherman Park in Milwaukee, where many people who believe morally in integration live, the crime rate is going up and up, and they leave. This has gone on with many of my friends in Washington, D.C. They don't have the environment to live.

The tolerance that we have for crime in our cities is unconscionable. And the fact that the people who own the country, those who really run it -- just the politicians think they run it -- the people who own the country run it. That doesn't bother me. But they aren't willing to commit the resources to bring law and order into the inner cities. I think it's unconscionable. If we could conquer the world, we ought to be able to conquer our slums.

CTF: You had a Bell case, the estate of Bell, I think it was.

JWR: Well, yes. The Bell case was a civil rights case for a young black man who was shot by a policeman. He died and the Milwaukee Police Department covered up the killing. I think it's fair to say that the District Attorney's Office didn't investigate it very carefully or very enthusiastically. It was a strange development in that there were two officers involved and one of them, his conscience bothered him 20 years later and he confessed to what happened, and he named his partner. The partner by this time was a truck driver in Denver, Colorado. The partner was arrested and brought back and tried. He pled guilty, I think. Frank Gimbel represented him.

So then the city was sued for the coverup at the Police Department. And the jury awarded a verdict, I think a million and a half, something like that. The Court of Appeals upheld most of it, if not all of it, and they paid. From a legal point of view there were two parts of the trial that were kind of interesting. One is the subject of whether or not the depositions were open to the public, discovery depositions, including the depositions of the officers involved, police officers. At the time, this must be 20 years ago, I concluded they were. And we get back to that subject of secrecy in the court, judicial proceedings. The second thing was whether or not to have any blacks on the jury.

Well the defense was constantly striking the blacks. I said, we can stay here forever, but we're going to keep drawing jurors until we get blacks on the jury. So eventually we did get a black engineer from Racine on the jury. So they asked him something about his family, any family ever been involved in justice, and he said, "My brother was Attorney General of Nigeria" or something like that. So I thought it was kind of neat we had a black from Nigeria. He said, "My brother is out of office now because his group was on

the losing side and they all had to leave the country.” I thought it was pretty interesting. He was on the jury.

Other than the uniqueness of the big time delay, and of course they pled statute of limitations, etc., but they didn't win on that. So the case was affirmed. It got a lot of notoriety. A million dollars in those days was a lot of money. The Daniel Bell family got a million dollars. Walter Kelly was their lawyer. He's still the leading civil rights lawyer in Wisconsin. The judge should never say who is the leading anything. But anyway, he's made a very good living as a civil rights lawyer. He's gotten other big verdicts since then.

CTF: You had mentioned earlier Father Groppi. Did you ever have any cases involving him?

JWR: The only case we had with Father Groppi was -- yes, I had two. One was in civil rights and the other non-civil rights. When he was leading the demonstrations and marched on the state legislature, he was prosecuted for that. Then we had the three-judge court to decide whether or not the state law of Wisconsin was constitutional. Tom Fairchild, Myron Gordon and I were on the panel. No, Jim Doyle was on the panel, because we sat in Madison. So in that sense, I worked on the Groppi matter.

Later on, after he left Milwaukee, why, he tried to become an Episcopal priest and that didn't work out. Then he married a young lady who had been a nun who participated in his demonstrations, I guess. Then he became a bus driver in town. Then he ran for the presidency of the bus drivers' union. And the issue was -- I don't know how it got into federal court. Was that under 301? But anyway, I had the matter and I decided that the election was valid. He won by one vote as head of the bus drivers' union. But most of his litigation took place in state court and he had a lot of it.

We were talking about state court judges at lunch. We had unfortunately, and he's still alive. We had a couple judges in the state court system who were really very unusual, such as Christ Seraphim. He would get off the bench -- it was no secret because it was featured on some national program -- he would get so upset when he would see defendants who had the American flag in the wrong place on his clothes, he would get off the bench, rip the flag off the defendant. He was yelling at people, carrying on. So Father Groppi used to have his run-ins with him. But I never had any personal involvement with Father Groppi other than what I mentioned.

CTF: In the late '60s, we've got the protests against the Vietnam War. You have already mentioned you have some of the draft cases before you. You have at the same time your daughters, by your first marriage, getting to be teenagers. Right?

JWR: Yes.

CTF: Did they have an influence on you? Did they have views on the Vietnam War at the time?

JWR: Well, that's an interesting subject. You see, you can ask, did I have any views on the war? Frankly, I accepted the fact that America had a role to play in containing Communism. The containment theory I accepted as a valid one. And it seemed to me that it was true that the so-called revolutionary regimes around the world were being certainly supported actively by the Soviet Union. So it wasn't far fetched in my mind to say we should have containment. I was not as critical of our policy in Vietnam as most of my friends were.

On the other hand, I certainly was pretty critical of the way the war was run. It was the most class conscious draft I think we have ever had. Even probably worse than the Civil War. In the Civil War you could buy your way out of the army. But having come out of World War II where everybody participated, I could see that during the Vietnamese War everybody got an A or B in college, because if you got a C you would go in the army. The only two grades students could receive in college were A or B. So we have all this grade inflation which allowed everybody who wanted to, almost, to stay in college.

My executive secretary, when I was governor, went into the State Department, United States Information Service. I don't know what the information people were doing in these countries, but they were doing more than spreading information. And I did visit Stanley in a couple places. There was no question that the Russians had a presence then. They had a presence. But by presence I mean what? I mean that the construction workers in Nicaragua, I saw them landing there when I was in Cuba, they all got off with the big storm coats on, in Cuba. Well Slavic-looking people, and they are on their way, they said, to Peru. Well, they were going to Nicaragua. The Soviets were actually supporting a lot of activity. A lot of people denied that. Of course my friend Stanley, he was very conscious, made me conscious of the fact. I might also add I had a close buddy who was Ambassador to Poland, John Gronouski, who was also later on the Master. I was over in Poland visiting him when they were negotiating with the Chinese. A lot of people said -- they say now it wasn't monolithic. We know it wasn't. We know there are differences in Communism, China, but at the time it went overlooked. But at the time I didn't think Johnson was out of his mind. Now, it turns out, we couldn't win. We couldn't win because we didn't have any . . . that's a complicated subject, why we didn't win, but we didn't. We got beat, as I understand it.

Now, what is your question about the Vietnamese War? How did it affect the court? It did seem the United States government at the time was just paralyzed by the darn thing. This building that we sit in now, my court was up on the fourth floor. The draft office here in Milwaukee was broken into. It was over across the river. And a bunch of people, mainly religious people we call the Milwaukee 14, they broke in and took out all the draft records and had a big bonfire, and burned them in the street. They all ran

around in circles and sang songs. So then they moved the draft office into the Federal Building. But in those days the doors were open all night long in the Federal Building. We never locked anything. So one night they set off charges here and they blew up one of the elevator shafts up to the fourth floor. I was on the fourth floor. The elevators were blown out, the windows were all blown out.

Well, it took the United States Government three to four years before they repaired that. I used to think, "What's going on here? We seem to be paralyzed on what to do on all this stuff." I know it's a big bureaucracy and hard to respond quickly, but they certainly didn't respond very much. There was no security. Never was any security until just recent years. Really not until Jack Coffey got in the building. The idea of having guards at the front door and all this stuff, when I was Chief Judge I didn't go along with that. But I must say, now that we have it, it does make you feel more comfortable in the courtroom in the sense that I used to always have to look around and see who was coming in the courtroom. The marshals were always sitting in the wrong place. They were always sitting up next to me. I didn't want them next to me. I wanted them behind the guy who was going to be shooting.

But the war in that sense affected the work of the court just because of the inconvenience.

CTF: Now most of the Menominee Indian tribal treaty cases have come through the Western District of Wisconsin, even though Menominee County and the Reservation, as I understand it, is in the Eastern District. Is it?

JWR: Menominee County which is also the Menominee Reservation is in the Eastern District. We get a lot of litigation out of the reservation involving criminal law. But how much litigation they have had about the treaty, I am not aware of. But my understanding is that most of the litigation about treaties has to do with fishing rights and has to do with gambling. That has come out of the Western District because it involves the state government to a great extent. And it involves the ability of the governor. But I am not aware of Menominee County having much litigation out of the Western District. But some other tribes have.

The Menominees. That is a subject that I have been involved with awhile. When I got elected Attorney General, my predecessor was the chairman of the Menominee Indian Study Committee to dismantle the reservation and convert them to a county. During the Eisenhower administration, they passed a law to get rid of the reservation. The state had to prepare how to do this. It was delegated to the state. We had a Menominee Indian Study Committee. No one knew who should be in charge of it. The Attorney General became in charge. Not that he had any expertise in the subject, but he was.

So I get elected Attorney General. And my predecessor was Chairman so they make me Chairman of the Menominee Indian Study Committee. I spent four years working on that problem off and on, and I got very involved. I could tell you a lot. It affected my thinking on a lot of subjects. But as an upshot of all that stuff, we did set up a government in Menominee County and we set up a corporation to run the timber lands up there, run the saw mills. But no one was willing to give the Menominees money, just non-negotiable bonds. Who owned the corporation? I wonder now what goes on in the Soviet Union. How do you privatize something that was owned by the government? I think I should go over as an expert in that area.

So the idea was, the Menominees all hired the best lawyers they could find. The best lawyers they could find were always willing to do this because, number one, it was kind of a noble thing to do, to represent the Indians. Number two they got paid well because the United States Government paid them. So they always hired Foley & Lardner, still our largest law firm in the state. And Fred Sammond was their attorney, and Don Buzard was his assistant. They represented the Menominees, their enterprises, and the First Wisconsin Trust Company that became their trustee.

But the upshot was that those people who remained on the reservation, they were under the umbrella of the government, and they didn't want to leave that. Now I grew up in Green Bay and we had many Indians in Green Bay who worked in the paper mills and were assimilated into our society. At St. John's School where I went to grade school, the brightest student in the class was Angeline Peters, and she was Oneida. The Indians, many of them did very well academically. So the Indians that I knew as a child were not those who remained on the reservation by definition. But those that remained on the reservation liked it. It was a very pleasant life. Like I would like to keep living in Door County.

So to tell them they had to leave that reservation was very hard to do and it didn't work out. All the "privatization" that was enacted in the '50s was eventually repealed. But we did keep Menominee County and we still have the reservation. But I know of no treaties that the state government's been involved with.

CTF: Now, an issue that you dealt with a number of times when you were Chief Judge here was whether to open a courthouse in Green Bay. There was some interest in doing that, particularly, I think, from the Brown County Bar Association.

JWR: Well, the Brown County Bar Association said they were for it. John Byrnes was the congressman and he was on the Ways & Means Committee, the ranking minority member at the time. I said, "Why don't you get John lined up?" I met with the officials in Green Bay and as I was from Green Bay I thought I might go up there and hold court.

Then my wife died. After she died I really had no particular interest in going up there for court because of my family responsibilities here. But I always figured if the people who owned the country really want something, they can get it done. There was no great interest at that time by anyone except the lawyers in having the court in Green Bay. One reason was it had become a relatively conservative community. Even though it may look Democratic at times. They didn't want the feds up there. They didn't want those federal judges doing all the things that the feds were doing in the late '60s and '70s.

No one ever said this. That was my analysis. There was no political pressure on John Byrnes to do anything. But in spite of all that, I think there was from the legal community. So I was amenable to having a court up there. After all you do have in the Fox River Valley over a million people living. You have a lot of litigation that comes out of the Fox River Valley which I am willing to come back to later. We have a lot of paper industries, and it's a big industry.

So there probably is some reason to have a federal court up there. I can't remember when Byrnes quit Congress, but anyway, I think it was probably going to happen. But then I understood in the last ten years or so that the rumor has it someone on the Court of Appeals thought it was a poor idea and that killed it. I believe rumors. I learned to believe them in the Army. I had no personal interest. I didn't really want to move up to Green Bay by this time.

What was I going to come back to?

CTF: Litigation involving the Fox River Valley.

JWR: I just want to point out, now the law has changed, that number one, we have a good state judiciary in Wisconsin. It is an honest judiciary. I have almost never heard of a crooked judge in Wisconsin. I have heard of eccentric judges and goofy judges, but not crooked judges. So there isn't this desire to get into a federal system.

Number two is the federal system has become so hard on the practicing lawyers. The lawyers who used to come down here from Sturgeon Bay, from Green Bay, from Waubesa, Wisconsin, up there, they don't want to come here any more. They come here and go down to Chicago and get beat up. So when they have problems in the federal system, they hire Milwaukee lawyers. Surprisingly enough we still do get an amazing amount of litigation out of – not as much as we used to, but out of Sturgeon Bay, because of the ship building. The Pinkert firm in Sturgeon Bay handles their work. Any problem with the feds, Roger Pinkert hires Foley & Lardner. The lawyers in Green Bay are prosperous now. They have beautiful homes, are doing amazingly well. So they don't need all this grief.

Even in Milwaukee I think that each firm here has a few lawyers specialized in federal court. They are often former law clerks. So if they have cases over here, then they have those guys handle those cases. Tom Shriner handles them for Foley. He was John Hastings' law clerk years ago. So it's one effect of enforcing all these rules.

Now I am all for rules, but I also recognize the fact not everyone in the practice of law knows the rules. My law clerks are impatient with the lawyers. Invariably the law clerks are bright and the lawyers don't do what they are supposed to do. They don't read the rules. We ought to throw them out, but I don't believe people should be thrown out of court because they have average lawyers. I don't know how to educate the bar. I don't know if it's the function of the court to educate the bar. Some judges think it is, I think it's our job to decide cases as best we can based on what we have. Decide them on the merits if we can reach the merits.

CTF: But should lawyers then be, in effect, disbarred or suspended from the practice in this court for future cases to force clients to go to people who are competent?

JWR: I am not saying they are not competent. They just don't know the rules. That's a whole other subject. The Biden Committee came up with whole new rules. We now issue scheduling orders, etc. I went to this workshop in San Diego a few weeks ago and the Rand Corporation gave a report. The report was that, doing all this stuff, the only effect it's had is to increase the lawyers' fees because the lawyers have to spend so much time keeping up their schedules and filing motions for extensions and arguing about the rules.

When I started out being a judge, we never had it. I don't know if we had better justice or worse, but we certainly didn't have all this procedural processing. The Rand Company came to the conclusion it hasn't improved anything. It has increased the cost.

Now the assumption is that litigation -- every case should be treated equally. It's a unitized system and lends itself to -- like an assembly line production. Well it doesn't. In my own -- I won't say practice -- but practice in the court here, I have what I call my institutional cases whatever they are.

CTF: Prison cases, for example.

JWR: No. Institutional. The police department. Cases that are going to last forever. I have an antitrust case against Mitsubishi and all this stuff. It's sort of like a complex case, and it's going to be here a long time. It really requires a lot of court -- and could require a lot of court involvement, and it's something I want to keep up on. Then you have all this stuff you just process. Scalia calls it the processing of cases.

Then to make matters worse in my view, the Biden Committee provided that every district court should have their own local rules. Well okay. We have our local rules and

we get all these motions filed because somebody didn't comply with the local rules. I don't know what they have in the Western District. When Jim Doyle was over there, they didn't have any local rules.

CTF: They have four.

JWR: They have four now? But we have a lot of them. We set up a local rules committee, members of the bar. Get a group of people together and say, what's your view on something? They all think they have to do something and all write this stuff, and are all conscientious, and no one stands back and says, what's the impact of all this? So that's another way the operation of the court has changed. It has changed dramatically. When I came here, no one ever raised a question of standing or mootness. These concepts were not . . . I didn't hear about them until I was a judge 15 years. And of course, as I see it, it's a device mainly -- the impact is, if you're smart enough to hire lawyers, or wealthy enough, the lawyers will come up with all these things. If the judges listen to all these things, then you're more apt to prevail. I see it as the panel swinging back from the days -- back to the days when we had surrebuttals and things like that, and we bent all the uniform rules of civil procedure in order to simplify the process. The rules weren't meant to keep anybody from coming into court.

CTF: But has it had that effect?

JWR: Now it's clear we use the rules as gate keepers.

I think even if you have all the rules in the world, you should have them all in one place, one little book called the Federal Rules of Civil Procedure. If it isn't important enough to get in the book, don't have it. But these local rules, although I admit I use them, we have a local rule here which is a beauty, called Rule 6.05, that anyone who files a motion under 6.05, you can hear it within a week on the telephone, and a two-page brief. And all the discovery motions I automatically put on that schedule. All non-dispositive motions we hear. And it's had the effect, they don't file them because many motions are filed just for delay purposes. If you're practicing law and you have a big case someplace, file a motion and you can put that case on the back burner until you can get to it, especially if the turnaround time is six weeks or more in the court. So all the non-dispositive motions, Rule 6.05, a two-page brief. They ask to write longer. I say no.

CTF: John, one area of the law, which is really state law, which is heavily in federal court is the Wisconsin Fair Dealership Act. If one looks at cases interpreting the Wisconsin Fair Dealership Act, it seems like an awful lot of them come from the federal courts.

JWR: That's right.

CTF: Why is that?

JWR: Well, because it's diversity. They can get in here on diversity. The franchisor is out of state and they can come into federal court. Or if they sue in the state court, then they can transfer it here. If it's a big company, they like to deal in federal court. Because the big firms -- I don't know why, but for a lot of reasons the federal judges say they think it's a better court. I would say as an economic reason, if you're in federal court it's easier to charge a thousand dollars a day than in a justice of the peace court.

The law itself, the poor people who start lawsuits hardly ever win, plaintiffs, because the law was conceived during the Lucey administration when we had the oil shortage, 1973. We used to have a thousand -- a gas station on every corner, every intersection. They all marched on the state capitol, got that law passed. And the preamble in the law says they want to treat everybody fair, but there's not that much in it other than some notice requirements. So it gives everybody a lot of hope to start a lawsuit. And it does have the effect at times of slowing down the acts of the franchisor. And sometimes that's all they really want. Time to negotiate. I understand why they were started, but it's true, you do get a lot of them.

CTF: What cases have you had that have dealt with conflicts between some of the Great Lake states? Have you dealt with any of the water cases or pollution cases?

JWR: Well, as Attorney General I represented the state against Illinois, against Chicago Metropolitan Sanitary District. It is a case that's been in our family for a long time. My dad did it during his administration. They sued the Chicago Metropolitan Sanitary District for stealing all that water when they diverted the drainage canal in 1911, I believe, something like that.

So they got a judgment, U.S. Supreme Court against Illinois in the late '20s or early '30s, and then 20-some years later I was Attorney General and we started another lawsuit because Chicago started to divert -- or the Sanitary District, I should say, a little more water to take care of the suburbs. So we went into the U.S. Supreme Court to put a freeze on that. It was a wonderful case. One of the great cases. I couldn't get over what a wonderful case it was.

Any time I wanted to take a trip, I could go visit a hydroelectric facility someplace. The State of Wisconsin, which never had any money -- the New York authority retained a New York firm, and they operated like big-time operators. I had never seen a big-time operator where the trial lawyer would come with a staff, secretaries, and everybody else carrying the stuff. Big suite of hotel rooms in Chicago. They really were big-time operators. But anyway, we litigated. A master was appointed in the case, and he held court all over the Great Lakes. It was a lot of fun. I learned a lot about the tilting of the continent, North American continent tipping, and New York is slipping into the ocean. That affects the Great Lakes.

See Chicago gets ten thousand cubic feet per second. It goes down the drainage canal. That's the flowage of the Wisconsin River into the Mississippi. And that water they take out of Lake Michigan in Chicago doesn't go over the hydroelectric facilities in New York or Canada. So the Canadians had a very big interest in our lawsuit. And we were negotiating with Ontario and we got the okay from the State Department to do this. I got very involved in it. We fought it to a standstill. So we still are preserving the water at ten thousand cubic feet per second, as I understand it.

As to the other litigation that we had in Chicago, the peculiar twist about it all, later on Chicago sued Milwaukee. I think Grady had the case.

CTF: That was a pollution case?

JWR: Pollution case which required Milwaukee to improve their sewerage system. But I went through the whole sewerage system, believe it or not, in the City of Chicago, including a boat trip down the drainage canal. Smelled bad, but pretty interesting.

CTF: It has cleaned up a lot since there's been more water taken.

JWR: Well I think it was a wonderful case. We had a meeting, I argued it in the U.S. Supreme Court. And one assistant attorney general from Pennsylvania -- Pennsylvania is a Great Lake state. She wanted to argue the doctrine of repairing of rights. She was very concerned about that. And to me that didn't seem like . . . who cares? I always remember, I think it was Frankfurter asked her, if Chicago dumps the sewage in Lake Michigan, where will they get their water? People have to eat, have to drink.

Of course some of the other states really wanted to take the water back, stop Chicago from taking any water. Wisconsin, our position was don't take any more. We were nice to our neighbors.

CTF: What about prison cases? Have you had any that dealt with Green Bay Reformatory or Waupun?

JWR: I will tell you about the prison history. When I was Attorney General, there was a case pending here in the Eastern District on whether or not a prisoner had a right to read a law book. The way the Attorney General's Office was organized, we had one assistant named Bill Platz who was really considered the leading authority in Wisconsin on criminal law. He was kind of the trouble shooter for all the real bad cases. If there was a bad case, he would go and handle it. All the district attorneys would rely upon him. He was a very able lawyer. Here I get elected Attorney General and I am looking over the calendar, and I say to Bill, why are we in federal court fighting this case? Can't they read books? He said, well, it causes disruption in the prison if we let them read books. Anyway I said to Bill, go over and confess error. He looked at me and didn't say anything unkind, but I

think he thought I was a wild liberal. I confirmed all his fears about having a liberal Attorney General.

So the prison cases that I have had, I have had some real bad ones, and then I think they have had a solitary effect. But the jurors really never ruled in favor of them. Mark McSweeney who is a lawyer in town, I appointed him years ago to represent a class of prisoners in Waupun, because they had what they call the greenhouse in Waupun, which is a prison within the prison. It really was the most dramatic thing that I have ever seen, or memorable, I guess, is the word for how bad it is to be in the greenhouse. The jailers in the greenhouse kept logs, kept records of what was going on. And all those records came out in this trial. I read the log from beginning to end. My first experience of learning of the unforeseen consequences of rules was that the FBI agents no longer keep their original notes to look at. They learned to destroy their notes, original notes, the ones they dictated their reports from when they had to produce the original notes. The poor guards wrote out what they saw in the log book. They really wrote out horrible things.

Of all the disabled people in the world, the most difficult to understand, from my point of view, are prisoners. They look normal, they talk normal, they act normal, but they are not. And you know you go through the institutions for the mentally ill -- what we used to call retarded, now the mentally disabled -- it's obvious they have problems. But it isn't obvious with a prisoner. But most prisoners are functionally disabled. It isn't that hard, especially for a white man, in this country to make a living. So to go into crime, it's really an aberration of some kind.

A good share of those who were in prison really are quite abnormal. But they are not legally abnormal. We don't put them in a mental hospital. But they are pretty goofy. The result is they have to be segregated. Whether or not they should be constantly punished all the time for being goofy, whether that brings about corrective action, I think is pretty debatable. So the prison conditions have really been improved. The result has been that the jurors decide in favor of the jailers.

Now we have a second type of prison case. Those are what I call "sweetheart" cases.

CTF: Does the government always ask for a jury in those prison condition cases?

JWR: Yes, especially if I am the judge. I don't know that as a fact. But the second type of case is where the prison authorities, the correctional authorities, need more money. They need something. They need fireproofing in the Green Bay Reformatory which we now call Green Bay Correctional Institution. I can't prove this, but I know what goes on. How do I know? The fact is the prisoners bring an action to get fireproofing in the prison, get sprinklers installed, to get this, to get that. Then when the lawsuit is going, the state asks for time to see if they can work out something. Then they go to legislature, based in part on being sued, get the money, work it out, and the case is settled.

I had the same thing at the women's prison. I think this is a good function of the courts, but some judges don't agree with that. I think in our complicated democratic society, with all the factions we have, if we can make a contribution, I am willing to make it. But those are basically sweetheart cases. And I have had those. But they are not really fought out.

In the greenhouse case, that was really fought out. The State of Wisconsin didn't want to lose that. They brought in experts from all over to discuss prison operations.

CTF: When you and Judge Dillin in Indianapolis handled the school desegregation cases, he had a tremendous amount of attacks. He didn't have the benefit of any support in the community as you did here in Milwaukee. Or at least – I shouldn't say any support. He clearly had strong articles and editorials against him, as well as a lot of people speaking out.

Have there been any cases where you have gotten-- we'll call it vitriolic -- mail?

JWR: No. Not from the public. It was a coincidence that during the school case we got threatening material. There was a guard placed around all this stuff. Well, it turned out the guy who was threatening me had been some poor mentally deranged person who years ago, prior to that, had been making obscene phone calls to some woman in Pennsylvania he had only dated once. He was kind of a pathetic case. He was a big muscle man. I remember that. He was a weight lifter. I think I put him on probation or something like that, under supervision. He had a nice family. And he really had problems. So I think, hopefully, he just had forgotten about me, and then he remembered that I was the judge that did that to him. So he was the one who was making the phone calls. I guess he even stopped out to see the house. That was after I was married again, married to Jane. He alluded to her physical shape and all that stuff. So it was an annoyance but it wasn't because of the school case. It was just because he remembered me.

CTF: You did have some case where somebody was threatening to cut off your head with a sword.

JWR: That was a civil rights case. It was a pro se case and he was fired. He was black, fired by a black supervisor. I ruled against him. It was a court trial. He decided he was going to cut my head off. He was also a disturbed individual, but he was pretty persistent because he came in with a sword. This was after we had the marshals downstairs. They stopped him and then the U.S. Attorney's Office prosecuted him, sent him to prison for a year. The day he got out he came back to get me. Then they calmed him down and then he said he just wanted his sword. The Marshal's office wouldn't give him the sword. I don't know what ever happened to the sword. I haven't heard from him.

I would say during my tenure of 32 years, everyone's loved me all the time. No problems.

CTF: What are the biggest changes that you have seen? We have talked about one of them, one was the sentencing guidelines. Another you mentioned a little bit was the change in the kind of cases that you see, and the policy making. Maybe you can talk a little bit about the policy part of the job. The differential.

JWR: Well one procedural change has had a big impact. That is for years we never granted summary judgment unless the parties agreed on the facts which meant we didn't grant summary judgment. Now we use a different standard similar to giving a directed verdict. So I have the feeling that the practice in the federal court has become more of a paper process than it used to be, less trial advocacy, less courtroom work. We're kind of moving into, a little bit, the continental system where cases are "tried" on the record. Everybody files their papers. It's not quite the same, but it's getting close. Except we don't have our own investigators going out. But the parties have their investigators running around getting the facts and everybody files affidavits and then we just decide – is there "a material fact" in dispute? If not, then we move on for summary judgment.

That's a big, big, big change from what it used to be because in this court I never used to grant summary judgment unless everyone agreed on all the facts, practically all of them. But now our summary judgement disposition has gone way up. I am not saying it's a bad development. I don't know if it is or not. I think we get a tremendous amount of employment discrimination cases. Whether or not these cases should be in a federal court is debatable. I am talking about sex, race, age, and all these discrimination cases that get here. Perhaps they should be resolved by an administrative agency like workmen's compensation. Securities cases have all gone to arbitration. I am not saying that's bad or good, but certainly a plaintiff who has a good case is going to get less out of an arbitrator who has to depend upon defendants for future employment. The plaintiffs only come around once in awhile, the defendants are always there. So the net result is assuming that most people decide things in their own interest, which, I think, is a fair assumption, arbitrators tend to not hurt the people who hire them.

CTF: I think that applied to maybe more than one area, but the one area I can think of is the National Association of Securities Dealers cases. But the American Arbitration Association is a completely different thing. There are no institutional defendants. It's different because you don't see institutional defendants. In arbitrations it's between two parties.

JWR: Yes.

CTF: Its not like the same defendant is going to be back before the American Arbitration Association.

JWR: I think in discrimination cases the employers tend to have the same lawyers over a period of time.

CTF: I agree on that.

JWR: Relatively speaking in a community the size of Milwaukee, we only have five or six big firms and they represent most of the local corporations. They all know each other, know the arbitrators.

But so far these discrimination cases don't go to arbitration. An awful lot of them are filed, and an awful lot of the plaintiffs have high expectations. I think that eventually, the way it will unfold, it has to be resolved somewhere in an administrative proceeding like workmen's compensation. Between the pro se cases and the employment cases, it's a big hunk of our work because most of the other stuff we have farmed out. Although you have to keep in mind that I don't do any criminal work any more and that's bound to affect my evaluation as to what the work of a court is. And that's not a fair evaluation.

CTF: John, another thing you did when you were chief judge was that you, in effect, I would say, recruited Charles Clevert to be a bankruptcy judge.

JWR: Yes.

CTF: He wouldn't have been the normal selection back in those days because he didn't come from a bankruptcy background.

JWR: No, he was an Assistant U.S. Attorney. And we had a lot of Afro-Americans going through bankruptcy and we had a vacancy. So it seemed to me we ought to have an Afro-American Judge. He was a very talented Assistant U.S. Attorney and all the other judges and I thought, why don't we appoint Charles? We did and we're glad we did. He's done a great job as a judge and certainly served the judiciary well. He's a point man on congressional committees.

CTF: The President has seconded your initial selection by appointing him as a district judge.

JWR: That's right. And the feedback has been very favorable. At least from the bankruptcy bar, it's always been very favorable. I know a lot of these lawyers well enough I can tell when they are unhappy. They don't have to say they are unhappy but they are always very favorable as to Charles. So I am glad he was appointed.

CTF: Were there other actions you took as chief judge? I can't remember when Trudi Schmitt was appointed as chief probation officer.

JWR: Probably the best thing I did as chief judge. I didn't find her.

I decided we ought to have a library. This was before computers. I thought, gee, it's kind of odd we run a court and don't have a library. Never heard of such a thing. Anyway, we do have a central library. What really made that work is Mary Jones. It was my idea we should have a library. Of course, I was upstairs then, it was across the hall. I liked it. But she really is remarkable. And you know, it's one of these things that operates without any . . . I never supervised her, and I don't know anyone else that's been supervising her since.

CTF: Jan Wishinsky, but that's from Chicago.

JWR: But I mean locally. So I think it's great to have the library. As you can tell, we have less and less books all the time. Between the central library and the computers, we're in pretty good shape. Probably the greatest improvement made in the courts are copying machines. Used to be the lawyers would cite cases. Now if they want you to read them, they attach them. So it's nice to have the copy machines.

CTF: What other changes are you particularly proud of that occurred while you were Chief judge?

JWR: I am proud of the fact we didn't make many changes. Bob Tehan was an easy-going guy. You know, we never had any problems here. It's always been, since I have been here, a very happy relationship with the other judges. And it's just been a problem-free place. If we had problems, everybody has been wise enough or kind enough not to talk about them. Have you known of any problems? I have never known a problem here. I am disappointed we never solved the computer problem. I was really disappointed. I don't understand that. I still don't, but it's better now that it used to be. But as I said this morning, 32 years and we still can't have an inventory of cases on computers. I don't understand that. You explained it to me, but I still don't know.

CTF: I think you need to go down the road and take a look

JWR: I think so. Of course, now we have three magistrates and three senior judges. Or maybe four. Four seniors. No wonder they won't fill the vacancy. You have all these old people hanging around.

CTF: I don't think it has anything to do with the numbers here. Did you ever want to be on the Court of Appeals?

JWR: Well, life is full of options. I have never had the option to be so I never wanted to be. I think when there was a vacancy there, Dick Cudahy was appointed. He should have been appointed and I was glad he was appointed.

Now if he hadn't been alive and they said, "John, do you want to be on the Court of Appeals?" I don't know what I would have said. It's hard to say what you would have done. I never had a burning desire to do it, put it that way. The best job I ever had was Attorney General, by far. The most interesting job. It was a job that, number one, in Wisconsin, we had in those days a top notch career staff that you inherited. Number two is that you were in politics. Number three, you had a public life if you wanted it and a private life if you wanted it. If you saw evil, you could do something about it. If you are a judge, you see evil, you can't do anything about it. You wait for somebody to come in. And over a lifetime, of course, people do come in.

But being a judge is a passive job. And I think being a good judge – it's necessary to be passive. You have to assume the lawyers know something about their cases before you decide it. And so I listen to the lawyers, and they usually know something. They know more than I do, that's for sure.

CTF: How do you avoid asking the curiosity question when they have left something in mind that raises a question?

JWR: Well, it goes back to when I started practicing law. I had a case one time, personal injury case, and it was a wonderful case. Made a fortune on it. And the widow told me, Mr. Reynolds, do anything you want to do, but one thing you cannot do is put me on that stand. She wasn't there. She just said, emotionally I cannot do that. Well that affects the lawyer's bargaining power, position, how he handles the case, tremendously.

So I always figure, when lawyers don't do something that I think maybe they should do, maybe they have that kind of problem. How do I know what their problems are with their clients? You can go so far. And I think you have to assume in an adversary system that the lawyers are competent because otherwise the system doesn't make any sense. As I said, my law clerks, they think they're incompetent lawyers at times. Well, I don't know. But I think, by and large, they are pretty competent. I think the lawyers today are better trained than they were. Every year. Certainly those in federal court.

I think the lawyers of the United States Government are less trained than they were -- especially in the Department of Justice because of the salary caps. The career people in federal government are drained off to the private sector, and then years ago the talented law school graduates wanted to work for the federal government. It's hard to believe, but it's true. The largest firm in Wisconsin when I got out of law school, had 25 lawyers. Now it has 500-600. There were only one or two firms in those days that would hire a law student.

But today, the talent is drawn from the private sector. Some of the tax cases the Department of Justice used to handle were complicated. I had one case involving the

inventory of Waukesha Motors. It was really a big accounting case. I tell you, the lawyer from Washington was one of the brightest lawyers I had ever seen.

I had another tax case involving the Milwaukee Brewers. The lawyers they sent from Washington were terrible. They were just terrible. I sat out in Tucson on a condemnation case. The lawyer from the Department of Justice was really incompetent. And the plaintiff won a whopping big verdict in Tucson, the condemnation of some land for a drainage system. You know, the plaintiff's lawyer . . . people got so much money, I couldn't believe it. And it was all because there's such a thing as an incompetent lawyer. But I don't think you can run a Department of Justice without a top-notch staff. It's one thing to get people in the Cabinet, even the Assistant Attorney General's office. But talking about the career people and holding them, that's something else. There's enough prestige, other perks to keep judges around. But you don't hold the career people in the government with these caps because the pay scale is too low. And I think the judges ought to, instead of talking about pay for judges, talk about pay for government executives being so low.

CTF: We've gotten a little bit John on what makes you tick. Obviously, the interest in public policy, politics in the sense of what's happening in the community and the nation, that makes you tick. But what else? What are the things that motivate you?

JWR: I don't know what motivates me. If I knew what motivated people, I would write a book.

CTF: We know it's not money.

JWR: Maybe it is. How do I know? I don't know what motivates people.

CTF: What motivates you?

JWR: Well, I think it's interest. You see, my kids, I am interested in what they are interested in. Now John, the youngest, he's unbelievably interested in sports. Unbelievable. He knows more about the Packers than the coach does. He really does. And I think it's wonderful. I don't care what he's interested in. I want people to be interested in subjects. What concerns me is when people aren't interested in anything. When they are bored. I find public affairs, be they judicial or sociological, whatever they are, very interesting. I have always been interested in it.

I like to see how it's done elsewhere. When I go to foreign countries, I am interested in their schools, see how they are operating. I went to Brazil. You were talking about crime and whatnot in communities. What I saw in Brazil, I couldn't believe it. As I mentioned before, I have this friend in the State Department, and he was in charge of the U.S. Information Service in Brazil. If you have a friend in the foreign service, always go visit. But anyway in Brazil it was utter chaos. I thought, how can this society function?

The chief of police in Rio told me the crooks ran the city. He was a lawyer. They appointed him chief of police. He said, "The crooks run this city. We have nothing to do with it." Why would he tell me that? I don't know. But it was true. It's still true. The whole country is just chaotic. So people have to live in gated communities. And that's what's happening down there. They have broken glass in the walls, and they have barbed wire. When I stayed with Stanley and his wife in their home in Brazil, I opened the shutters at night. His wife was frightened to death when she found out I left those shutters open all night. If somebody had crawled over all this barbed wire and over all this stuff, they would crawl in and rob us or attack us. That's the way people live. That's the way the rich live in Brazil. I am a little afraid that may happen here if we don't take control of our streets.

CTF: That's the way the poor live right now here.

JWR: Yes.

CTF: They have iron bars on the windows and iron bars on the doors.

JWR: I think the reason the gun lobby is strong is because people that are afraid feel they need guns. Maybe we don't think it's a good reason, maybe we think they are irrational on the subject, but I think it's understandable.

I used to take the kids camping. I loved to camp. Coast-to-coast, Canada. Never went camping in Mexico though. Always a tent camper and all this stuff. Only once was I concerned. We were in some campground way out someplace in Oklahoma and a group of people came in and they were terribly drunk. There I am with my wife and four kids in this tent camper. I thought, you know, I was completely helpless. I don't have a gun, I don't have anything. Only time in my life I thought we should have a gun.

I can see if you live in that environment, you might feel more secure with a gun. Sure, there's a risk it may go off and you shoot yourself in the foot or something. But anyway, I hope America doesn't go that way. But I am afraid it might. Having just come from California, a lot of gated communities out there.

CTF: Let me switch back. When did you meet Jane?

JWR: When did I meet Jane? I met Jane. That's a long story. I knew Jane's family a long time. And I met Jane's sisters before I met her. But I met her about 1968 or '69, I think, something like that. We got married in '71, I think. So I met her in about 1970. Met her about the same year we got married. I never believed in long engagements. I got married twice, and they were six to eight weeks both times.

I have the rule of five. I used to tell my law clerks this. If you go out with someone five times, think a little bit before you go out the sixth time. Most people are human -- by definition, most people are decent and nice and good people. And if you start taking someone out more than five or six times, you are going to get emotionally involved one way or the other. Might as well understand that. I am not against getting emotionally involved. But when you are really emotionally involved with somebody, it's hard to break it off if you decide to later. So I figure by the time you spend ten evenings with someone, you ought to decide if you are going to spend . . . you know, you have to realize that you are involved.

CTF: I never had a rule five. I have always advised my kids another way to do it is to take out a good number of people.

JWR: Oh, yes.

CTF: So Mary Fitzpatrick used to be my Saturday night date. Law school -- I had a Friday night kind of one, and I would take out whoever. Then when I came back to Chicago, I would go back with people that I knew in Chicago.

JWR: Yes.

CTF: It's a similar principle.

JWR: Yes but I think when people are going together over a long period of time they are bound to be emotionally involved with each other one way or the other. Then to break it off is always painful and all this stuff.

CTF: So you married in 1971. And you had four kids?

JWR: Yes. Well, we had five. One child died of leukemia, another child had leukemia.

CTF: Who died?

JWR: Joe died with Leukemia.

CTF: How old?

JWR: Well, maybe one-and-a-half. And then Tom got leukemia when he was about three, two-and-a-half years old. Statistically this can't happen. That's why I am very suspicious about statistics. But it did happen. We have no idea why, it just did. But Tom is in college now. Tom is a twin, with Jake, fraternal twins. Tom had cranial radiation, which they don't give any more for children with leukemia. But the effect of it was it affected his mathematical abilities in some way. It's hard to pinpoint it. He does very well in

some subjects. Other subject he finds very hard. And that's a common result of this treatment.

CTF: You had John?

JWR: We have John. He's the football star. Not a star, but knows a lot about it. And Frances, and she's in France studying this year, graduate school, University of Paris. Gives her something to do. She thinks she would like to be a professor. I tell everyone there's nothing wrong with wanting to be an actor, but there aren't very many actors in this country who make a good living, in comparison to the number of people that want to be actors. There are a million lawyers in this country and, by and large, most are making a good living.

I am amazed how well the lawyers live in Green Bay. I don't know how well they live in Chicago, but in Green Bay they do very well. I never can get my law clerks to go to Green Bay. They don't want to go to the small towns. But in terms of the quality of life and the type of practice they have, I think the law firm in Sturgeon Bay . . . I have them do a little work for me at times on some real estate up there. It's a marvelous life, seems to me. From the outside it is.

CTF: I think we're seeing a change. I think that the draw of the big firms, if it wasn't for the amount of money that law students owe

JWR: That's right. Student loans. They are locked in.

CTF: . . . it would be down to nil. As it is now, we see people who are either desperately unhappy, even after they have made partner, and realize that they are on this treadmill and they can't get off, or they leave and do something else. When we send out an application for senior staff attorney, the number of applicants When we sent out for the settlement conference officer, we had named partners in some of the larger law firms in the City of Chicago apply. Obviously, we're not paying anywhere close to what they are paying.

JWR: They can live better. We had 167 applications here. Years ago we had a joint pro se law clerk in the Eastern and Western District. I think we had 167 applicants for that position. Most of them were really pretty well qualified. You know, any judge wants a permanent law clerk. I decided to only hire a law clerk one year at a time at my age, etc. I thought, well, I will go with a permanent law clerk -- and people are really very anxious to get those jobs. It's easier to raise a family if you can get home at night whether you are a man or a woman.

And the amount of travel time that these lawyers spend in the large law firms, they are gone a lot. In Green Bay my dad was hardly ever gone. He was always home at night.

Always had dinner at 5:30. Not 5:31. He was Irish. I must tell you, his mother was educated in a German convent. She was very Germanic. I never knew her. But that whole generation, everybody was better organized than you normally expect . . . than the next generation, anyway.

CTF: Is there anything else that you would like to put in here?

JWR: No. One thing I would say, I have enjoyed being a judge. I'm sorry everybody can't be a judge. I am all for it. It's a very interesting assignment. I think it was more fun years ago, but I am very happy now too. And I do think these large law firms, I don't know how they can keep . . . one thing nice about the law used to be when you practice law, you could wind down at your own speed. But the law firms in Milwaukee, at 65 everyone is out. They may keep a desk around there for awhile, but they don't really do anything. I don't know. That seems to be . . . I would think it would frustrate the partners, once they get to be 55, to think they have to figure out where to go in a few years.

Fortunately, as Ruth Doyle once said, the best part about being a federal judge is senior status. It's more interesting than going on to Florida and looking at those alligators.

CTF: I meant to ask you one other thing. You saw the Speedy Trial Act go into effect. We have now seen the Civil Justice Reform Act. Both are examples of Congress's attempt to govern the judiciaries' internal procedures. Do you think they have been a success?

JWR: I think the Speedy Trial Act, from a public policy point of view, is a good idea. See, I have been around a long time, and the federal judge in Madison wouldn't even convene a Grand Jury.

CTF: That's Patrick Stone, right?

JWR: Pat Stone. So Nat Heffernon, who was my Deputy Attorney General, he went over to become U.S. Attorney when Kennedy got elected. Stone, he was up in Wausau. If a criminal defendant would come in and wouldn't waive indictment, he would say, go back to jail. Stone would go back to Wausau. It got so bad that Heffernon arranged with Judge Duffy to come over there one day and impanel a Grand Jury. There was absolutely no supervision of a district court judge at all. And you know, it just seemed that somewhere along the line you have to have some guidance. We're not all perfect and it was pretty bad. So I can give you another instance of what was going on over there. Maybe went on here, but I don't know. I knew about it going on over there.

I have no objection. I think people in Congress have a responsibility to make sure we have a justice system that functions. Now of course, it's a matter of judgment and how far do you go. I have no quarrel with supervision because I think on balance, it probably is a good idea. In the Speedy Trial Act, certainly in the Western District of Wisconsin, you

could sit there in that jail for months, maybe years. I don't know how long they sit before something would happen. So the U.S. Attorney had to figure out -- and of course he could do that with old Judge Duffy because Duffy was responsible for getting Stone appointed as judge initially. They were all good drinking buddies. But I don't know how fast they got work done on the case of individual defendants. So I think the Speedy Trial Act is a good thing. There's a great tendency, as we know, for elected officials to criminalize everything that goes on. So if you are going to do that, I think it's incumbent to make sure people get a trial. So the result has been that we have Speedy Trial Acts and we move the cases out and people plead faster than they would before and everything moves up.

I think what I said before about the Biden Committee, I just think micro management is different than macro management. You set down policies. But to say we should send out a scheduling order and new Rule 16 and all this stuff and then to provide you can have local rules, I am repeating myself, local rules in addition to the rules of civil procedure so no lawyer knows what the rules are in any district unless he has a computer and pulls them out, the local rules of that district. I think it makes it too complicated, too easy to trip up people who don't check all these things out.

APPENDIX

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