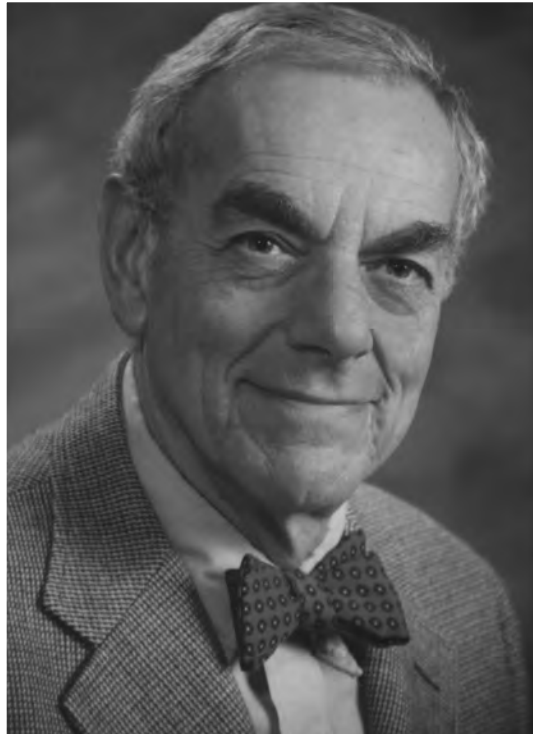


Sidney I. Lezak: An Oral History

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FOREWORD BY JUDGE OWEN PANNER

US District Court of Oregon Historical Society
Oral History Project
Portland, Oregon

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FOREWORD

The Oral History Project of the District Court of Oregon Historical Society began in 1983. Through the efforts of Judge James Burns and his wife Helen, a gathering of lawyers, judges, and historians took place at the Society's inception. The Honorable Robert F. Peckham, District Judge for the Northern District of California, discussed the Northern District Historical Society and the inspiration was born for Oregon's District Court Historical Society, the second such organization in the country. The original Board of Directors of the Society was composed of twenty-one members with bylaws including the Presiding Judge of the Court, the Chief Justice of the Oregon Supreme Court, and the President and a representative of the Oregon State Bar. The original officers and directors included outstanding judges and lawyers – Judge John Kilkenny, Honorary Chair, Judge James Burns, Chairman, Randall Kester, President, Manley Strayer, Vice President, Elizabeth Buehler, Treasurer, Susan Graber, Corporate Secretary, and Robert M. Christ, Executive Secretary, along with many other top names in Oregon's legal history.

The Society decided to collect, study, preserve, analyze, and disseminate information concerning the history, development, character, operations, and accomplishments of the United States District Court for the District of Oregon. It was therefore logical that the Oral History Project should be established to preserve the histories of the judges, law firms, and lawyers who actively practice in the Court. With the assistance of Rick Harmon and James Strassmaier, the Oregon Historical Society held seminars to educate volunteers in taking oral histories with a biographical and Court-oriented focus. The Oregon Historical Society has been most

cooperative in agreeing to maintain these histories in their permanent collection for study by scholars and other interested parties.

These oral history interviews have been taken by recording devices, and are either transcribed or transcription is underway. A transcript reproduces, as faithfully as possible, the original sound recording that reflects the special value of oral history, namely its free and personal expressiveness. Most of the transcripts in the District Court Collection have been lightly edited and reviewed for clarity and accuracy by the narrators. That process continues. It is through these wonderful oral histories that the story of the Court is told. We now have recorded nearly 120 individuals since the project began. The goal is to record the individual histories of all the judges of the Court, as well as those of participating lawyers. The Court has a rich tradition reflected in the activities of the judges and lawyers of the Court. The recording has been done not only by professional historians, but also by dedicated volunteers. As one such volunteer said, "The opportunity to interview someone that you always admired is truly an exciting experience."

The history of the Court is being created by the men and women who have participated in its collection and activities. The Society's goals are to collect as much of that history as possible, because it is the history of the law and those who make it that constitutes the moral development of humanity. All of us who are students of the law venerate it. We are also interested in the people who make it.

Judge Owen Panner
February 28, 2006

Tape One

JC: This is the oral history project of the United States District Court for the District of Oregon. We're going to be talking this afternoon with Sidney I. Lezak the former United States Attorney for the District of Oregon, to cover at least an earlier period of his life up until and including his appointment as United States Attorney for the District of Oregon. Sidney is that right?

SL: It certainly is. It's certainly an appropriate aspiration.

JC: The way we'd like to proceed this afternoon is in a narrative fashion, beginning back and ending in the question: How did you get to be United States Attorney? But, that began much earlier in Chicago, Illinois. Give us some of the biographical details that take you back to Chicago before you came to Oregon.

SL: At this point I don't have any problem with having anything that I say be made public. I just want to know at some point, in the event that I get on territory that might be difficult—particularly in terms of anything I may have to say about people who are still living—whether or not there's any control that I have over this.

JC: Yes. In that event we can mark those portions of the tape and simply say that those will not be disclosed during the lives of any persons or during your life.

SL: Okay. Alright. I have every confidence in the Historical Society in meeting that commitment and on that understanding I'm willing to go ahead. I have nothing at the moment that I specifically can think of but something may come up; and I do have a feeling that on some stuff that may be delicate that I nonetheless would like to have the whole story out but I may not want it to be public right now.

SL: Well let's see—born November 8, 1924, and I assume you'd like to know a little about my ancestry. Mother and father both were born in the same small city which was in, what was called the Pale of Settlement in Czarist Russia, the city is called Vasylkiv [or Vasylkov, which was how Sid's family pronounced it. MDL]. It's about 30 miles outside of the city of Kiev. I recall that they had to have a special pass to go into the city of Kiev. My parents came over at—let's see, my mother was 10, came over about 1910 on the Lusitania. My father came over in 1911 and at that time he was 14 years old.

There's a story or two from that era that made a difference in my life. Perhaps a digression might be worthwhile. My father told me about getting a pass about the age of eight to go in with his family to Kiev and remembers having his first ice cream cone. At about that time a group of drunks came through, in a kind of what might be called a "mini" pogrom, through the Jewish quarter, breaking windows and beating up on people around. He remembered running into the back of a

butcher's shop where they were killing chickens and hiding amidst all the blood and guts and sawdust of the chickens and enjoying his ice cream. I've always taken that as a sort of measuring point from which to measure any success that I've had in my career and have marveled at the progress which has been possible in this country within the space of one generation. It just seemed to me a particularly poignant memory of my father's past.

JC: Did your mother and father at young ages come with their parents?

SL: My mother came with her parents and her younger sister and brother; I think her family came intact. My father came with his father and four or five of his brothers. My father had seven brothers and one sister [living to adulthood; his grandmother, his father's second wife, had 21 births], and I think that two brothers and one younger sister were left behind with the grandmother. They did not come over until after WWI and after the revolution. I think in the early 1920's there was a distinct lapse and it— it was indicated by different colorations of political viewpoints between the older brothers and the younger brothers.

JC: Did your parents give you any explanation of their coming?

SL: They came—they each found their way by—it was relatively hard because

they had minimal amounts of money, just enough to pay their passage. I think my father came with just a few cents in his pocket, for example, when he arrived in this country. They were poor people. My mother's father was a blacksmith. My father's father was a butcher in the old country and that was the trade that all of the brothers ultimately followed. Each one ultimately had his own meat market on the south side of Chicago in the Black neighborhood. My father was no exception.

JC: They came through Ellis Island?

SL: Through Ellis Island, yes, and they had contacts in Gary, Indiana which, at that time, was a town that had just been founded maybe 15 years before for the steel mills. And my father's family came to Gary. My mother's family came to Chicago. One of my uncles remained in Gary and had a meat market in Gary until WWII.

JC: Was there any change in the spelling of the family name of Lezak?

SL: Well, the family spelling would have either been in Yiddish or Cyrillic and not in the characters that we now know and accept. But the pronunciation was, "Lay-shock," and it might more appropriately have been LEZHAK or something like that, a softer Z.

JC: Did it have any significance?

SL: No. The name is interesting in that it is not a name. Lezak is not readily identifiable as a Jewish name. As a matter of fact, I've been through telephone books in Chicago and sometimes in other major cities and I've noticed that there are a number of people who spell their names the same way but who come from other Slavic backgrounds. I noticed there are a number of people with Czechoslovak backgrounds and perhaps Polish backgrounds who have names somewhat similarly spelled. My mother's maiden name was pronounced "Winer," although it's spelled W-E-I-N-E-R and that was a more typical Jewish name, but how she got that I have no way of knowing. That [name] really referred to somebody who traced their derivation to Vienna. But we're unable—we haven't made much of an effort—but we're unable to go back very far in family history. Obviously since a number of my father's brothers were blonde and blue-eyed—I was blonde and blue eyed as a kid—there's obviously been a certain amount of racial intermixture and that's not unheard of.

JC: And they came to the south side of Chicago?

SL: Ultimately. No, my mother's family came to the west side and settled in to what was probably close to the Jewish ghetto on the west side. My father's family came from Gary. My father was in the service at the age of 18 or 19.

JC: In the American army?

SL: Oh yeah, yeah.

JC: First World War?

SL: He was born in 1897 so by 1917 he was 20. That was it. He went in and he was an honorably discharged veteran. He didn't go overseas. However, a couple of his brothers did. One of his brothers, as a matter of fact the one who was best liked in his family, went overseas and was killed in combat for Uncle Sam. But my father had fond memories of being in the service. It was not much of a hardship.

JC: What was his full name? Do you remember?

SL: Well, I don't know what his Hebrew name would have been. His, the name he was given, was a short name for Emanuel and he was always called Manny.

JC: And your mother?

SL: My mother's name was Celia, anglicized. Her name in the Soviet Union was—in Russia, because they came over, of course, before the revolution—her name was Sonia, although Celia was an attractive name. There were times when I think I would have been just as happy for her to keep her own name.

JC: And they met where if you recall?

SL: They had families, they had a slight acquaintance in the same village, in the village or small city, and their families knew each other very well. When people came from the old country their primary form of association was in what was called the Verein. Verein is a Yiddish-German word meaning club or association and the Verein was the club for people from the same city. There were perhaps 60 or 70 people in the Chicago area when I was growing up who were immediately associated with people from that city and it grew to quite a substantial number as I was growing up and the people began having children. They met after they were here in one of the functions of the Verein and fell in love and got married.

They would have been married in probably an Orthodox setting. I'm not sure at which point, as I was growing up, my father and mother drifted away from Orthodoxy into the conservative branch of Judaism which was quite common, particularly since my mother and father moved to Hyde Park.

My mother and father lived in Hyde Park almost immediately after they were married and I was born. They were actually living on 5122 S. Park Avenue, which is now the heart of the black ghetto of Chicago which is a mile west of the Hyde Park District but which was then a largely Jewish-White area. I was born at Chicago Lying-in Hospital—which predated the Lying-in Hospital that was attached to the University of Chicago at a later time—in what is now the black area. That was an era

of changing neighborhoods. Immediately after my birth, they moved across Cottage Grove [the street that divided the black and white neighborhoods during all the time SL lived in Chicago] into the Hyde Park area.

My parents moved a couple of times in Hyde Park and finally moved in 1936 when I was 11. My parents moved into the building where we remained for many, many years, and the family remained after the time that I left 5135 Ingleside. At that time [1936], in the next entrance to the same apartment building, Muriel's family lived. Muriel was the granddaughter of the owners of the apartment building. So we met. She was then eight years old and I was 11 at the time that we met.

JC: What was her family name?

SL: Deutsch. Her father was a furrier. Both her parents were born here. Her father was half German-Jewish decent and half Hungarian, I believe; and her mother's people came from an area, what was then Austria-Hungary, which is now Slovakia and was part of Czechoslovakia, which we visited a couple of years ago. She still has relatives in Hungary, in Budapest, Prague, and in Kosiçe.

JC: And how many children were there of your parents' marriage?

SL: I had two younger sisters and Muriel had an older brother who is a little older than I.

JC: And those sisters were?

SL: Iris and Rozelle. Rozelle, who was universally known as “Sister,” ultimately moved to San Francisco, almost became a successful dress designer, but wound up as a teacher. She’s dead. She went to various schools, Lake Forest, University of Pennsylvania, other places—not a very good student.

Iris is the youngest sister. She’s seven years younger than I. She ultimately wound up at Reed and got a degree from Reed and the Art Museum. She’s been married to two fairly famous people. Her first husband was Herbert Ganz who is now at Columbia and, I noticed last year, he was the head of the American Sociological Society and is one of America’s foremost urban sociologists. He came from a German immigrant family and they knew each other in Hyde Park. She divorced him just as he had completed his major opus on Levittown. He wrote the first book on Levittown.

She later married Jackson MacLow by whom she had a couple of kids. Jackson is famous as an associate of John Cage. He’s a musicologist and playwright and poet who selects (*laughing*) words on the basis of mathematical random sampling in order for the audience to involve itself as much as possible. I’ve had some interesting experiences with him and my sister. We needn’t go into it (*laughing*). She’s now living as an artist in New York.

JC: You used to have some of her pointillist-type works in your office as I recall.

SL: Yes, yes (*Laughs*). She has done—she moves from style to style and some of her stuff I like and some of it I detest.

JC: Of course you went to grade school and high school and then what?

SL: Well, there were a few unusual things. I won the amateur contest in grade school singing “Short’nin Bread” in black face, as I remember. And also I was Vice-President of the grammar school, Charles Kozminsky, named after some coal dealer who used to sell coal at exorbitant prices to the Chicago Public School District, god knows, at what consideration (*Laughs*). And then I went to Hyde Park High School for three years and—I actually graduated from grammar school at the age of 12. I was thought, I now think wrongly, to have been more precocious than I actually turned out to be but my mother had a good opinion of me. I was pushed ahead in school so that I was actually three semesters ahead from where I would have been and I was actually out of high school just at my 16th birthday. I started Northwestern University in February of 1941 just after I had turned 16 and I was a little young.

JC: How much Northwestern did you do before the Air Force?

SL: I did one—well that was 1941. Let’s see

I did, I became 18 in November of 1942. At that point I had already determined that I did not—Oh, by that time I had held some jobs. I should state that I used to work in my father's meat market. I was a butcher and I used to help out in the currency exchange that my father expanded to and my father had some other minor business ventures that I didn't have very much to do with. But I had always worked from the time that I was 12, I'd say. As a matter of fact, some of my most vivid memories are the fact that we used to work 14 hours on Saturdays and wake up early in the morning on Sundays and the store was open for six hours on Sundays. The fact is that I had to work and my father actually needed my presence there whereas my friends were not working. It was a source of some concern on my part and some feeling of antagonism towards my dad, which I now feel was misplaced. It probably did me more good than harm.

It also meant that he had a feeling, a sense of obligation. I remember when I did go college that he felt that the fact that I'd worked justified me in having my own car and that I was not put under any—even though my parents were not at all well to do—I was not put under any limitations about going to any school that I thought was appropriate for me to get into.

I lasted at Northwestern—I stayed up in Evanston for one semester, realized that wasn't what I ultimately wanted to do and that I wanted to get some work experience. I thought at that time that I was going to go into advertising or public

relations and I got a couple of jobs. One of the first jobs that I got was working at Mandel Brothers, a department store in Chicago. I worked in the advertising department at Mandel Brothers until I started at the University of Chicago. And then, while I was at the University of Chicago in the summer, I took a partial course [load] and I became an advertising representative—I think I was still 16 years old—for the neighborhood newspaper called the Hyde Park Herald. In my 17th year I was now at Chicago.

I started Chicago in June of '42. That was because I had determined that what I really wanted to do was to become a psychiatrist, and also that I felt, I felt—I hope nobody's offended—that after I had gotten away from the University of Chicago [neighborhood] to Northwestern it gave me an opportunity to compare. And you know, no school is any good to the people who live in the neighborhood, and I may have neglected to mention that Hyde Park is the neighborhood of the University of Chicago. It took getting away for a year from Chicago to make me realize what a fine institution that was and that that was what I really wanted to do. And I also I didn't have any real urge to move away from home at that time. I was still 17 years old and it was cheaper and more convenient for me to commute. So I became a commuter at the University of Chicago and I was working for the Hyde Park Herald.

At that time war was declared and I realized I was going to be 18 the next year.

I began casting about where to go. I knew that I did not want to become a grunt in the infantry and I remember applying for the Marine Corp Officers Candidate School and that I had problems with my teeth. They wanted a perfect set of teeth for reasons that I never understood. So the next thing I did was to apply for the Air Force for cadet training and I was accepted for cadet training. I was 18 in November and in February I was in Miami Beach at a hotel getting basic training and pre-cadet training.

JC: Was Robert Maynard Hutchins on the scene at the University of Chicago when you were there?

SL: He was very much—his presence was felt but not observed. The only times I can actually recall seeing him on campus were the first day that I came to Chicago in the summer of 1942, and the day that I left in June of '49. I don't actually recall seeing him in-between. But it was very well known that he was engaged in important experiments upon us, as his students, and we enjoyed the experiment even though some of them, looking back on now, I think were atrocious.

JC: Couldn't you do college in two years in those days?

SL: Yeah, I did. In effect I got a two-year degree. That's why I—you see I came back from the service at the age of—I was still only 20 years old when I got out after

having been in the service for over two-and-a-half years—and I was able to get a degree in one year and then, in 1946, I entered Law School at Chicago at the age of 21. And I'd actually gone to night school at Northwestern University for the one year that I worked at Mandel Brothers. I was at their downtown advertising [program], taking advertising courses and that was helpful because it made me realize that that wasn't what I wanted to do with my life.

JC: We left you in Miami learning the basic—

SL: Well, essentially what you got when you went in was basic—you see, you have the Army and the [Army] Air Force. And we were in the Army, so essentially we were getting basic training in the Army—drilling and just the usual training in a somewhat unusual setting. We lived in a former whorehouse on Third and Collins Avenue and the setting was exotic.

I had been accepted for pre-cadet training. I was on track to becoming a cadet. So after a month in Miami they were screening us and they sent those of us who tested well out faster. And I went to Greenville, South Carolina, Furman University, for three months which was another interesting experience—my first acquaintance with the southern bible belt—southern fundamentalism; and then to San Antonio Aviation Cadet Center. I remember breaking my arm there on the obstacle course but wanting

to stick with my class so I was given special permission to stick with my class as long as I would run instead of doing the physical training that was normally done. For the first time in my life I felt that I was doing something really well physically and I actually came in third in the cross-country race. I remember being thought of as a crazy kid running around with a cast on his arm. So I was able to stick with my class and then started out in pilot training.

I had put down that I wanted to be a navigator initially, but they had too many people in navigation school at the time and they were using the navigator schools for people with good aptitude who were washing out of pilot training. And sure enough I went and through a peculiar set of circumstances washed out of pilot training, which was probably just as well because I don't really think I had the coordination or the natural aptitude to be a pilot. But my scores were good enough so that, instead of being sent to gunnery school in which I would have been a noncommissioned officer, I was able to go to navigation school and wound up in San Marcos, Texas at Lyndon Baines Johnson's alma mater, San Marcos State Teachers College. By February—let's see, by this time with all of the training and preflight cadet and so forth and so on—it was February of '44 that I was commissioned Second Lieutenant as a navigator. I went to Oklahoma for training in bombers and after having checked out I was in

England in April.

I was sent to join a crew which was just being put together which was a replacement for the losses that our base—it was a famous base—the 305th Bomb Group—had lost half of its planes, on the Second Schweinfurt raid. Fortunately for me, that raid initiated a change in policy by virtue of which the American planes would not go unescorted deep into Germany anymore and so every raid that we flew there was a kind of a [high?]. As a matter of fact, the first couple of raids I flew were just what might be called milk runs into France. Then we began to get generally farther afield, but the Mustangs were coming in. I do remember how much I loved the P-51s [Mustangs] because they were better planes by far than the Germans were able to put up against them and they were escorting us all the way in so that most of our losses from that point on were through flak rather than fighters.

Spaatz was head of the Eighth Air Force at the time. Doolittle had been initially head of our—had started as head of—Doolittle had been head of the Eighth Air Force, had already gone on to—excuse me. I can't remember when he left to do the Tokyo deal. But the first head of our group, who left before I got there, was Curtis LeMay. He ran for Vice President with George Wallace and wanted to bomb the Vietnamese back into the Stone Age, as I recall back in the Vietnam War. But he was gone.

In any event, our crew stayed together for 22 missions and then our pilot

got injured being hit in the leg. The crew disbanded. The copilot previous to that suffered a mental breakdown and had to be removed from combat. I mentioned to you just before I came in that I, only yesterday, received a letter for the first time from my bombardier who is trying to get his history straightened out and is calling upon me for my recollections and he reminded me of being hit by flak in the chest. Fortunately he was wearing a flak suit and wound up in my lap. If you look very carefully a little tiny bit of a scar is still visible [on his left hand]. But nothing, no serious problems other than that. And I was able to complete my missions. Those were still in the days when you got a Distinguished Flying Cross just for staying alive and completing missions. So I wound up with a Distinguished Flying Cross and five Air Medals which doesn't signify any specific bravery but just the fact that you lived.

JC: I think that Lyndon Johnson got a distinguished flag...

SL: He used to wear a Silver Star.

JC: But you don't wear your ribbons now.

SL: No, that's not my style. I'm happy to tell you about it but not to wear it.

JC: That flying, most of it was daylight bombardiers in Europe?

SL: Yes, the Americans were doing mass

daylight bombing. It was the British that were bombing at night and we were doing, allegedly, pickle barrel bombing. I know we flew six missions to Munich for example, which was—maybe five of those times we bombed through clouds—which meant that no matter how much we claimed to do precision bombing, in fact, we were bombing in heavily populated areas. However, we always maintained that we were at least searching out for specific military targets but the fact is, our accuracy left a lot to be desired. I've been back to Munich several times, particularly in 1952, and saw the amount of destruction we committed and have always had mixed feelings about what we did to innocent populations, recognizing that some of it was necessary.

JC: Have you come to any conclusions, as did the Strategic Air Study, about the effectiveness of the strategic bombing theory and method of the Second World War?

SL: Well, I've read some of the stuff indicating that its value to the Nazi regime was in bolstering the morale of the people, at least for a time. It had been more deleterious to our effort than the actual damage that we did. I know that the Germans were remarkable at being able to reconstruct the damage. I think, towards the end however, when we were hitting the synthetic oil refineries at a time when they were desperate for oil and when we were really getting at transportation hubs

and so forth and so on, I think that kind of thing was more effective than the bombing of civilian populations.

We participated in one mission in support of the breakout from St. Lô. There was saturation bombing of the Germans. I think that may have been of some effectiveness in helping the troops break out of that box. But it was the first time, I think, we went in at 11,000 feet; we usually went in at 25,000, 27,000, and that was the first time and only time that we went in on that kind of tactical mission rather than strategic missions. I was navigating the whole time.

JC: Once you said you went to Marrakesh.

SL: Oh yes, after I got through with my missions I came back and they put me in Santa Anna, California for 30 days R&R after allowing me 30 days at home. And then I became a navigation instructor at Ellington Field, Texas. Rather than—those were the days before air conditioning—and rather than spending a summer in Houston, Texas—we're now talking about May of 1945—I volunteered to go back overseas with the Air Transport Command. Not for combat. I don't want you to think I was that much of a hero. And I found myself, as it turned out, in Marrakesh in July in 115 degree heat; but it was still more comfortable than Houston, Texas.

Essentially what we were doing was going to French air bases in North

Africa, and going to Naples and Marseilles picking up planes. The European theater was winding down and we wanted those planes back in the United States to be refitted and reconditioned for the Pacific theater. So we'd fly either from—we'd fly down from Marseilles or Naples down through Africa to Monrovia in Liberia where we would then land at Ascension Island for refueling and then go on to South America. Or we would go down to Natal to Dakar, Senegal and then fly directly across, because we were flying twin-engine light bombers, B-25's. They could make the 1900 miles across although we did have one thunderstorm that was as frightening to me as almost any experience in combat.

JC: When you were flying the B-17s into Europe were you ever attacked? Were the aircraft ever attacked by fighter pilots?

SL: Oh yes. We had a number of attacks but they weren't anything like the success of the attacks at the Schweinfurt level. For one thing, because the Germans were running short of planes, and the other was that we just had enormous success with the interceptions by the P-51s. Now, the interesting thing was that we were the second group—we did have one very frightening thing happen and that was we were the second group to sight the jets that the German's had. We were attacked twice by the jets and we were only the second group ever to be attacked by them. And

they could fly rings around the P-51's and they were frightening. Had the Germans gotten those started a year earlier there might have been a difference.

JC: You must have gone to London while you were in England?

SL: Every ten days. Which was again another odd memory because London was being buzz-bombed during that period of time. At 19 years old you would have thought, why would anyone go up to London when I could go up to Nottingham or Cambridge or Northampton which were relatively peaceful? But I guess we just felt that the odds of us being hit by a buzz bomb were so infinitesimal compared with the odds that we were facing almost daily in our missions that—London was—that was where the action was. And it was almost as though the fact that there were buzz bombs flying made it that much more attractive. It's a perversity that I still haven't come to terms with. But it teaches me something, just as we were talking about crazy things that young people do, it reminds me to be tolerant towards young people.

JC: Where were you when the war was over in Europe?

SL: Marseilles. VJ Day. I was picking up planes. I just stayed and because I had all these—they let us out on points—and VE Day was sometime in April. So it was

between April and September that I was flying for the Air Transport Command. And then the minute, right after the Japanese surrendered, I had enough points because of all these—you know, they measured them [points] by the number of medals and battle stars and that sort of meaningless charade. But nonetheless I was let out immediately and I was back in Chicago by late September of 1945.

JC: Now I jumped. On VE Day you were in Marseilles? Did they have a celebration?

SL: Oh, indeed they did. I remember it very well but I don't have to tell you everything (*laughing*).

JC: Then you were still flying 'til VJ Day, which was in August? Shortly after the A-bomb. Did that have significance?

SL: Oh yes indeed. I was in the states at the time. It's funny that you should mention that. I have an absolutely clear recollection about hearing about the A-bomb dropping. It came over the radio while we were in our barracks, and I know this sounds odd but my first reaction was: Why did they have to do that? Why couldn't they have demonstrated it? It was a feeling that has since been reinforced about my feelings about such matters that I have a very vivid recollection—a mixed one—of both glad we had it rather than them but did we have to bomb? The only thing I knew was this. I was in class, and looking back now,

on the—because I had started—I’m trying to remember quite where this was. I forget what the day of the chain reaction was in Stagg Field at the University of Chicago.

JC: Yes, Fermi’s Basketball Court Reactor.

SL: Yes, that’s right. But it occurs to me that I was in class that day at the University of Chicago just across the street from where this was taking place, I’m not positive about that but I remember knowing that somehow there was word around campus that there were strange experiments going on and I heard that it had been that project in Chicago that had been in place.

[I was in class at Chicago on the day Hiroshima was bombed. We had been ignorant of the project and, of course, that our professor, Lawrence A. Kimpton, had been its chief administrator. He could finally talk to us, and explained somewhat about the bomb. MDL]

JC: And then shortly after VJ Day you were let out. Very quickly?

SL: Yes.

JC: And you went home!

SL: Home! And I continued to live at home. I graduated from Chicago—my undergraduate degree was a phony two-year Hutchins degree, Bachelor of Philosophy; as a matter of fact, sometimes confused with a PhD, as it ought not to

be. And then right into law school. That was interesting. By that time, I had to make a choice as to where to go to law school. I had applied to Michigan and was accepted and decided to go to Chicago, in part, because by that time I was going with Muriel and she had transferred from Michigan. She had been accepted as an undergrad at Chicago.

JC: Had she graduated from Michigan?

SL: No, no. She had just gone one year. We had the same experience. We each went one year to another big time school, and decided that the educational home for us was at Chicago. So we continued living in the same apartment building and studying and romancing every night together. She was one year behind me and then she went on. During the rest of the time that I was in law school, she took two years to get her master’s degree from what was called the Committee on Human Development. Essentially a psychology degree. That takes us up to 1949.

So in one quick week, or in two quick weeks—June 17, each of us got our degrees. I got my JD. Chicago was giving out a JD because it was, presumptively, a four-year law school. (“Two quick weeks” refers to our marrying the following weekend, June 26. MDL) I actually went more than three years to law school because I only had a two-year degree but I got some additional credits [from Northwestern]. But there were some people—most people

who got a two-year degree had to go to a four year law school and that justified Chicago in giving out a degree as a JD which was not then being generally given.

JC: Were there any famous stars at the University of Chicago in those days in the law school?

SL: The people who were around the law school at that time—do you mean as students?

JC: Let's take both.

SL: Well, on my first day in law school, my first course—what we called Elements of the Law—was from Edward Levi who later became president of the University of Chicago and the Attorney General to clean up after Watergate.

JC: One of the Attorneys General under whom you later served. Was he a good prof?

SL: Too good! He punctured my balloon a number of times. He was one of the wittiest and cruelest Socratic professors I ever had.

JC: Was he a veritable Paper Chase house man?

SL: No, we didn't feel that same type of competition with other students. It was a fairly mature group. Remember these were, I'd say 80% of us, were returning

vets who were going to law school.

JC: Any of your particular studies that you drifted to or were attracted to more than others?

SL: I latched on to a professor that I liked very much, personally, and the field was interesting to me, and that was Labor Law, and that was Charles Gregory. And Gregory liked me well enough so that he used me. He was asked to run some elections—

JC: NLRB Elections?

SL: Well no, companies and unions could run elections on their own, without going through the NLRB. Private elections. We had a couple of those and a couple of arbitrations. So he used me in some of those things and then I later did a little work with the NLRB. I was quickly drawn to labor law.

I guess I should say a little about my political views when I got back to Chicago. Somehow, and I think I know why, there were a number of people who were sucked into the Communist Party around Chicago at that time, particularly coming from a Jewish background; but I was perceptive enough to be deeply affected by the Stalin-Hitler pact in 1939. Even though I had been friendly at the age of 13-14 with some kids who later became involved with the Young Communist League and things at that time, it, that experience and the duplicity of the people who were involved in it—they were

denying that they were Communists and I later found out that they were solidly in the party and its apparatus—turned me off. So I think very early on—I remember going, in 1938 when I was 13 years old, with a group from something called the Epworth League from the Unitarians and a group of Blacks who were refused service on the bus in West Virginia when we were traveling. And I went on a youth crusade sort of sponsored by Eleanor Roosevelt to demand housing and stuff like that. So even as a young kid I had some involvement in liberal politics, but I never got sucked into the Party.

After the war, the big political organization on campus was the American Veterans Committee, which was a liberal veterans' group which had three factions within it. I was a member of the right wing faction of this left wing veterans' organization, which did not want members of the Communist Party to hold positions of responsibility in the group. So I was accused of witch hunting and red baiting and so forth and so on. I would have to admit, in looking back, that some of the most attractive and energetic and romantic people were folks like Paul Robeson who came to campus and kind of energized the campus. And I was deeply concerned over black problems in part because of feelings of some guilt about exploitation of blacks, even by my own family. They were given poor quality merchandise and my father was hiring black people who were getting paid a lot less than white people who

were doing comparable service and there were a number of influences that were tending me towards concerns about civil rights. But nonetheless, the other thing is that I could never make a commitment to the discipline that seemed to be necessary in order to be a member of any particular party.

I should say my first [political] recollection was walking through the Piccadilly Hotel [a residential hotel] door-to-door in Hyde Park passing out leaflets for Paul Douglas, who later became a very fine United States Senator and who was running for Alderman of the Fifth Ward. There used to be many votes 49 to 1. He was the only alderman who was not a part of the machine and he was one of my heroes. It's fair to say that my youthful political heroes were probably Paul Douglas and Adlai Stevenson. Paul Douglas was somebody who'd come from being an active socialist to being a liberal democrat on economic issues but very hawkish and certainly anticommunist. He'd been in the marines.

JC: Well let's see now, we get you back after the war, and we get you well into law school and we get you getting your degree and Muriel getting hers the same week.

SL: June 17, 1949. We got married June 26 and that evening drove out to Oregon. Now there's one little history that I skipped. The summer of 1948 I knew that Muriel and I were sort of engaged,

if not officially, at that time. We had made our minds up that we needed to leave Chicago. I was not a big firm type. I wanted to do litigation and labor law. I didn't like what I saw of the practice in Chicago at those levels and I wanted to be active in politics, but I didn't see myself being active and effective in Chicago. It may have been a mistake. Some of the people I know stayed on and fought with more or less success. But in any event we needed to get away from our families and be independent. So we started thinking about alternatives and I had a couple of classmates from the Northwest and I was admitted to summer law school both at Berkeley and in Seattle, at the University of Washington. I may have flipped a coin and decided the Northwest sounds like an interesting place and I'll go there. So I went to the University of Washington for the summer, and from that point on there wasn't much doubt that it was the Northwest that I wanted to come back to.

Muriel had never been there and I remember her asking—when I said we're going to Portland—asking something like was that the one on Puget Sound? [I asked if Oregon was next to Canada; I'd never heard of Puget Sound.] In any event she seemed perfectly willing to go along and by the time I was there over the summer, I had already made some contacts and had a tentative offer or two.

JC: Stimson Bullitt, did you meet him that summer?

SL: Yeah. Stimson and I, it's the one time I got the highest grade in a course anywhere, and that was in the taxation course. Stim became my friend in law school and I thought I had the professor psyched out, I told Stim what I thought the professor was going to ask—he was just going to want what he gave us regurgitated to him—and we went over the actual procedure so that we could do it almost by rote and I made a wise guess. Stim, who was quite nervous about his tax law, did well and has been kind enough to give me credit, and we've had some association since then.

By this time I had to make up my mind as to where to go and in April of '49 I took a trip through the West with a close law school friend named Julian Mack II whose uncle was the Julian Mack who, with Warren, had helped found the Harvard Law Review. Julian's name was well known and actually Julian's name was an entrée to some of the law firms and so forth and so on, and I made a choice. I remember going down to see Matt Tobriner, who's now a Supreme Court Judge in California. San Francisco was one of the other options that I had considered and Julian had decided to stay in San Francisco. Matt Tobriner, who at that time was a prominent labor lawyer, told me—which reflected my feelings—that Seattle was not a good town for me because of complete Teamster domination at that time. That was the time that the Teamsters were going through the Machinists' picket lines at Boeing. Dave

Beck was in charge. I didn't want to run away from Chicago and the things that were going on there and then to—

JC: Wasn't [Harry] Bridges prominent on the West Coast?

SL: Yeah, Longshoremen. I'm trying to remember. I'm not sure who was representing him just at that time in Portland. Shortly after that I note that Nels Peterson and Frank Pozzi formed the firm with which I later had some association. But what Matt Tobriner told me to do is to go get some experience as a plaintiff's trial lawyer and get general practice and trial experience because at that time, unless you represented an organization like the Teamsters, you could not make a living as a labor lawyer. If you wanted to make a living as a labor lawyer, you better be able to handle litigation and personal injury litigation. There were a couple of unions like the Boilermakers and Teamsters that could afford to pay even half-way decent fees. But all other labor lawyers in Portland made most of their money from personal injury cases that they got from members of the union with whom with they became acquainted.

I'm pleased to say, because there are assumptions that people make from that, that one of the things that was most closely looked at when I became US Attorney was whether or not we had given consideration to labor people for running personal injury cases to us. The most they found was that we sent a \$3 box

of Tillamook Cheese [2 lbs at that time] to union leaders who we had regular business associations with. It just couldn't have been cleaner. But there were some people in Portland and other places who were running cases.

JC: So you must have taken the Oregon Bar?

SL: I took the Oregon Bar, passed it. I went to work and I don't mind saying I made a mistake. I took a job with the firm Lensky, Spiegel, Spiegel, and Martindale. I liked the Spiegels very much—they were sort of contemporaries of mine.

JC: They were brothers.

Tape Two

SL: Yes, and instead of accepting—I had offers in Seattle, Portland and San Francisco—I decided to accept Reuben Lensky's offer, in part because I was told I could start trying cases right away and I wanted a firm that would permit me to be involved in the liberal end of politics. I discovered rather quickly that Reuben was a good deal farther to the left in his politics and a good deal more of a zealot in terms of how he approached both his law practice as well as his political concerns. But I stayed for a couple of years, in part because I enjoyed working with the Spiegels, but I knew that I had probably

made a mistake.

JC: What kind of cases did you try?

SL: Everything from civil to commercial—relatively minor commercial cases—to personal injury cases. I handled some appeals. I remember one case in particular that was almost embarrassing. Reuben was the attorney for a lot of the people who had been flooded out by [the] Vanport [flood] and they were preparing individual complaints in each one of the cases. And I remember coming in, and I had just—remember the Federal Rules had only been in effect for a couple of years [1938] and there had been modifications in '46 or something like that with respect to class actions, and I said, “We don’t have to file a separate complaint on each one of these; we can do it all in one case.” I remember we ultimately did that.

JC: In the Federal Court?

SL: Yes. We ultimately lost the case. Very interesting opinion. I think [Judge James Alger] Fee dinged us on that one.

So in any event, shortly after I was there I realized that that was not the future. What had happened was I thought I was going to be called up as, oddly enough, my bombardier was recalled for the Korean War. Remember in 1950?

JC: Oh, indeed I do.

SL:—and I was told they still had some need for navigators and they were

going to call me up. So one of the things I thought I’d do rather than just wait around—it was a good time to leave—I applied, we went to Washington and we were accepted—conditionally—for the program that was then the Economic Cooperation Administration out of the State Department.

It was the precursor of AID and we were, both Muriel and I, were going to [be sent to] India. But back then, that was the McCarthy era, and it took four or five months to be investigated. So we said, “Okay, what the hell, we’re going to India.” We’d saved up some of our joint salaries—my wife had worked for the Child Guidance Clinic [now the Morrison Center]—and we said, “What the hell, we’ve got thirty-five hundred bucks, let’s just go to Europe.”

We left Portland for six months, bought a little Hillman Minx, and came back to Portland with our Hillman Minx which we were able to take on a Greek ship with us, and drove it across the country back to Portland. It was probably the wisest investment that we’ve ever made because it got rid of our wanderlust. It made us realize that the choice that we made to come to Portland in the first place was correct and, fortunately, let’s see, we had \$35 left to our name, and my wife had a job waiting for her. In a month, well a couple weeks after that, I started doing some freelance stuff for the firm that was Peterson Pozzi—Nels Peterson and Frank Pozzi—based in part on the trial experience that I had had. I was doing

a lot of their appellate work and trying some of their dogs and cats. I participated in the Longshoremen's case and we won our part of it again before appealing Fee's decision to hold the Longshoremen liable for dumping pineapple at The Dalles during the Hawaiian pineapple case.

I was associated with Frank [Pozzi] in that case. I was representing the union, Frank was representing the individuals. No, I was representing the individuals while Frank was representing the union. He brought me in in part because there was a conflict. [of interest]. And I set up my own practice in the Pacific Building, on my own. The firm of what was then Goldsmith, Segal, & Goldsmith, was kind enough—they had an adjoining door from my little two-room suite into their library and they were very kind to me. They'd give me a little extra stuff, and so for a year that's what I was doing [mostly appellate work for \$7an hour]. Still looking for an opportunity to do more labor law stuff. After a year, Paul Bailey—who just graduated from law school, who had been an officer with the Lumber and Sawmill Workers Union while going through law school—asked me to help him try a couple of cases, which we did. As a result of that he asked me to form a partnership with him and that started the firm of Bailey and Lezak on January 1, 1954. So I had one year on my own, approximately, from about November of '52 until then.

Another thing. Our first child, Annie, was born in November '53. That was another thing that we had decided.

When we got back we said, "Enough," as we really wanted to settle here. The day that we came back, the FBI guy was coming up to interview my in-laws as part of a final check on us but we had just decided that we wanted to settle down and start raising children and not go to India, and so we did not.

What happened was that after we came back we stayed for a couple of weeks with Mike and Suse Katz. Mike is now Public Utilities Commissioner and they were old friends from Chicago. Suse, as a matter of fact, had lived in the same apartment building as Muriel and I did. I borrowed \$500 from Mike to make a down payment on one of those little three bedroom crackerboxes in Cedar Hills on Edgewood Road [Beaverton]. We lived there for about—'53, '54, '55—for about 3 ½ years, until we moved into our present home [1811 SW Boundary] where we've been ever since.

JC: Well, 1954, you and Bailey. When did [Don] Swink get in there?

SL: About two years later. Swink had had experience with the Attorney General's office in workman's compensation stuff and also seemed to be a fine fellow. So we—as our practice began to grow it was clear that Swink's talents in workman's compensation would be particularly valuable to us for the Lumber and Sawmill Workers and other unions in workman's compensation cases. My practice was split between labor law, trial of personal injury

cases, an occasional criminal case, and some civil rights cases, and now we begin to get into a very interesting area.

JC: What kind of civil rights cases did one have in those days?

SL: Well, you remember of course that the McCarthy era was in full swing. The major, the first case I got was from a lawyer who was, I would say, a revered figure, Leo Levinson. He was regarded as one of Portland's foremost appellate lawyers and had been, during depression years, a partner of Judge Solomon's and another lawyer named Irvin Goodman who was a far left-wing lawyer who represented many people from the [Communist] Party and its apparatus. During that first year when I was back, Leo Levinson asked me if I would represent some Filipinos who were deported, who were under orders of deportation from this country—we're now talking 1953—for alleged membership in the Communist Party back in 1936.

These people, I just loved them. They were almost illiterate. They still—even at the time, even when I was with them—were not very proficient [readers]. The lead man was Casimiro Absilar and the case is in the books. I came up on that case with arguments, not that I developed myself but were used by an attorney—can't remember his name—in Seattle in a case called "Mango Ang," arguing that the Filipinos were different and could not be deported just for being members of the Communist Party because they

were noncitizen nationals of the United States and were not aliens. In any event, that argument was rejected by the judge in the district of Washington and I came up before Judge Solomon with the same argument.

JC: Who went on the bench in 1949?

SL: I think. He went on the bench just about that time. He may have had an interim appointment and then was ultimately confirmed, of course. I'm sure on other tapes you've got a rather complete story of the problems that Solomon had.

JC: This would have been one of his early cases.

SL: One of his early cases and now, for the time being at least, we're now about to—now, what the hell. The thing that angered me was that Solomon knew these people. He had been in the office with Irving Goodman and Leo Levinson at the time that they were representing those folks. If they had been members of the Party—and I still don't know to this day whether or not they were—they were unwitting members who became members because the Communist Party helped organize the workers, cannery workers, in Astoria and down on the coast, which had brought the Filipinos over in the first place. In other words, if they were Communists, they were bread-and-butter Communists who were not interested in Marxism and dialectical materialism at all or in

violent overthrow of the government. The only help they were getting in getting a union organized was from people who undoubtedly—I don't doubt that those people were, in fact, Communists.

In any event, Gus would not listen to our arguments. That's what made me angry, and we got him reversed in the 9th Circuit, on the holding that the arguments that had been made by the attorney in Seattle were justified. I was, frankly, very angry and probably did myself no good with his Honor by telling a number of people that I thought that Solomon refrained from taking a look at our arguments because he was still so frightened of the accusations that had been made against him during his nomination procedures of being pro-Communist. Even though those arguments were false, he was not going to put himself into a position where he was going to make a ruling that would have caused hackles to rise about whether or not he was pro-Communist, particularly in the light of the fact that a fellow judge in Seattle had already ruled the other way. But I probably said that Solomon's a phony liberal and words to that effect, and there were other reasons that I felt that.

JC: When you became US Attorney the FBI ran a check on you. Didn't those cases come up in that?

SL: Well I can now tell you pretty much what happened because these are now matters of record as well. Among the other civil rights cases that I took on, were two

cases—that became famous— of people who got deported: Hamish Scott MacKay and William Mackie [see Sandy Polishuk, *An Oral History of the Life and Times of Julia Ruuttila* (NY: Palgrave Macmillan, 2003), p. 172]. These were people who came to the United States at the respective ages, I think, of four and two, maybe even younger. Mackie may have even been brought as an infant in swaddling clothes from Finland although he'd been brought [back] there again. These people were not leaders. Again, I do not know if they were members of the Party and I went through hearings with them. They each could have—I think enough time has elapsed and there are no confidences that I think I'm breaching—let's simply say that I'll be very careful about this. I attempted to make some overtures to the Immigration Department. There were people in the Justice Department who recognized that the spectacle of kicking people out who were not leaders of the Party—and in these cases they were both carpenters as I recall, without any criminal records of any kind, family men, at least MacKay was—was not a very sympathetic position for the government to be in. I felt that there might be some consideration given to them and I made overtures to the Immigration Department which would have—which, if my clients had followed my advice—would have resulted in the deportation orders against them being cancelled. And what happened was that I felt that there was countervailing advice being given from people in the Party who wanted

these people to be used as martyrs, and who did not want them to be given any consideration.

JC: They wanted them to be dramatically kicked out of the country.

SL: Which they were, ultimately. And at that point I said, "Either you follow my advice as your lawyer—" and I had said when I took the case, "Look, I want you to know I'm not part of the apparatus here. Either you follow my advice or I cannot continue to represent you because I'm not going to represent what I think are the interests of the Party, I will represent you and give you the advice that I think is best for you. If you don't want to take it then you better get another lawyer."

Now, you must know that I think there were some statistics around that indicated that one in every eight or ten members of the Communist Party in that period was reporting to the FBI in one way or another. The Communist Party of Oregon was sad. It was just thoroughly infiltrated so that anything that happened along those lines was known to the FBI. As a matter of fact, the one time that an accusation was made about me that might have indicated that I was a Communist or sympathetic to them, I remember marching down to see Leonard Frank who, at that time was the head of the internal security deal of the FBI—this was long before I became US Attorney—and saying to him, "Look, if somebody's got something on me fine. I'm perfectly willing

to tell you anything I know but after I've done that and you're satisfied, that I'm not a disloyal American or a member of the Party, or even sympathetic to the apparatus, I would really appreciate my name not being used in connection with interrogations of people about their jobs so as to cause people to have an assumption that somehow association with me is a suspect matter." And I must say he was most appreciative, most cooperative. And I remember talking over these cases with him and my role in it—again not violating any confidences. It was quite apparent that he knew very well that I had resigned from those cases because I was drawing a line between what I felt was my obligation to participate in the fight against the excesses of the McCarthy era but that I could not, that I didn't carry it so far that I felt that I should represent the organization.

JC: Well, at some point you became, I think, Secretary of the Democratic Party of Oregon.

SL: No, it's not Secretary. I want to tell you what happened. What happened was in about 1956 there was an ill-starred effort on the part of the Republican Party [to show] that Democrats were committing vote fraud. So they sent out from the Braley and Graham Buick people a lot of notices with "return requested". They sent them to people on Democratic voting lists and they discovered that a number of those people were not living at the address or getting their mail at that time. And they

released all this information to the press and accused the Democrats of massive vote fraud. Well there was an investigation done and they listed five cases in particular. It turned out, for example, that one of the persons was in the service; one of the women was a medical student at the University of Pennsylvania. None of the cases, when investigated, indicated that there was any fraud at all. But in the next election the Republicans appointed vote monitors to challenge anyone who voted or who registered Democratic and make them prove that they were entitled to vote. In other words it was a vote fraud scare. What happened was, at that time, Jack Beatty was the counsel for the state Democratic Central Committee—I don't even know how we'd gotten to know each other particularly—but I wound up helping organize a phone bank which got a bunch of young Democratic lawyers available to meet the challenge. And what happened was it turned out to be an enormous fiasco for the Republican Party because they were challenging friends and neighbors of people in the lines, they were slowing up the lines, and by noon the Republicans called it off and recognized that they'd made a terrible mistake. In any event, a couple of months after that—and I got a little credit for having helped stifle that effort—so a couple months after that, Jack had to quit as Counsel for the Democratic Party over a personal matter involving a tiff within the Democratic Party, a personal tiff between some people,

that it would have been awkward for him to have remained as Counsel. I don't think it's necessary for me to go into that. And he asked whether or not I'd replace him.

JC: This was a nonpaid position?

SL: Yeah, nonpaying. And at that time, because of the voting brouhaha, there was a joint effort by Democrats and Republicans of good will to draw up a code of ethics for elections, an elections code that would prevent this sort of thing from happening again. And what we engaged in—I got the person who was probably my best friend during those years—who was Phil Levin; and Phil helped me to get a group of people together and we worked with the Republicans. I remember Freeman Homer was the head of the Republican effort. What we ultimately wound up with was something that was submitted to the next legislature and it was a co-operative effort and I think I just left. I don't know what happened after that, I didn't continue on in any capacity. I think it's fair to say I was not a person who was deeply involved in party politics. I had been, I was part of the revolt of the young Turks that got rid of Nick Granett and the Mike DeCicco and the Tom Mahoney crowd, the people who were regarded as sleaze balls by the young liberals back in the early '50's. So I was a part of—with Howard Morgan and Dick Neuberger, and Monroe Sweetland and people like that—a cadre that helped the more liberal group get a hold, take

control of the Democrats as against the old Southern Bourbons who had largely been in control of the party.

JC: But the Democrats weren't winning elections in Oregon, other than perhaps Neuberger.

SL: It was always the case, and I'd have to say, looking back, that I probably voted for about as many statewide Republican as Democratic candidates. So long as the moderate element was in control, they were putting up as attractive or more attractive candidates. I guess it's symbolic of my own feelings that I did not feel that party loyalty was of such a strong consideration that it should override voting for people that I liked, like Tom McCall, and Hatfield. I remember voting for Wayne Morse as a Republican.

JC: Well there was one case, a labor law case that went to the Supreme Court that involved the secretaries of the [Office Employees] Union which later may have had a bearing on some things.

SL: I think that became very important. Paul Bailey—at about the time that we joined together, we were not only representing the Lumber and Sawmill Workers which was the largest union in the state although unfortunately a poor one; but we also began picking up some other business: Masters Mates and Pilots of the Columbia River, and Grain Millers,

and Woodworkers, and Office Employees. We picked up the Office Employees because the Teamsters had insisted that four of their secretaries who were Office Employees become members of the Teamsters Union, apparently because they sat on chairs which were on casters or wheels, and they refused. The Teamsters fired them and Paul got the NLRB to file unfair labor practice charges against the Teamsters on behalf of those four Office Employees. So Paul and I worked up the hearings together and I participated actively in the hearings before the NLRB, cross-examining the Teamster witnesses and so forth and so on. Now, mind you, this was all occurring just about the time—this was '54, '55, just before the McCarran Committee story started breaking in '56, '57 which pushed Bobby Kennedy into such prominence. So it's fair to say, although I don't know if I have such specific evidence of this, but I do know that the fact that I was a Democratic labor lawyer who had been willing to fight the Teamsters—

JC: and beat them!

SL: Yes. The case ultimately went up to the Supreme Court and in a 5 to 4 decision under Office Employees vs. Teamsters it was held—I think it was in '59—that labor unions could be held liable as an employer, any other employer, under the Taft-Hartley Act. And the Office Employees got, I think, ten thousand

bucks back wages. So I think that was a favorable thing, another favorable thing that I participated in.

JC: You think that when Bobby Kennedy looked at the list for US Attorney that didn't do any harm?

SL: No, but I was never on a list. That isn't what happened. What happened, I think, is quite clear. A fellow Princetonian of yours, Harry Hogan, his picture had already been in the newspaper as having already been selected. He was then the District Attorney of Wasco County and had been very active in Democratic politics and was highly regarded. And he'd been highly active in energy law and was a good lawyer and a fine person. Apparently Bobby Kennedy was making a practice of interviewing everybody who was appointed as US Attorney. I say this rather gingerly, that I may have been the only person I heard about who was actually selected to be US Attorney without having been interviewed. But in any event, I got a call. I was not a candidate for anything and I had been an Adlai Stevenson supporter. I was not a part of the Kennedy apparatus.

However, there had been one thing that I'd done. As much as I had liked Wayne Morse for some of his courageousness—Morse ran as a candidate in Oregon against both Kennedy and Stevenson in the 1968 election. He was on the ballot. And he was going around accusing Kennedy—I was a labor lawyer, if you please—and

he was going around accusing Kennedy, he would call it the Kennedy-Landrum-Griffin Bill. Of course it was the Landrum-Griffin Bill, but he put Kennedy's name in there. Morse hoped to pick up a lot of votes from the labor people and he was entitled to have the loyalty of labor people, But Morse was being completely unfair in his representations with respect to the role that Jack Kennedy had played in some of the worst parts of the Landrum-Griffin Bill. And one morning there was a breakfast visit with Jack Kennedy for a number of young lawyers. At the end of the breakfast, I remember Edith Green introduced me to Jack Kennedy and so was present during this conversation. I told Mr. Kennedy that while I wasn't one of his team that I nonetheless, as a labor lawyer, thought that it was extremely unfair to have him saddled with the accusations which Morse was saddling him with. And he was just immediately interested. I remember his discussing with me what he should do to go about correcting that impression. I remember there were some calls later that day or the next day with Steve Smith, who was his brother-in-law, about what to do about that. I don't remember specifically what I said, but I think that was the first long conversation I'd had at which Edith Green had ever been present, which turned out to be interesting. But in any event, I was reasonably content to go on with what seemed to be a growing practice—from which my partners later became a lot

wealthier than I (*Laughs*)—in both labor representation and personal injury work, more perhaps in personal injury work than anything else.

I think it was February 18, 1961, the phone rang. I think it was just before seven o'clock in the morning [SIL was taking a shower & didn't hear the phone ring], and there was a call from Edith Green telling me that Harry Hogan had a very unhappy interview with Bobby Kennedy. I'm not sure if she gave me the details at that time—I later learned what that was about—but it was quite clear, quite clear, she said, that under no circumstances was Harry Hogan going to be named the US Attorney in Oregon. She said that she had been to talk with Jack Beatty and Herb Schwab. Another interesting thing: These were not people who were—of course, well I had had some very close association with Jack as a result of the Democratic Party days but we weren't close friends [yet], nor was I close friends with Herb but I had tried cases against them. They had represented insurance companies. They had said there was a very short list of about five people and that after some consultation my name was up at the top of the list that had been talked about with them and with others, but they had apparently been the prime movers. And I was asked whether or not I was interested in the job. I said, "No." But after—and we talked a little bit, I don't know, "Well," they said, "will you think it over?" I said, "Sure, I'll think it over." And, I don't know, the next day

I expressed some interest. I remember saying, "Look, I might only do it for a couple of years and I want to make sure that it's cleared" — I knew about battles within the delegation. I said. "I want to make absolutely certain that my name is completely acceptable to everybody in the delegation" including Senator Neuberger. Yes. I was then assured that it was.

JC: By?

SL: By? I don't remember at that time, whether it was Mrs. Green, and so forth and so on. Mrs. Neuberger, in what happened, always made it clear that the objection was never to me personally, that she had approved me and thought of me as a friend to her husband and herself.

JC: I think she said that publicly many times.

SL: No question, no question. But she, as a result of the battle over what she felt were Mrs. Green's being given more right of recommendation and patronage and—over advice that she was getting to stand her ground as a Senator, (*Laughs*) she blocked all appointments in Oregon. If you recall, even the Marshall's appointment was blocked. And Paul Carney, who had been appointed in the Eisenhower administration, continued to serve—maybe the only Marshall in the United States who transcended the change of administrations because all appointments were blocked by Senator Neuberger that

required senatorial approval. Now, what was the battle? The battle wasn't over me. The battle was over who was going to be the next United States District Judge for Oregon upon the elevation of Gus J. Solomon [to the Court of Appeals]. And Mrs. Neuberger wanted Alan Hart and Mrs. Green wanted Jack Beatty.

JC: And none of it happened.

SL: And it didn't happen. And it didn't happen because of the battle. I'm now satisfied the reason it did not happen was that because that battle could not be resolved, the Administration just decided, "Let it go," and the appointment went to somebody else. There was no appointment made to the Court of Appeals from Oregon during that Democratic era.

JC: At some point you did become the Acting US Attorney.

SL: Yes, what happened was that the battle raged, from about February to about July in a set of events that I guess could be called rather dramatic. I had at one time said, "Look I just can't take it under these circumstances." And I was offered the appointment as Acting US Attorney which actually meant officially an appointment as an Assistant US Attorney, with power designated by the Attorney General to act as US Attorney. And I had said no that I didn't want to take it under those circumstances, that it just looked like too much trouble. And then Mrs. Neuberger,

who had heard that I would probably not want to take it—from some friend of mine, you know people were friends of mine who were close to all the camps here—made the mistake, at least from her standpoint, of gloating about it as a victory. And partly because I began getting calls from people—including Senator Morse, and oddly enough, Judge Solomon and others asking if I'd reconsider—but partly I resented being made to look like a pawn in this game, I said, "To hell with it, I'll do it." So, on July 4th, no July 1st, 1961, I found myself sitting in the United States Attorney's office. As Acting US Attorney at \$15,000 a year.

JC: C.E. Luckey had been US Attorney during the Eisenhower Administration and had stayed on until that time? And you and he met, and he passed out and you passed in?

SL: Yes.

JC: And that was on the fifth floor of the US Courthouse?

SL: Yeah, friendly, very friendly exchange. And he continued to be helpful. He stayed around as Bankruptcy Judge if you recall. For the next couple of months there were questions that we had to which he was always very courteous about responding and, as you recall, I kept everybody on except one person, now dead.

And I remember my anger. I've had a good press, but I remember my

anger at a column in Doug Baker's—Doug Baker was a columnist at that time. Here I was determined I was going to keep everybody on, and I even gave this fellow a chance for six months. But there was a column that was saying a test of whether or not Lezak is going to run a nonpartisan office is going to be whether or not he retains Ed Georgeff, who had been a prominent Republican. And clearly that was a plant. I gave the guy a chance and after six months it was apparent that no way would any rational US Attorney keep him in office even to make a point, which I was perfectly willing to make about being nonpartisan. As a matter of fact, in fairness to Luckey, I've gotten more credit than I deserve. Of the six people who were left in the office, three of them I think were registered Democrats. Vic Harr, David Robinson, and Roger Rose I think were all—

JC: Vic Harr now at 91 is in a nursing home here in Portland. David Robinson who went on to become and is a professor of law at Georgetown?

SL: George Washington.

JC: George Washington, in Washington D.C.

SL: And Roger's in private practice.

JC: Yes.

SL: And the other thing was that Bill

Borgeson had just been cleared for appointment while Luckey was in office. Bill was a Republican who had not yet been accepted and I okayed his coming on, coming on duty.

JC: You never met Bobby Kennedy before you became Acting United States Attorney?

SL: I did not, I did not. We had seven assistants.

JC: Your salary was \$15,000 a year.

SL: Yes. Now it would have been, it would have been seventeen five if I'd actually been the US Attorney. And one of the things that had happened while I was there was the Lezak Bill was passed in Congress which was partly for the purpose of raising my salary (*Laughs*) to the amount that I would have earned as US Attorney. Good place to stop.

Tape Three

JC: We are doing a second oral history session with Sidney I. Lezak, former United States Attorney. Last time we had covered Sid's background, and had gone through his appointment as United States Attorney. We're going to pick it up today from that point, and go forward. I think maybe the best place to begin that is to simply ask you, Sid, you had been a plaintiff's lawyer, labor lawyer,

and had a few criminal cases here and there, but suddenly you find yourself as the Chief Federal Prosecutor in the District of Oregon. How did you go about approaching this job to learn it, apart from any political philosophies you may have had about it. How did you technically get yourself into a position to deal with it?

SL: I remember coming down to the office on—I think it was—July 1st, 1961. And I remember conversations that I had with my predecessor, Ed Luckey, He was certainly cooperative and wanted to be as helpful as he could but there really wasn't very much that he could do. He gave me an evaluation, on a confidential basis, of the people who were then in the office. I think that I'll not repeat that. At the time I came in, the authorized number of personnel was seven Assistant US Attorneys. There were six Assistant US Attorneys on duty—there was one vacancy at the time— and I invited all of those to remain on. It was part of an early determination not to run this as a partisan political office.

The only person who left within six months was Ed Georgeff, who ultimately became a recluse, had a sad subsequent history, and recently committed suicide. His history within the office had been sad. And I think it's fair to say, looking back, that I probably leaned over backwards to give him a chance to see whether or not the reason for his poor performance was his anger and inability to get along with my predecessor, which he claimed was

the case, or problems that he had. And it became apparent after a few months that there were problems that he had that made it impossible for him to be considered for long-term appointment in the office and I ultimately asked him to leave. There was a little story about that that may be worth mentioning, however. Ed Georgeff had—I think it's fair to say that it had not hurt his ability to get appointed in the first place—that he had been the head of Young Republicans for Eisenhower in 1952. And I think it's fair to say that and—let's put it this way—I know of no other appointment that my predecessor made that had a political tinge to it. At least it can be surmised that there was some extra baggage that Georgeff was carrying that made his relationship with Luckey difficult. But in any event I remember seeing in Doug Baker's column—Doug Baker was then the local gossip columnist, a statement that I have concluded was probably planted by Georgeff, saying that the test of whether or not I would be running a nonpartisan office would be whether or not I retained Ed Georgeff. But it was grossly unfair both as to the situation then and as to the situation subsequently occurring.

One of the few accusations that I never was troubled with was that the office was being run on a partisan basis. I didn't have the problem that most US Attorneys had when coming into office at that time. It was still the fashion in most small- and medium-size offices to replace the assistants on a patronage basis. I

think it made it a lot easier that I quickly established that there was going to be some continuity, and I just settled down.

I guess I spent like 75 to 80 hours a week just reading the files to find out what kinds of things were in the office. Also, it took me a while to learn that I couldn't read everything that came in. I think it's fair to say that my personality style—and this reflected my operation of the office—was 180 degrees different from Ed Luckey's. Ed Luckey was a very competent, very conscientious, lawyer whose regime was best signified by the fact that he signed personally every piece of paper that went out of the office in his own name. In other words, the assistants were not signing. He was also noted for paying enormous attention to detail like the office supplies and expenses and things of that kind. Compared to him I'm a slob. Those were not the kinds of things that I had become the US Attorney for. I had a completely divergent view. I concentrated on working with the people. And I think probably the first order that I made was that what was going out of the office, if a case be handled by an assistant, was to have the name of that assistant. I mean they would sign their letters.

And the other thing that happened was that Ed himself carried an enormous caseload. He was an efficient and, as I say, a good lawyer, and he handled an awful lot of stuff. He was a somewhat—oh, compared to me I'd say shy person—and I think probably found it easier to take on unpleasant tasks himself than to impose

on his assistants. So, in addition to trying to administer the office, he was also carrying an enormous caseload. My hunch is that—and I remember seeing him, we used to go back and forth for at least a few years on the same bus—I remember that he always had a briefcase full of stuff with him. So I give him enormous credit for what he did in that office. But in certain ways he was just entirely different than I was and it soon became apparent that there wasn't a lot that I could learn from him about how I was going to operate the office.

I also want to give him the credit of pointing out that he had appointed two Democrats, with some difficulty, while he was the US Attorney. Both Roger Rose and Victor Harr were Democrats and that made it a lot easier for me to maintain the nonpartisan flavor of the office. The first signal that I think I gave that I was going to maintain a nonpartisan office, aside and apart from keeping people on, was that when I took office Bill Borgeson had been selected by Luckey, for an appointment which had not yet cleared but was in the process of clearing. And I was asked whether or not I would honor Luckey's commitment to let Borgeson's appointment go through, and I did.

JC: He recently retired. And Victor Harr, I'm told, is 91 in a nursing home here in Oregon.

SL: I was unaware that he was in a nursing home, I'm sorry to hear that.

JC: Someone said once that you read all the 302's, which are the FBI investigative reports?

SL: That is correct. Yes.

JC: Now that's a lot of reading.

SL: Not nearly as much then as it is now. But it was a way of—it turned out probably not to have been a waste of time because it gave me a flavor of the kinds of things that were coming in and what the work load of the office was and of the way in which the FBI operated.

JC: How did you get acquainted with the FBI? There is, in some places, tension. I'm not suggesting it was here—between the United States Attorney and their federal investigative agencies.—But COINTELPRO went on at one time while you were US Attorney.—do you recall meeting the FBI or getting into those—how did you become acquainted?

SL: I'm glad you raised that point because it's quite clear looking back that what you had was, you had in effect two different FBI operations going on. You had that FBI operation which related to the courts and criminal charges or civil investigations in things like tort claims cases or applicant matters, and those things the US Attorney would be consulted about. And, as a matter of fact, we had a good deal of control over what the FBI could do in that kind of case. Remember that normally—unlike the

situation in local courts—the FBI could not bring complaints in criminal cases without clearing with the US Attorney's office. And of course we had a lot more that had to be taken to the grand jury, as you recall as well, than was the case in the state court. So we had a good deal more control. Also, even warrants were issued under our authority and direction.

JC: Do you think that is a good idea?

SL: Well, I tend to come down a little more on the civil libertarian side on issues, maybe a lot more than the average law enforcement person. I like the checks and the balance that we have in the system. And I didn't find—let's put it this way—if there was detriment to the way in which the FBI operated because of those controls, I wasn't made aware of it. And there weren't a lot of complaints about it coming from the FBI institutionally itself. Excuse me, I've gone ahead.

Then there was the other part of the FBI which we called the "deep snow boys". They were the COINTELPRO unit and the US Attorney had nothing to do with that operation unless it resulted in a criminal charge. Of course there were very few criminal charges all of the time that I was here that resulted from the activities of the COINTELPRO people, so that if there were things that were being done and we now know that there were, at least by the FBI generally, that I would not have approved of, they weren't done because I winked at them or anybody else in the office. Those

things that may have been done were done simply because they were supposed to be done away from us, without notification to us and, in fact, I'm sure the instructions were to keep them from us.

This is as good a time as any to say that the other thing that probably made it fairly easy for me keep out of trouble and to establish what I felt were reasonably good relations was that I just had a determination that I wasn't going to countenance anything in that office that was inappropriate. I guess, because I keep hearing it back, there's the rule that I became somewhat famous for and you can repeat it.

JC: I'll let you do that.

SL: It was "The Rule of Sidney's Mother". The statement was, I guess when I took office—my parents were still in Chicago, and about to move to Los Angeles, I think they were still in Chicago at that time. I said, "Look! my mother is a very nice Jewish lady who has never to my knowledge told a lie in her life, and I hope you understand what kind of person I am talking about. And I don't want you to do anything in this office that you wouldn't want my mother to see on the front page of the Chicago Tribune." I later changed it, I now remember that I changed it to "The Los Angeles Times." And I said, "That's the primary rule in this office. We don't have a lot of written guidelines and ground rules, and I guess that if you're not the kind of person who can appreciate and

understand what that means in terms of what your conduct is, then you probably shouldn't be in this office." In any event it was—we laugh about it now, but looking back on it— not too bad.

That sort of thing got around and it was a way of saying, in as nice a way as possible, don't come here, Mr. Law Enforcement Agent, with something that you wouldn't want your mother to read. So in fairness to the agencies, they didn't come around with things very often that I felt they should be criticized for. We ran in all those years a clean operation. After I left the office, the best proof I have for this is—we have a very zealous and active American Civil Liberties Union chapter here—that the only complaint in all the years that I was US Attorney against the conduct of our office in which the ACLU was engaged was, again, something that you and I were both involved in, and that was the decision to stop an automobile going to Wounded Knee.

JC: The Ogalala Sioux is the name of plaintiff's case.

SL: That's right. You do remember. And we had faulty information that—this was at the time of the Wounded Knee controversy in South Dakota [1973]. We'd been given information—I think I was out of town, because I remember getting the call from, while I was at Kah-Nee-Ta [meeting Kris Olson (Rogers at that time) who later became USDA under Clinton & Jeff Rogers for the first time].

JC: Indeed, I called you in Kah-Nee-Ta on a Saturday. The FBI, which had prior authorization if certain things occurred, called to say that the car had been stopped in the Safeway parking lot in Bend, Oregon, with various people clearly on their way to Wounded Knee. But instead of ammunition and guns as we had been led to believe, it was full of rice and other food stuffs.

SL: Right. In any event, the ACLU was hoping to make a case against us because of the error that had been made, and I remember from Kah-Nee-Ta ordering that the people be let out. And the ACLU was so sore that we didn't give them the opportunity to test the Travel Act or the Rap Brown Act which they wanted to use to test the case. They nonetheless went ahead with the case and were thrown out. But, to the best of my knowledge, that's the only time that the ACLU had a grievance against anything that the office did.

And, as a matter of fact, as far as the FBI was concerned, there were no cases. There was no illegal wire tapping, to the best of my knowledge. The only wiretap that we ever had any knowledge of was one that was authorized by Judge Goodwin in a major gambling investigation and in that one we'd gone through the hoops in getting all of the authorizations necessary to conduct it. I can say, sure there were a couple of mistakes made, a little overzealousness on a couple of occasions. But by and large the relationship with the law enforcement people was pretty good. They

knew who I was, they knew that I was appointing people—some of whom had the same kind of civil liberties orientation that I did—although obviously not all. There were lively disagreements in the office on a lot of these subjects. There were, undoubtedly, people in the office who felt that I was not pushing the traditional law enforcement agenda enough. From their standpoint they were, of course, correct. But, in any event, the law enforcement people were smart enough to know who they were dealing with and, as a consequence, I think it made it easier for them. They didn't have any doubt about whether or not to come over with things that were over the line.

JC: I was just thinking, jumping ahead a bit to Ron Eachus. There was a file that some radio station left or sold or something, in Eugene.

SL: Oh yes, that's right, if you want me to tell it.

JC: Why not? It's a little out of order—

SL: It's very out of order, but it is one of three or four most significant things that happened and it is right on point. What happened was that I got a call one day from Charlie Porter, well-known attorney who had been a Congressman, who clearly identified with the left liberal side of the political spectrum here. And that's Charlie's saga as a two-term Congressman, and his defeat and his relations with

Castro Cuba—another story entirely that I did not become involved with.

Charlie told me a story about a radio station manager named Ray Carney who was a—what might be called a right-wing groupie. And this had happened either the very end of the '60's or just the beginning of 1970. Ray used to give all the quotes from the right wing magazines, you know, human events and things of that kind on the radio. And he was the manager. And what happened was that the student body head at the University of Oregon, Ron Eachus, a man who later became a state legislator and who is now one of the three public utilities commissioners of the State of Oregon, had gone to Hanoi with Jane Fonda. That, I think, was in 1970. In any event, Carney was furious and started broadcasting material derogatory about Eachus and, sure enough, what had happened was that Carney had gotten his material because an FBI agent in Eugene had given Ray Carney the file on Ron Eachus. Something, of course, entirely improper. Ray Carney left the station.

About a year and a half or two years later the station had changed hands and a young disc jockey or reporter at the station came across a file and noticed that it appeared to be a file on Ron Eachus and he turned the file over to the Oregon Daily Emerald, which was the University of Oregon student newspaper at the time. That newspaper began publishing excerpts from the FBI file showing that

the FBI had turned its file over to Carney and complaining about what the FBI had done to Eachus. And Eachus went to see Charlie Porter and Charlie called me about it and [Eachus] indicated that he had already taken up the matter with the FBI and was about to file a lawsuit, which he ultimately did.

I was furious because the FBI had not reported the incident to me even though I felt there was a possible breach of the law by their own agent. And also it was the kind of thing in which the government was going to be embarrassed and I felt they ought to alert me so that I wouldn't have to find out information from the Daily Emerald or from Charlie Porter. I was sufficiently furious so that I called Washington and I said, "This is terrible." And I said, perhaps in words stronger than that—and at that time, the head of the Civil Division was Bill Ruckelshaus—mind you, we're now in the second term of the Nixon Administration, a couple of years after J. Edgar Hoover had died, but still fresh in our memory. The kind of stuff was just beginning to come out on how J. Edgar Hoover would do exactly that kind of thing to favored reporters on people that he didn't like—most notably Martin Luther King, where he released not only files but tapes showing King's liaisons with women which he thought would ruin him. And I think that was at a time when the COINTEL stuff was beginning to come out, and so I said, "I'm coming back there because this thing has

to be taken care of.” And Ruckelshaus could not have behaved better in terms of my own perception of what his job was because, by that time, the lawsuit was filed almost immediately.

What happened was a result of the conversations with the Ruckelshaus people back there and with the FBI. I remember—Jack, what was his name, the legal counsel to the FBI? John, and it begins with an L, was a guy who was a fellow alumnus of the University of Chicago, and he’s since gone on to a distinguished career, and he was okay. His standards were high for the FBI and he perceived the dangerousness of this to the FBI. Also he could sympathize with how I felt in my position. And to my knowledge, at least this is what I’ve been told, the FBI settled the case by paying Eachus \$1,000 agreeing that what had been done was wrong. Stating not only that it was not the policy of the FBI but that it was in clear violation of their policy and that they would make an effort to let the word out that this was the kind of thing that should not be done, and it was appropriately publicized. I think that was the first time that the FBI paid any money to anybody for a violation of their rights. But that sort of indicates that the way we felt initially carried through and paid dividends.

JC: We jumped ahead with that story, I’d like to go back and ask about Robert Kennedy because he was here twice and I think you met him once or twice out here with mixed emotions.

SL: You’re right in saying I had mixed feelings about Robert Kennedy as Attorney General. I think it’s fair to say—I’ll jump ahead a little bit—that I liked the Robert Kennedy that I observed from afar, although I met him on only one occasion after his brother’s death, better than I liked the personality of the Robert Kennedy that I knew as Attorney General. I think there was something about his brother’s death that humanized him and made him into a much more broad-gauged and thoughtful person. But again I’m jumping ahead and I want to go back. Let’s give him some real credit. The Justice Department was absolutely revitalized by the team that Bobby Kennedy brought in.

JC: And who were some of those people?

SL: People—my hero remains so to this day. I don’t like to use the word “hero” because that isn’t the way I approach people. But I suppose if I had one hero, somebody that I looked up to in the department—and we’ll get into this a little bit later—it was probably Archibald Cox. And I had no idea, of course, of what was to happen to him later that would prove that my initial judgments about the quality of the guy were correct, but—

JC:—who became Solicitor General.

SL: Yes, he was the Solicitor General. And then, of course, there were people like Louis Oberdorfer the head of Tax, or Burt Marshall who had come from Yale, a very

precise lawyer but one that you knew you were dealing with a person of integrity when you were dealing with Marshall. And Marshall took over the Civil Rights Division at a time when it was necessary to have a good lawyer and someone who would stand firm and was sympathetic, at least to a large extent, to the movement at the time. And people of high intellectual stature like Lee Leventhal at Antitrust. The Criminal [Division] was headed up by a person that I subsequently came to know pretty well, and he was the one Republican among the Assistant Attorneys General. That was Jack Miller who later, I think he later wound up defending, oh he's been involved in the Iran-Contra matter defending a couple of people there. But Jack had been involved with Bobby Kennedy in the Teamster and racketeering investigations which, of course, focused on Portland. I guess at some time you must remember to get me to talk a little bit about Jim Elkins and how that came about.

In any event, let me simply say that I'll give at least one earthy example that indicates something about Bobby Kennedy. I was 36 years old when I was appointed as US Attorney. I think I was the second youngest. Brock Adams [from the Western District of Washington] was, I think, only 33 maybe even 32, and I think he was the only one year younger than I. But Bobby Kennedy was only 35 when he was appointed Attorney General and he was very conscious of his own youth and of the criticism about the fact that—you

remember the joke at the time was that his elder brother said, "I wanted to give him a little experience before he went out into the real practice of law," or words to that effect. And I remember the first visit that I made to his home at Hickory Hill in McLean, Virginia.

This was a group of US Attorneys. I went back in August. I was appointed in July, and I went back in August—almost immediately after I had started serving—for a training group with the US Attorneys who had just been appointed. By the way, it was interesting. I think I may not have mentioned, I was the one US Attorney, I was told, who got appointed and—remember, I was serving as acting US Attorney at the time but I had the nomination—that he had never met before because of the exigencies of the circumstances out here in Oregon and the necessity to move on it, because of the fight between the people involved. So he'd never met me and I remember lining up, in line (*laughs*), with the other US Attorneys to meet him.

It was a hot day and we all had our coats off as I recall, and I noticed that his fly was unzipped and, as I passed by—but all these other guys, many of whom must have noticed the same thing that I did, obviously didn't say anything about it—but I thought I was doing him a favor. I told him his fly was unzipped. He was sufficiently insecure in his position that you could tell that he resented somebody who pointed out to him that he was in a position of being embarrassed. And later that afternoon I was standing around the

swimming pool, I was standing near him. I'm not sure, I don't remember exactly whether or not he was right there and whether he was the one who made the statement to me or not, but he said, either he or somebody in his presence, said, "Fire David Robinson."

JC: Who was?

SL: David Robinson was an Assistant US Attorney who had been appointed by my predecessor.

JC: A Democrat.

SL: David probably was a Democrat. I think, and a distinguished professor of law used extensively by the Justice Department as a consultant. And, interestingly enough, his students view him as a right-wing stalwart and frequently joke about him being slightly to the right of Attila the Hun, and send him medieval weapons and maces and torture weapons with which his office is lined to signify his strong law enforcement orientation. How important this is I don't know, except to tell you that this is not somebody who was even then what was called a "knee-jerk liberal". David had a strong law enforcement orientation. David was somebody that I knew slightly. I'd known his father. His father had been a distinguished lawyer who had been president of the Portland Rose Society, president of the City Club. David was only a few years younger than

I, perhaps, five years younger than I. But I had worked on—his father had been leader of a group back in the early '50's—that I had worked with to write the first public accommodations law in Portland working with the NAACP and some of those folks. And I'd followed David's career, and I knew that Luckey thought very highly of David.

And then, I remember asking why. I was told there'd be some information available. I mentioned that I was really reluctant to do that. I had a little bit of information about a problem that David had had when he'd been a Deputy District Attorney and had attempted to prosecute Jim Elkins, and Elkins was tried in state court. And Jim Elkins, you'll recall, was the star witness for Bobby Kennedy in the Portland investigation against the Teamsters, who had taped the District Attorney who got relieved of his job, and had taped some of the Teamster officials, and whose information was used as the basis for some charges that were brought against some people in Portland. I won't go through the whole Portland thing now except to say that for a couple of years, from 1956 to 1958, the community was in turmoil over these investigations with the two newspapers—one newspaper, the Oregonian having taken the pro-Kennedy, pro-Jim Elkins side of the case, actually, two reporters for whom I have a high regard having won a Pulitzer Prize, Turner and Lambert—and the Oregon Journal having taken the opposite side—

in a bitter vicious fight in which the community became involved on one side or the other.

In any event, Robinson had prosecuted Jim Elkins. There were some strange things that happened in that case which was before Judge Oppenheimer. I think those things are sufficiently confidential because they involve personal attributes alleged to Judge Oppenheimer of which I have no personal knowledge. I think, even though I'm being rather free with what I know of my own knowledge, I ought to be a little delicate about that. In any event, suffice it to say, the case against Jim Elkins was dismissed by Judge Oppenheimer. It was a strange case involving the robbery of a Safeway store in which Elkins was supposed to be involved and the evidence against him was quite good, that somehow he was involved in this thing even though he was quite a wealthy man and ran houses of prostitution as well as gambling operations. Strange circumstances!

The next day I went into Byron White's office— Byron White was then the Deputy Attorney General— and I was given a document. I regret enormously not having retained a copy of that document. In my mind there's no doubt who prepared the document. The document was prepared by one of the most difficult people that I've ever come into contact with in my life and that was Arthur Kaplan. Arthur Kaplan had led a runaway Grand Jury just a few years before, here in Multnomah County. He

had been an Assistant Attorney General under [Oregon] Attorney General [Robert] Thornton and that Grand Jury brought in 115 indictments, I think only one of which resulted in a criminal conviction. And Arthur Kaplan, later, was the investigator who made allegations against Bill Bryant which, I think, cost Collier's magazine something like three million dollars. There were a number of cases— wherever he went he was a problem. He was an interesting bright fellow who, in my opinion, became paranoid. This document had absolutely outrageous conclusions that only an extremely bright person using the thinnest of reeds could put together as an enormous conspiracy in Portland involving the federal judges, involving David Robinson who had prosecuted this fellow, involving Ron Sherk, an FBI Agent who was kind of a liaison to our office.

By the way, I want to make it clear, all of these events were events that had happened prior to my becoming US Attorney and with which I had absolutely nothing to do. I was completely divorced from any of these events. But all of this enormous conspiracy was seen by Robert Kennedy—and one of Robert Kennedy's qualities both good and bad—was that loyalty up, was rewarded by loyalty down. But what Arthur Kaplan had done when he ran into all of this trouble, he had run to the Justice Department and run to Kennedy and given Kennedy all of this information some of which was good in the initial instance but the conspiratorial

part was just crap. But it was the basis of my being told to get rid of David Robinson.

I replied almost immediately. "I will certainly investigate, you know, these allegations but I want to tell you, I cannot continue as US Attorney, or running this office if my office is going to be run by the desires of James Elkins, as to who should be an Assistant US Attorney," because the case against Elkins was still alive at that time. These things were very much alive. And the question was, who from this era were we going to prosecute, because there were people who believed many of the allegations that had been made by Kaplan and felt that with Bobby Kennedy coming in, all of these terrible people who must have committed these awful crimes, were going to be charged with Federal crimes. And I said, "I'll look into it, but I have to be convinced that this is the right thing to do."

JC: Did White respond to that at all?

SL: Well I later sent a, no—he said, "That's fine." Oh yes, I had no problem with White.

JC: Robinson, obviously, wasn't fired.

SL: Well I can go on and on about that. There were a couple of people in whom Bobby Kennedy had real confidence in Portland who understood what had occurred and with whom I was able to talk and who backed up my own suspicions about what

had gone on. And fortunately these were people of integrity who were on Bobby Kennedy's side of these issues, and who had—one was Elkins own lawyer, who was Walter Evans, now deceased. And the other people who knew what the situation was about and with whom I was able to talk, were Bill Lambert and Wally Turner, the two reporters who won the [Pulitzer] prize.

I satisfied myself that, in fact, Robinson's version of what had happened was the absolute truth. There was absolutely not the slightest attempt on his part to dissemble. I felt that letting him go under these circumstances would not only be damaging to his career, but that this was a fight worth fighting, and that the job wasn't worth the price that I would have to pay personally for succumbing to that. And that battle went on for quite a while, I guess, because—there's no harm in saying that somebody else from Portland who was in the Justice Department, who knew something of the circumstances but who was not very optimistic about our chances of winning the fight, was Jack Rosenthal now that editor of the editorial page of the *New York Times*. At that time he was Ed Guthman's assistant and had been himself an *Oregonian* reporter and had gone back to Washington to work with Public Information as Deputy Director of Public Information for the Justice Department in the Kennedy Administration.

While this was all going on I sent back the, what I considered—mind you, I've never been told officially that the

document that I'm referring to came from Kaplan but there's no question in my mind that that's where it came from. I sent it back to the department. I don't remember what the reasoning was that I shouldn't keep it at the time. In any event, I maintained good relations with Byron White and I think he was helpful and I think the people who I mentioned finally went to Kennedy's people. I remember also talking with Jack Miller and Bill Hundley [William G. Hundley], who was the head of the Organized Crime Division, also a Republican. Bill Hundley was ultimately our Attorney General's—the big enchilada—John Mitchell's lawyer in his case. And Hundley and Miller came up to visit Portland for some other reason. I remember sitting with them on my deck and going through this whole thing with them, and they knew that I was right.

I've said to myself a hundred times, there have been two or three occasions in my life when, on important things, I'd been about 100% right, and this is one of those. And there are a few other people who are aware of this. I think David is now willing to share this story with others. One of things that we have to be concerned about is that before you release any information about this I want to make sure that David Robinson has an opportunity to know about it.

In any event, when Bobby Kennedy came out to visit, that fight had just then been resolved. I'd just then been told, okay, you can retain David Robinson. And I guess I'd better add, in candor,

what I think the clincher was. When I thought that I couldn't win it and that I was going to have to go and embarrass the administration, I went and talked to [U.S. Senator from Oregon] Wayne Morse. And Morse, number one, encouraged me to stick to my guns. I felt that I had a duty to the public, and that in this district Morse represented the interests of the people of this district. I think that when it was found out, as I think it was, that Morris would raise one hell of a stink about this if it happened [i.e., that SIL would resign over this issue], I think that may have helped clear it up.

Now, when that happened, that was at a time when Morse and [Governor, then Senator Mark] Hatfield were very friendly. That was before their later feud. They were working very well together. I'm reasonably certain that Morse told Hatfield about this. I have a feeling that—talk about you've cast your bread on the water and chickens coming home to roost—I have a feeling that the knowledge that undoubtedly reached other officials in the Republican Party, the knowledge that I had stuck to my guns in a battle with Bobby over the operation of the office on this issue, may have played some role in the later determination, eight years later, that I was somehow worthy of being considered to go on in the later Republican Administration. In any event, I like to think that. In other words, I'm enough of a romantic that I like to think that having put myself on the line, that I can tell that story, that occasionally you do something

right and you do get your reward. I don't have much belief in heaven and hell [he had none; mdl] so I'm delighted to be able to at least believe that I had some reward for doing something right.

JC: Some people always ask, "Do you remember where you were on the day you found out Jack Kennedy had been killed?"

SL: Absolutely. I was in the office and I remember Irene Gleason was listening as she occasionally did—I think her name was Gleason, well maybe now Maas. I remember her telling the office that she had just heard on the, she was listening to music while she was typing and there was an interruption, that the president had been shot. I remember that next day, that I was scheduled to, and did, go to Burns, Oregon. We were to meet with Judge Kilkenny, to do a view of the land in one of the most interesting cases that was tried, the Lake Valley case in which of course you were involved, which was tried that next month, December of '63. I think that's right. In Pendleton.

JC: That case, which we sometimes refer to as the Harney County Land Development case, was that one of your first big federal trials?

SL: Yeah. I had had some federal labor cases and I had had several personal injury cases in federal court and a products liability case and I'd had, as a matter of fact—this sort of gets me back to Gus

[Judge Solomon]. Two of the very worst experience that I'd had as a trial lawyer came in cases in which Gus played a role. In each case, on a discretionary call—this was while I was representing the plaintiffs—in each case on a discretionary call causing me to lose a case. I remember in connection with my appointment—I don't know if I had mentioned. that I went up to see Gus Solomon to tell him. I thought it would be—he was Chief Judge at the time, and one of the reasons I had initially said "no" when I was first called, why I was hesitant, was that I did not have a good relationship with Judge Solomon. I think I mentioned one of the reasons why was over that Philipino flap. I don't think I've talked about this at all.

I think that I've mentioned that Phil Levin and I were the only two young Jewish lawyers from good schools who did not sort of sit at his feet and were independent. Phil because his father knew Gus, was required to be more polite to him than was I, so even to that extent I was even out alone. But I had good luck and a pretty good record. As a young lawyer I got my **A-V** rating for a plaintiff's lawyer fairly quickly and, as I think I've mentioned, my primary recommendation [for US Attorney position] had come from two fine lawyers, Jack Beatty and Herb Schwab who had tried cases against me. I had an opinion of myself as a reasonably competent trial lawyer. I won my share of cases and had reasonably good results, and I had good results in cases before Judge [Claude C.] McColloch, even Judge

[Wm. G.] East. Judge [James Alger] Fee—I only had one case that was not a good experience.

But Solomon was just extremely difficult for me. And I went up to see him saying, “Look, I want you to know—” He was surprised. He had known Harry Hogan who was supposed to have gotten the job, was sure that that was going to happen, and would have been pleased. And I told him that he’d be surprised to hear that I’d been asked to—

Tape Four

JC: This is oral history with Sidney I. Lezak on December 14, 1988. We had been talking on the last tape about Sid going up to see Judge Solomon at about the time of his appointment and talking with him about that.

SL: All right. And I said it. What little knowledge I had about this job would indicate that if there isn’t a good opportunity for at least mutual respect and a working relationship between the Chief Judge and the US Attorney, the job could be both unpleasant and it would hinder my effectiveness. It was a pretty wise—gee, I’m talking about all the wise things I’ve done. We’ll get to some of the foolish things I’ve done in time, but it turned out to have been at least a wise thing to have done. He was very gracious. He said—and it’s funny how clear my memory is

of this—I remember him saying, “I know that you haven’t done as well in my court as I understand you have done in other courts.” He said, “I hold you to a higher standard because you’re a graduate of the University of Chicago Law School” (*laughing*). Didn’t make me feel very much better about my poor clients in cases where I thought their rulings should have gone the other way.

But in any event, I remember him saying, “I know enough about you to know that you have a yen for public service, and my recommendation is, that you take the job and I don’t think the problems you’re concerned about—I’m grateful for your telling me—and I don’t think the problems you’re concerned about ought to deter you from taking the job.” I suppose if I’d known some of the problems I was going to have a little later, I would have thought twice, (*laughing*), but that was at least encouraging and it helped tilt me towards saying, “Okay, I’m more interested in doing something like this than I might have otherwise been.” Now, I want to go back to answering your question, which was?

JC: Which was about the Harney County Land Development Company and Abraham Koolish and that wonderful fall of 1963.

SL: There were some other issues that I can’t pick up. I’ve lost the train of why I went into the Solomon thing when you asked about that at this time. Also, I want

to remember to pick up, perhaps in order, a couple of the cases that were pending when I came in, particularly those against Phil Weinstein and Reuben Lensky that created problems for me at that time.

JC: Yes. Would you like to do those now?

SL: Let's do that now because it's a little more in chronological order. When I took office, part of the reason that I was working my tail off was that I had to decide almost immediately on what the office role and my role were going to be in a couple of cases that were investigations that were pending at the time. One investigation in one case was actually set for trial. Let me first talk about the investigation into the conspiracy to fake automobile accidents, the phony accident conspiracy. There were, I think, 15 defendants in the case.

And what happened was that when I came in to the office—I don't know if Luckey had been prepared to try that case, or not—but in any event one of the problems that I had with letting David Robinson go was that David was actively involved with that case. This was a case that involved a scheme to stage phony accidents and refer them to one particular lawyer in Portland. It was being tried as a federal conspiracy case. One of the problems that I had in coming into the office is that I'd regarded Phil Weinstein as somebody who was unethically running cases at that time and had for years. As a matter of fact, I had one client in a case when I was in private practice who had been

approached on behalf of Phil Weinstein, I think by one of the police officers who investigated the case. Phil had a tight relationship with certain police officers as well as with certain other persons who were helping him get cases. And I think I may have made some remonstrance at that time so it was quite clear that my own relationship to Phil Weinstein was—I was uncomfortable with personally taking that case over, aside and apart that that would have taken all of my energy—a 15 person conspiracy case. I called for help from San Francisco and we got a guy named Larry Burbank, an Assistant US Attorney from San Francisco. Larry was a good trial lawyer in terms of his technical ability, but Larry became a zealot about the case—

JC: Did he wear a gun?

SL: Yep. Got a gun permit. I remember he used to go into the Congress Hotel and he would always insist on sitting at a table with his back to the wall so he could see who was coming in. Whatever loose talk there was that justified his feeling that way, I feel looking back, that there was an overreaction on his part. In part, there was almost a *folie à deux*—a French term meaning a kind of craziness created when two people form a common obsession—between Larry and the lieutenant in the sheriff's office who was investigating the case. They were convinced that this was some sort of massive violent conspiracy in which their lives were in danger. And they had just—not quite on the same

level as the Arthur Kaplan paranoid progressions that I had talked about. But what had happened was, while I stayed out of the trial and decision-making process of the case, I was interested because it was affecting the office to such an extent. There were constant allegations of overzealousness on the part of Burbank and some of the officers and I had to at least fend those off and deal with them in some way, maintaining my posture of not being the decision-maker in the case.

Looking back on it now, what had happened was that they had put Phil Weinstein in the conspiracy to stage the accidents. And when you look back at the evidence as the court of appeals [did], the evidence just didn't justify any accusation other than that Phil Weinstein was willing to accept cases which were being referred to him by Barnard, the leader of the conspiracy, and was giving some recompense to Barnard for the referrals of the cases. I think, had he been charged for being an accessory after the fact, knowing that he was taking these cases under circumstances where their origin was suspect, that might have stuck. But they were so anxious to get Weinstein that they overcharged him, overtried the case against him, and the case against Weinstein was reversed. He ultimately and appropriately got disbarred for his activities in soliciting cases.

JC: The other one was Lensky whom you talked about in your early association when you came to Portland.

SL: Yes, mind you I had to stay out of that case completely. My relationship with Lensky was strained as a result of my early association. But again, I was at least knowledgeable about what was going on in that case. I must say, in that case I don't really have any fault to find with the investigators. I think that what happened in Lensky's case, it was also reversed.

JC: The judge having died in the middle.

SL: The judge, yes, who would have convicted him died in the middle and it was turned over to another judge, a judge from Nevada. No, wait a minute. I can't remember which judge ultimately took it over, but that judge also found him guilty. Mind you, it had started out as a jury case, and then the judge died while the jury was in the case and then it was agreed to turn it over to a judge from out of the district. And he found him guilty, he found Lensky guilty.

JC: If I recall, we got help from Charlie Alexander.

SL: Well, we had asked the department to come and take over that case so we had Charles Alexander and the wonderful southern guy. Both of them tried the Lensky case. I'll think of it [his name]. In any event, a wonderful guy. They took over the Lensky case and they handled it from outside the district because of my previous association with him. I think it's also fair to say that there was

a certain amount of—If you'll recall that the reason why Lensky was freed, it was because there was a statement in the investigator's report—Al Duchene was the investigator—he said something about Lensky's political affiliations as being left wing. From that, Judge [J. Warren] Madden of the Court of Appeals with whom Judge [Oliver D.] Hamlin went along—Judge Madden was actually a Court of Claims Judge who was sitting out here as a visiting judge and was a certified liberal, a man whom I admired by the way—overreacted to what he still thought were the influences of the McCarthy era and took what I saw as a fairly innocent reference, just in identifying Lensky, as somehow a statement to indicate that the IRS was going after Lensky because of his left wing views. And that was used as a primary reason for overturning the case. Judge [Richard] Chambers dissented in that case rather bitterly. So I had a couple of exciting things facing me right when I came in.

JC: And then along came this mail fraud case in 1962.

SL: 1962, yeah, within a year after I took over, maybe even sooner. There were so many things about that case I remember. I remember that the main problem that we had was getting the file from the Federal Trade Commission which had investigated the case and decided, for reasons that I've never understood, not to do anything about it.

JC: We are speaking by the way of a case which in the Court of Appeals is known as Phillips vs. The United States of America, and which is found at 356 F.2d 297. 9th Circuit 1965. But we're talking about the trial level of that now.

SL: I remember the hoops we had to go through in order to get that file. And I remember talking with one of my favorite people of all US Attorneys, the head of the Fraud Section. A guy named Nathaniel or Tully Cossack and Tully looked like a New York prize fighter who had gone a few rounds. His voice was pure gravel and his experiences matched both his appearance and his voice. I remember him saying, "Sid, let me tell ya," he says, "It's like two different governments" (*laughing*). In any event we had high level negotiations which finally enabled us to get that case file, and I remember there were just so many things about that case—

JC: Which Kilkenny tried in Pendleton.

SL: Yes, it was in Pendleton.

JC: It was about mail order land fraud.

SL: It was the first remote land fraud case to be successfully prosecuted in the United States. Roughly the facts are, I think: There were 14 thousand parcels of land put out in this remote area of Oregon, 320 miles from Portland, 22 miles south of Burns, Oregon around Harney and Malheur Lakes. Malheur

Lake is a swamp and Harney Lake is a dry lake which very rarely has any water in it at all. The development was known as Lake Valley. I'll skip ahead by saying—so that you can get some idea of what this land was like—that one of the defendants was Abraham Koolish. Abraham Koolish was perhaps the, I think somebody said he was the father of mail fraud in the United States. He had been responsible for coming up with the idea that you could send things through the mail for charitable causes and that people would send you money and that it was alright for most of the money to stick to your hands as long as you gave a little bit of it [to the charity].

He had been convicted, even before we got him, on the Sister Kenny Foundation—[for treating] Infantile Paralysis [charity mail fraud case]. Miles Lord, then US Attorney, later Federal Judge and now a famous curmudgeon, tried him on that case. And what was interesting was that he never saw the land and was looking for something clean to get his son involved in. And in fairness, I think as the evidence ultimately showed, he himself—when the facts about what he had bought into and invested were shown to him—was somewhat surprised. My favorite story out of that case is that Abe Koolish was represented by Bill Morrison and another legendary Portland figure in Oregon legal annals...

JC: But there were more than that going down the roster, Earl Bernard—

SL: Earl Bernard, Dennis Lindsay! We had a wonderful cast of characters and you. It was your first big case I think because you—

JC: First big case, Donal Sullivan—

SL: Donal Sullivan. Don had the case and I was sort of sitting back and kind of monitoring what you guys were doing.

JC: My recollection of that was that there was a suspicion that Morrison would try to get Sullivan's goat and get him angry so that you sat between Sullivan and Morrison to take care of him, while Sullivan tried the case and I assisted a little.

SL: And I did some of the direct and cross-examination as well and the final argument—the closing argument, I should say. In any event, the government is introducing wonderful witnesses—the lady from Austria who brought her skis out. This had been advertised as the heartland of central Oregon's vacation paradise and they'd put up a picture of Ice Lake in the Wallowas—absolutely beautiful glaciated lake, which was 180 miles from this area—as though it were adjacent to this land. And this lady had brought her skis on her visit out to this land. Of course this land is just flat, flat, flat sagebrush, as far as the—greasewood I mean, even sagebrush wouldn't grow there—as far as the eye could see. In any event, Bill Morrison is asking Abe Koolish, "How come the government is bringing in

all these witnesses who bought this land—people from the Philippines, from Hawaii, a black lady from Milwaukee, an Irish cop from Seattle, all kinds of people who were purchasing this land—but Abe, there isn’t a single Jewish witness?” And Abe says, “No. Jews wouldn’t buy it. It’s too far from a kosher delicatessen” (*laughing*). Well this land was too far from a kosher delicatessen and ultimately the jury convicted. And we got a major contribution to the law in that case, correct me if I’m wrong. It was established that jurors or that witnesses could get on the stand and tell the jury what their impression of the land was from the advertisement—

JC: The questions was, “Looking at this exhibit,” which was the color brochure of Ice Lake and all, “looking at that what was the impression of the land you were buying?” And that was strenuously objected to and was allowed as past sensory impression, presently recalled.

SL: Right. And another incident—and of course, part of this is to sort of give some flavor of what it was like working with the judges in our district. Now mind you, we were trying this case out in Pendleton. It was the biggest case that had hit Eastern Oregon in years, if not decades. Everybody in Eastern Oregon was enthralled and excited about this case, and here was Judge Kilkenny coming back to try this case in Pendleton, which was of course his hometown. And I remember

that Donny Sullivan [*later, Bankruptcy Judge Donal Sullivan*—I’m not sure if you were there with us on the night before the trial—and we were concerned about how we were going to fit all the people into that courtroom. So we’d gone in to take a look to see if we could arrange the tables. And we were arranging the tables so that people could conveniently sit there, but thinking we were doing the court a favor. I don’t remember that we were doing it specifically to take—designating where we would sit or taking any particular advantage because I don’t have any views about whether I want to sit one way or another with respect to the jury—but I was concerned about getting the number of people in at the table. It’s about 9:00 o’clock at night, after we’d had dinner, and in walks Judge Kilkenny, and you would have thought that we were sitting in his favorite lounge chair (*laughing*) at home in front of his fireplace. I have never had a stronger feeling about turf in my life. “WHAT ARE YOU DOING IN MY COURT ROOM?!” It was like finding the bear catching Goldilocks, and we were trying to explain that we had become concerned about the way in which people would sit and it was quite clear that we were not welcome to make suggestions as to what should be done with Judge Kilkenny’s PERSONAL courtroom, in Pendleton. There isn’t much doubt in my mind about what its name shall be, is it—

JC: It has been named.

SL: It's already named while he's still alive?

JC: Yes, it has been—Kilkenny Courthouse.

SL: That is interesting. I knew that, I guess, and of course it's not surprising although I don't generally believe in things being named for people who are still alive.

JC: You spoke in that case of making the rebuttal argument. Don made the closing argument for the government, and then the various defense lawyers made theirs. It was one of the occasions for Earl Bernard to make one of his "reasonable doubt" speeches for which he was famous, but it was Morrison who made one of his—I think Dennis Lindsay has called him the slasher, meaning when he slashes you you're dead, but if he misses he's dead. Well he made what would be a slashing attack on the government and its prosecution. The thrust, and I thought it a gamble at the time, the thrust of your rebuttal was taking a rather lofty tone to say that you were concerned that the jury would not take their lawyer Morrison's argument so seriously, that it would not be fair.

SL: Right.

JC: In other words, the vitriol that he has spread, and that was your word I believe—

SL: That is true. I do remember that.

JC: The vitriol that he has used should not deflect from fair consideration of the case—a kind of risky gambit.

SL: Well you know, things always work when you win, and they don't—

JC: The school superintendent was the foreman of the jury—

SL: and they don't when you lose. But I remember that I had heard that Mrs. Kilkenny thought that that was a good argument and that she was furious at Bill Morrison, who was a close friend of the Kilkenny's, for that argument.

I also remember who came into the courthouse, just happened to be there visiting. One famous lawyer, justifiably so, Albert Jenner of the former Jenner and Dock, who stopped through to pay his respects. He was also, of course, the attorney for Abraham Koolish in the case against Miles Lord and I remember Lord telling me that, "Jenner was so furious at me in that case he had told me, 'Lord, you'll never be a Federal Judge' " [he was appointed a US District Court Judge in 1966, retired in 1985]. Jenner at that time was on the Bar Selection Committee, I think, or something of that kind. I like Jenner, by the way, and I want to make it clear if anybody's listening to this that these are the kind of things that happen to very decent people in the kind of rage that this kind of antagonism produces and should not be taken very seriously.

JC: Mrs. Kilkenny sat through that argument.

SL: That's right. I remember that. In any event, we could go on and on with our recollections in that case. I still have recollections of Dennis Lindsay being so grumpy in the mornings. We'd run into each other at breakfast. They were staying in a fancy place, we were staying in the Imperial 400, as befits the government. This was tried a month after Kennedy's death.

I think this is a good time to quit. What I'd like to do is make a note of it some way, although it's been published elsewhere—I'd like to start out with one of my favorite anecdotes. I remember that Justice Black spoke to a 9th Circuit Judicial Conference in Glacier [National Park; 9th Circuit Conference] one night. It was the hottest night in Glacier's history, there's no air conditioning there, and Justice Black—after a long, long cocktail hour and a long, long dinner —went on for over an hour and twenty minutes telling southern stories about obscure southern politicians. I remember it was one of the greatest disappointments I've ever been subjected to of this kind because I had a good deal of admiration for Justice Black. Somebody said, "He is in his anecdotage," and I remember that and, obviously, I'm now approaching that as there's so much that I want to get on record.

JC: Then one begins to get to the selective

service problems that come slowly at first but which go on for a good many years.

SL: I think we'll start—because I think it tells so much about my attitudes, in the way we were trying to deal with this—about the sit-in by the Reed College students in the post office—

JC: On Saturday morning—

SL: . . . in 1964, which was right at the start of the protests.

JC: Yes and how they all were left at the Courthouse. The next time we will take up with that, and the long difficult problems of the Vietnam War, which carries on into the Nixon Administration. Then somewhere in the next time I'll ask you where you were on the Saturday of the Saturday night massacre. We can have some fun with that.

SL: Let's not forget our evening in the Congress Hotel, listening, I thought you were there.

JC: I may have been.

SL: It came over the television, and I had come back from Washington just the night before saying how delighted I was to be working for Richardson and Ruckelshaus and feeling that Cox was getting this thing out. Yeah, we can't forget that. [*recording stops abruptly. End of Tape 4, Side 2*]

Tape Five

JC: This is the third session with Sidney I. Lezak the former United States Attorney for the District of Oregon. My name is Jack Collins. I served with him. We are talking about some portion of his tenure. In the prior two sittings, we had got him appointed United States Attorney and had brought this history from his early years as first “acting” and then as United States Attorney up to a time that was about the beginning of the Vietnam protests. As a place to start today, I thought he can recall for us a Saturday morning when Donal Sullivan was his First Assistant. I was an Assistant, happened to be in the office that morning at the Courthouse, and we received a telephone call that there had been an occupation and a sitting in of some numbers [of people], at the Pioneer Court House. Whoever it was wanted to know what we were going to do about it. And the story begins there because Sidney and Don Sullivan went down to the Pioneer Court House about 11:00 in the morning. Let him tell it. Sid, do you remember it?

SL: Fairly well. This, of course, was a Saturday morning and the closing hour of the post office was at noon. It was shortly before noon that I actually first began to hear of it. It was obvious that these folks intended to sit in unless they were forcibly moved or arrested. So I went down there with Don and I spoke to them. I told them that they could make a record of

their protest by signing a sheet indicating that they had risked arrest by refusing to move unless threatened with arrest, and that I would guarantee that their protest would be conveyed to the White House. And it may be that one person out of approximately 50 accepted that. What I found out down there was that they were all—they were a group. I think it’s fair to say that they were primarily college students and, that of the college students, they were primarily Reed College students. There were a couple of mothers sitting with very small children and they were sitting down in the lobby of the Pioneer Post Office where they had been for an hour or two. I think we made other efforts to persuade them that they should leave under circumstances where they could register their protest. All of this was to no avail and it became apparent that they were not going to leave until they had expressed their martyrdom in some form by being arrested. At that point it was our idea to call Judge Kilkenny, who was the only judge available, and to get Kilkenny’s permission to release them on their own recognizance after having made the arrests and Kilkenny somewhat reluctantly agreed to that.

It’s fair to say that Kilkenny was not a judge who was particularly sympathetic with persons who were engaged in civil disobedience and protests. There had been one incident where somebody had tried to get down the flag at the Courthouse and that had particularly enraged him and we

had decided not to prosecute because it was not successful. I'm sure he viewed me as being somewhat soft-headed compared to him. Those were his own views.

But in any event, he did accede to that and so what we did was—I went back and I advised them that they were now under arrest and asked them to march out in a column out of the courthouse and line up along the side of the street below the lawn in front of the stairway to the courthouse. And they did this singing “We shall overcome” and other songs of the '60's era, obviously taking some pleasure in their coming martyrdom and, I'm sure, expecting to go to jail and further glory. After they all lined up and I was sure that the Marshall had closed the door, I announced to them in as loud a voice as I could muster: “By order of John F. Kilkenny, Federal Judge, United States District Judge for the District of Oregon, you are now hereby released upon your own recognizance. That means, don't call us, we'll call you.” At which point a roar of protest, came from the group, but they dispersed.

The next thing that I did was to call Senator Morse's office. I think I may have talked with him very briefly personally, but I think I gave the details to one of his assistants. I asked that he send a telegram—you must remember that Senator Morse was one of the only two senators who refused to vote for the Gulf of Tonkin Resolution—he and Senator [Ernest] Gruening from Alaska were the two dissenters—and Morse was the hero

of the anti-Vietnam War movement, both then and after, as a result of his sharp attacks upon the president, which I remember very well. In any event Morse, without much persuasion, agreed that this kind of thing was not something that he wanted to be identified with as a way of effectively protesting the war. He sent a telegram, which we had published, to the effect that actions of this kind were actually deleterious to the peace effort, and that effort should be better and more effectively devoted to protest along peaceful lines, not disruptive of the normal functions of the government. That helped—I think—stem any outrageous conduct that might have arisen from anger by these people being deprived of their martyrdom.

JC: I think you also notified the Justice Department about this.

SL: Oh yes, Oh yes, Oh yes, yes. As has been indicated, Nick Katzenbach was the Attorney General at the time, having just recently succeeded [Robert] Kennedy. I heard both from others and from him later that he was just enormously amused and pleased at the relatively low key way in which we were able to handle this sort of thing.

JC: I'm just trying to begin to put a time on this, uh, the year would be about—

SL: Sometime in the summer of '64 would be my guess. This was one of the first of concerted protest activities I would get.

JC: Would it be fair to say that those protests continued in Oregon?

SL: Yes, but we didn't have any more sit-ins in public buildings based upon Vietnam War protests, as I recall. We had other attempts based on other things that we may get into—Indians, for example, the Dennis Banks case.

JC: Right. But here is Oregon with Senator Morse who opposed the Tonkin Gulf Resolution and Oregon with a somewhat maverick tradition, and all of a sudden the draft boards are directed to begin drafting fairly large numbers of people. And that resulted—well I'll let you tell the story—in some cases in our office.

SL: Oh yes, a lot. It's fair to say we were swamped with them. And it also should not be forgotten that we had a governor—Hatfield was the governor at that time and, until 1966, Hatfield was the only governor in 1965 or '66 who voted against a resolution of the United States Conference of Governors supporting the government's activities in the war and it was the basis for Bob Duncan deciding to run against him. The main issue in the campaign was the support or not of the Vietnam war, and Hatfield just narrowly squeaked by, and that was his first race for the United States Senate in '66. Yes, I'm sure that was the time. So we had a lot of sentiment against the war.

JC: So with this public view of the war

being prevalent and Major Joe Formick—you remember Joe Formick who was in charge of the draft boards in Salem, and his assistant, Donna Stevens—who today, by the way, is very much a secretary in our office. She was a young woman then and helped Major Formick with those impossible files.

SL: Right. So the question was, how to manage this. And I think this is a good time to state that, after some hesitancy in making my own determination about what was right, it's fair to say that I ultimately came down, in my own personal view, on the side of those who felt that the war was futile and that there ought to be found a way out as soon as possible and it ultimately soured my view of Lyndon Johnson and his presidency. My doubts—I remember having an argument with Morse, as a matter of fact, in which I had gone down to hear Morse debate. There was a liberal senator who was in favor of our intervention in the war and Morse was outspoken against the war. I remember him saying that Lyndon Johnson has blood on his hands as a result of the Vietnam war and I remember saying to Morse, a day after that debate—it may have been, oddly enough, it may have been [Senator Wm.] Proxmire [D-WI], surprisingly enough—and I remember saying to Morse that that kind of statement was inflammatory and that I thought he'd gone too far in making that kind of characterization of the president in a somewhat private conversation. But I

must say that at some point I later came to the conclusion that Morse had more going for his concerns than those who were continuing to escalate the war. Remember we had that gradual escalation from the early '60's on up to what became perhaps the zenith of our involvement somewhere '67, '68—

JC: As well as an escalation of the number of cases in our office.

SL: Yes. And as a consequence the cases began to escalate and then there was a response. This is an interesting lesson in observing the way the body politic responds to the way that the public responds to a policy situation of the government.

What had happened was that prior to the Vietnam war, I wouldn't say that our activities with respect to draft evasion were much different than those of other communities. There had been a certain amount of creativity on the part of Judge Solomon in connection with Jehovah's Witnesses who refused to go into the service because Judge Solomon discovered almost by accident that while they would not obey the orders of the draft board, that they would obey the orders of a Federal Judge to go into alternate service. That was the point. That they wouldn't obey the order of the draft board to go into alternative service so they were going to jail. Then when Judge Solomon discovered that—in a philosophical discussion with one of these fellows in court—that they

would obey the order of the court, that was the key that opened that box and enabled the Jehovah's Witnesses to escape going to jail.

Other than that, I can't remember that there was anything special in Oregon about the draft cases. But we were faced with massive numbers, on a comparable basis to other states, of protestors and of persons. And protests came, of course, in a number of ways—of people who were out and out [protesters] and of those, some went to Canada. But a number made an effort to make claims of conscientious objector status, or of other reasons for deferment, and what happened was that the sentencing practice of the court, gradually changed from an average two or three year sentence at the start. The sentences began to get less until at some point, and I'm sure it was with my consent and encouragement—not that it was needed. But I'm sure that I was reflecting in my conversations with the court my own attitudes and public perceptions of what our office was doing.

It may have been at the suggestion of the probation officer, Walter Evans, that we could use the state forest camp at Tillamook, which was a minimum security, state prison facility, where the inmates were doing ecological work preserving the trees. And what gradually evolved was a standard sentence, except for the most egregious cases, of six months in the forest camp doing ecological work. Now this had the effect of attracting a large number of people to Oregon, to register

their objections to the draft in Oregon— just as many went to San Francisco where a number of them were put on probation— and they could come from almost any part of the country and be handled by these Oregon Courts under these circumstances which is another reason for them coming to Oregon.

Now, we did have, there were some tensions in the office over this because we did have a couple of the Assistants who did not agree with my views and who were quite enthusiastic about prosecuting the draft cases and who became very expert at it. Tommy Hawk in particular became a noted expert on handling difficult draft cases. Enough so that, when Judge Solomon went down to San Francisco to clean up this enormous backlog of protestor cases down there, Tommy Hawk was sent down by the Justice Department of San Francisco to participate in that effort. There's no question Tommy was loved by the draft boards and I was despised by some of the most eager ones because of what they perceived, rightly, was some lack of enthusiasm for leaning as hard as I could on these folks. There were other examples of that.

We had, we had an army of law clerks. We may get into how we happened to have an army of law clerks later, but I assigned, I would not let any case go to prosecution until it had been screened thoroughly by a law clerk to make sure there were no defects and that the correct standards had been applied. Well, let's face it: the law clerks who were selected

to do this were not people who were sympathetic to leaning on the protestors and, as a consequence, they would come up, . . . I said, "Look, remember that we are a government law office and that we have an obligation not to do this frivolously, but if you have a real objection that appears in the file to going ahead with the case, we need to know about it, and it has to be sent back to the Board." And so a very, very high number of cases were sent back to the board for what I'm sure many of the members of the board and the staff felt were hyper technical defects, although our people didn't feel that they were. So there was a certain tension between some of the board people and our office. Oddly enough that didn't seem to affect personal relations between the staff of the Selective Service System that was working on these cases and myself or other liberals in the office who were responsible for helping effectuate the policy and I remember rather pleasant relations with Joe Formick, with Harold Eikstadt who was a kind of typical—

JC: Reserve Colonel.

SL: ...Reserve Colonel and sort of a kind of a—oh what should I call him—certainly a somewhat straight arrow, rigid, classic army type, personality type, almost Prussian if you—if I can say that without being derogatory, I do not mean to be derogatory but [he had] also a special pride and bearing in the work that he was doing. And also, a particular blessing was

the assignment of Tom Murphy, who was a reserve officer and who had developed expertise in the draft and who at least was not unsympathetic to what he perceived as my effort to temper the response of the office to where the public mood was in order not to bring cases that would further inflame the public. Well, in any event, the upshot of that is, that we came through that era without a lot of hostility and anger being directed by the protestors to our office. That doesn't mean we didn't have some awkward cases and, at some point, we probably ought to get into—

JC: Well I was going to mention [David] Gwyther and [Kip] Morgan.

SL: Gwyther and Morgan, of course, is the quintessential case and it was one in which I felt I ought to handle it—I ought to handle it myself because of what it represented and I wanted to make the point—Well, what happened was that Gwyther and Morgan were leaders of the protest movement down at the University of Oregon and that Kip Morgan was the president of the student body of the University of Oregon. And they led a group of students into a draft board meeting, locked the doors on the draft board—most of whom were elderly people—and told the draft board people that they were on trial for war crimes—

JC:—and proceeded to try them.

SL:—and proceeded with a trial. And

there was some scuffling and some effort on the part of a couple of the people from the draft board to get out. And there was enough pushing and shoving so that there was a legitimate claim by some of the draft board people, a couple of elderly people, that they were intimidated by these people, particularly by the physical pushing and scuffling that went on. And I thought, there's no question, I thought that it was important for our office to make the statement that while we were being quite tolerant of peaceful protests and of those who were attempting to take advantage of whatever legal defenses they had in order to avoid the draft, that we had to make a stand against draft board people being intimidated or physically abused. So we tried them for hindering and interfering with the draft board. We gave them an opportunity to plead guilty to a misdemeanor. They refused to take it because those were the days when these folks wanted martyrdom.

JC: That's right. They were represented as I recall by Nels Peterson who represented, I think, Morgan, and Herbert Titus who represented Gwyther.

SL: Yes. Herbert Titus was especially interesting. Nels was a person who had represented, who had been primarily a plaintiff's lawyer but had also represented political dissidents and was himself seen as a left wing sympathizer, although I had done some work with Nels and I always resented accusations that he was a part of

the party apparatus. I think Nels was very sincere in his beliefs and did a lot of work during the McCarthy era in protecting the rights of people who came under suspicion and I was and am personally friendly with Nels.

Titus, was a very interesting story. Titus was considered to be way out on the far left of the University of Oregon faculty at that time as a law professor and was viewed as somewhat of a firebrand in terms of the, encouraging activism and of himself being an active protestor. It was a couple of years after his representation of Gwyther that a strange series of events—that I hadn't gone into—had a vision and a coming to Christ and became a born again Christian as did his wife, [which] completely turned his life around. Went from the University of Oregon to Oral Roberts University Law School as one of its founding professor and has since devoted himself to the mission of Reverend Roberts and has been a foremost spokesman for what might be called the Moral Majority right wing religious and political agenda. A complete 180 degree switch and a delightful personality. A bright man who, I'm sure, continues to have all of those qualities. But it is one of the strangest progressions and changes that I'm aware of in my life and has been remarked upon many times.

JC: There was also another draft protestor who achieved some notoriety by, being told to strip and step forward for his physical exam at the draft board down

here on Taylor [Street] I believe, that—Lance Montauk.

SL: Yes, Lance came into the board and he had, it was, I think it was the holiday season. He had one green boot, one red boot, they were completely filled with paint...

JC: With oil paint!

SL: Oil paint...

JC: Which the Marshalls later said, were delighted in saying, they were able to remove.

SL: But he sprayed it all over the papers and when he took off his clothes he had "Fuck the draft" painted on his back, and again, it was an obnoxious challenge to such an extent that we could not ignore that one—particularly since he'd actually, it actually cost some money to put the papers back and—

JC:—and clean the floor.

SL:—and clean them up and so forth and so on. And, again, we offered Lance a misdemeanor charge which he refused to accept and he was tried and convicted of entering and interfering with the draft. He later wrote his book about his experiences. He was a Reed student. He got some notoriety and some honor from a certain element at Reed for his pains but was

seen, by and large, as an ineffectual clown. But he wrote a book in which I remember I was described as Kid Grezak as I recall, although he wasn't all, didn't seem all that angry at me at the time. [He] later came around and asked for a recommendation when I think he wanted to go to law school, and this incident was interfering with his admission to law school, which was an interesting progression, and I was assured that he'd gotten over his youthful indiscretions and realized how puerile they seemed at the time.

JC: Well by contrast there was the case of Eric Newhall, the son of the former head of the philosophy department, David Newhall, at Portland State University.

SL: Well he, of course, this is you know one of the interesting situations that you have in a relatively small town You're prosecuting the children, particularly in the Vietnam era with my wife and I being, having friends in the liberal, in the liberal community. I think the Newhalls are prominent Unitarians, if I'm not mistaken.

JC: Presbyterians.

SL: Presbyterians, alright, okay, but they were Presbyterian activists and certainly contributed, and both they and their children have made enormous contributions—

JC:—and David Newhall is the writer on Ghandi, the follower and admirer on his

nonviolent philosophy, which was just coming into prominence then and came a little later into more prominence with Martin Luther King.

SL: Right, and the other coincidence was that Eric who, their son, had just gotten his Ph.D. from the University of Chicago, which of course was my own Alma Mater. And what happened there was they refused to make a, he and, Eric and somebody else—

JC: I want to say Dwight Morrow but I could be wrong.

SL: I'm sure that's right, something like that, I'm sure that's right.

JC: We're just talking about Eric Newhall and his invitation to take conscientious objector status which he probably could have done but which he refused to do.

SL: Right and the reason for his refusal—my memory is a little thin—but part of the reason was, as I recall. was—Oh, it's quite clear because actually Eric's father had been a conscientious objector I believe in WWII—

JC: In Orange County California.

SL: Yeah, which is one of the things you look for, you know, to legitimize the claim of conscientious objection so there was no question[about whether]the conscientious objector claim would be granted. My

impression is, aside and apart from some rather abstruse notion that they had that would prevent them from feeling that they should claim conscientious objection, was that they felt that they were children of special privilege having received an education, and that they would be more easily granted conscientious objector status because of their special ability to phrase their objections and to develop their objections, whereas some poor people would not have had the sophistication to properly claim their objections. In other words they were worried about special advantage that they were obtaining as an elite. In any event, there was a period, I would say it lasted almost six months, in which we were doing everything possible, working with their parents, trying to persuade them of the legitimacy of asking for conscientious objector status in which we simply failed and as a result they ultimately wound up in—

JC: Lompoc.

SL: I don't—

JC: Two years.

SL: Was it Lompoc or was it in—

JC: Well they were transferred.

SL:—in New Mexico?

JC: Well they went to Lompoc at one point—

SL: That may be.

JC:—and then were transferred I think—

SL:—to New Mexico. which was easier duty perhaps. What I can't remember, Jack, is why they wouldn't have been given the opportunity to do forest camp work at Tillamook or was that before, was theirs before that program had developed?

JC: I think theirs was, theirs was the moral relativism argument. They would say and did say, I believe, that they could've and would've fought Hitler. They had no problem with that but that they could not say that this war or some future war. And to claim conscientious objector status, you had to say under no circumstances would you not fight, and because they couldn't say that about the future, they would not have been able otherwise, probably, to make a CO status.

SL: I'm just not sure, I do remember that there was enough in their files so that there was no question in my mind that they could have had conscientious objector status if they'd requested it and they did not. And also I know that we were, there were certain circumstances under which we allowed the just war, unjust war doctrine of Aquinas or Augustine, my memory fails me as to which one of those two eminent philosophers, was the creator of that distinction. But in any event, it was typical of other kinds of cases. We had one case, I remember Paul Meyer represented

somebody that we gave a break to, we let him off as a conscientious objector, and he came back to us after he refused to do alternative service—

JC: As a CO.

SL:—and he was another one who said that he wouldn't do it because of his special privilege and that there were poor boys who were being sent to jail and besides, he was right in his protest against the war. Therefore, according to his attorney, he should not have to do the service., I remember the position that we took at that time in front of the court, that to not require him, to do some work as penance, would be to dishonor his claim of objection to the war, and that people who, engaged in civil disobedience ought—

JC: —to be permitted to go to jail.

SL:—ought to have the strength of their conviction to be able to pay the penalty which society should demand from them for that. So we had a number of cases that presented those kinds of problems.

JC: Well I'm sure you were asked during this period, with these feelings about the war and with your liberal background, why didn't you resign?

SL: Well that did come up and the question was, I thought of it, and talked it over with a few people with whom I was close, and I think the answer was, that you don't

resign from a position of public service just because you disagree with the policy. The question is—and also, as a very pragmatic matter, it was felt that we were effectively responding to the mood of Oregon. We were not getting a lot of pressure from the Justice Department to change our policies although they knew very well what it was that we were doing here but they were also made aware of what it was that we were facing—particularly since, during most of this time we had Senators Morse and Hatfield, both of whom reflected the mood of the anti Vietnam war elements in the community. And, in addition, there seemed to be some sense in the argument that you don't turn these jobs over to Neanderthals in bad times. There is some justification for trying to stay on doing your best, unless you are required, yourself, to become a part of an oppressive mechanism in a way that you are being of more harm than help.

The one argument that I must say I was concerned about, however, was the argument that when people like you and some of the people in your office—of course not all, I mean our office always had as we may get into, enormous differences in political and ideology and even religious backgrounds—but when nice guys stay on and do this work it tends to legitimize the bad things that government do and that you have an obligation to get out and protest. I don't know. I mean they may have been right. Obviously your motivations are not purely those of

what is the right and moral thing to do. I certainly didn't feel that I was handling my job in such a way that I was losing a lot of sleep over my moral behavior during this era, and I think probably I was colored by the fact that I was otherwise enjoying the work and running a good office and having pleasure from the associations and the operations of the duties of the position, maybe enjoying the power and status which I was still getting as a relatively young man. For whatever personal reasons I guess I wasn't ripe, to consider leaving in protest. And no other, you know there were five or six in this country during this era. I'm now talking about the Johnson era. I'm sure the five or six with whom I considered to be soul mates, and we all, we all sort of stayed on and kind of comforted each other. So there was a kind of camaraderie of people staying in.

JC: The protests got to a kind of head at the Buffalo Army Jamboree. Tom McCall's party—

SL: People's

JC: People's?

SL: I think they called it People's Army Jamboree. Yeah, where the buffalo, I forget where the buffalo came into this but it was called the People's Army Jamboree—

JC: And it coincided with their planned convention here, was planned as an

opposition to the National American Legion Convention that was being held here, centered at the Hilton Hotel, and which took every bed from here to Tacoma, and south to Eugene. And all of a sudden the Governor—and everybody else—was faced with the prospect of a—and then that remarkable group, "People for Portland," Craig Berkman and the little lady in tennis shoes that stopped the policeman at the foot of the bridge. But you had a role in that on behalf of the Justice Department.

SL: Yes. The wonderful, you know, the wonderful lesson is how wrong intelligence can be. The law enforcement people bought hook line and sinker the advertisements that were taken out in the and promoted by the alternative press. This was 1970, the height of the protest era that urged people to come to Portland and predicted that, you know, the whole of alternative America was going to descend on Portland. There were dramatic urgings of people to come to Portland to face, to confront, the American Legion which was seen as the most quintessential institution promoting the hated militarism as it was perceived by the protestors. And as a consequence, I think there were predictions made that everything from 70 to 150 thousand people were going to descend on Portland. There were other more rational predictions, but all predictions that we heard about were just, were just that enormous numbers were going to come to Portland to protest. So we had, and the Justice Department, sent out

a team of observers to be on hand fearing that it might be necessary to call out the National Guard if things got out of hand, if there were riots, if there were riots.

Remember, we're now talking about an era where we'd just come out of the '60's where you'd had the riots and burnings of Detroit and Los Angeles, and some—and the days of rage in Chicago just a year before and so forth and so on. So it wasn't inconceivable, given the kind of intelligence that was coming up, that we might need to have the National Guard called out. And for that purpose you needed to have people on the scene who could function and who could actually be familiar with the kinds of problems that there were in the local community, familiar with the geography, had already made their contacts with the local officials, law enforcement officials, federal people if the Guard was going to be called out and federalized, in particular, to help with the situation. So there was a four person team that came out under Johnny Walters, Assistant Attorney General of the Tax Division . . .

JC:—later the Commissioner of the Internal Revenue System.

SL: That is correct. Turned out to be a fine guy and just a delightful companion, and also very level headed. He didn't go overboard on the accusations as to—well—fortunately [he had] a naturally cautious streak so that he kept [calm]. He was one of the reasons that there was not

an overreaction. In any event, because of the intelligence, the Governor of Oregon was faced with an enormous problem—

JC: Tom McCall

SL:—and the problem that we were concerned about was that large groups of kids milling around on the streets of downtown Portland with thousands of Legionnaires drinking and having the views that Legionnaires have and who would be offended by these kids dressed as they were —the long hairs and the hippie types and you know, a year after Woodstock—and these groups finding each other to be in complete [opposition] to each other, that we were going to create confrontations—that we might be able to avoid—just because of the crowding. And so the Governor developed a strategy of siphoning off a large number of the kids to a place called McIver Park which had enough facilities—and promoting rock bands—to attract kids. And also letting out that there wasn't going to be all that much surveillance for marijuana, at least for marijuana use if not for harder drugs. And it did have the effect and it was called, euphemistically, the Governor's drug festival. It's still being argued to this date whether or not it was justified or moral for the Governor to have done that as a way of fooling the kids into staying off the streets of Portland, and also what message we should give people who have—how much we ought to send out a signal that the government itself will approve, at

least tacitly, conduct which is otherwise illegal, in order to meet a crisis situation. So it's still a controversial matter. I'm not going to go into it at great length because I had a call a couple of months ago from somebody who is writing Tom McCall's biography and I'm satisfied that on these issues he had an enormous fund of information that was greater than mine.

JC: But you did go to the 20th floor of the Hilton where the Governor had taken over—hadn't he taken over a floor of the building?

SL: Oh yes. We had the Penthouse. We had the Penthouse up on the top of the Hilton. We had state of the art equipment, and there were also some other incidents. I was in touch with Jeff Bakely, Jan Hoshimoto, Susan Sunflower, Bob Wollheim, now practicing in a respectable firm here in Portland [judge on the Oregon Court of Appeals since 1998], all leaders of a nonviolent group in Portland, who wanted to protest but were attempting to maintain some discipline and some control over the, over those who were marching at the times of the Legion convention and at other times.

For reasons that I don't entirely remember now, maybe having to do with their perceived perceptions of my role in the Vietnam draft cases, and also in helping—there'd been other occasions where I'd participated in decisions on the side of letting the kids march provided there was no violence—and in any event, I was a kind of middle man, as were a couple

of other people in the office, in talking with these folks and in attempting to work out parade routes and other logistical problems so they could have their parade, and getting the permits so they could have their parade, but at the same time, give some assurance that they weren't going to be attacked by the police and that the police would protect them against attack by others so that there wouldn't be the provocation that would cause, that would cause disruption. So, during this period, I had served some function as a kind of mediator in the—between the federal government people, the police, on the one hand and the protest groups on the other hand. Suffice it to say, that the upshot was that only one window, was broken during the whole time of the American Legion Convention.

We also had enormously interesting side shows. A reporter named Diana Winston, or Witherspoon as she may have called herself—

JC:—from the East.

SL:—a blousy blonde who had gotten credentials from the Justice Department to come out and be an observer but who really was, I think, attempting to do a kind of sensationalized job on the government. She got involved with some of the protest groups, may have gotten involved with some Indian, that is American Indian, protestors. [She] disappeared for a few days, some evidence that she may have been off on a toot of her own But at the

same time we felt somewhat responsible for her because she had been given Justice Department credentials and, given all of the wild rumors that were flying around, we weren't quite sure what had happened. She came back somewhat disheveled with a somewhat lame excuse about where she had been in getting to know the protestors better.

JC: There was another fellow, Guy Goodwin, who came through town one time. Guy Goodwin who played quite a role as I'm not sure what.

SL: Yeah, Guy Goodwin was found to have misrepresented some things, I believe, to a Grand Jury and ultimately was sued and I don't know what the—at least their law was made [sic?] that a government agent, an Assistant US Attorney, for the first time could be held responsible for violations of the civil rights for a prospective defendant. In any event, Goodwin came out here to present some case against protestors and immediately offended almost everybody involved including the Assistants who were part of what we might call the right wing of the office, but who were, nonetheless, professionals. His tenure here was very short. I think primarily his investigation was focused on a group in Seattle.

JC: But there was a more violent touch.

SL: Yeah, Ray Egland

JC: Yeah. Egland, and Eugene and Oba, Richard Oba, and Charlie Turner, the present US Attorney remembers Richard Oba. He had something to do with that. And Julius Madsen who was then head of the FBI here set up his cot in Eugene in the office, trying to break down, and eventually they did, the series of, there was a teaching assistant.

SL: Charles Armsbury. And I remember one dramatic scene with Oba in Judge Goodwin's— Judge Goodwin permitted us to do it in chambers because of Oba's nervousness about admitting his guilt and the plea was taken in chambers or there was something preparatory, I can't remember what it was. The reporters were permitted in but it was done in chambers, as I recall. It was a tense and dramatic moment when we were getting for the first time the statement of what had happened. There were six bombings that one night. That was 1969, so were getting a little bit—no, well we're in the era that we're talking about

JC: Yes, and enormous damage at the University.

SL: And ultimately we convicted Armsbury as well. Armsbury had been kind of a, he was a graduate student who was being permitted to give courses at the University of Oregon and he was kind of a pied piper or a guru to some of the radical younger kids.

JC: And eventually we solved that bombing case and it came to an end. Well, there were later ones that—I'm thinking of Wounded Knee, and the case where we stopped a car which we thought was full of bullets but it was full of rice on its way to Wounded Knee, over in Bend—the Burgin [sp?] case, and I think that case perhaps, the Wounded Knee, began to bring to an end, Loud Hawk came along eventually—later, it is a later case in this war...

SL: Yeah, Loud Hawk, '75.

JC: That's right. And what began to emerge, was we began to see here a little bit, I think, of the civil rights movement and of the environmental boom.

SL: Well we had, we had prosecutions of Black Panthers, we had Ray Egland who, I remember, left me a note with a swastika, which I wasn't very happy about. Ray was violent and did threaten people, and we had the—and so there were some convictions of some of those folks. And then we had the students, primarily the students, going with—well that was to Wounded Knee. That was a later thing where we were sued by the—the only time I was ever sued by the ACLU for any activities of our office in arresting the students who were thought to have arms in their car on the way to Wounded Knee. Turned out they had blankets and Solomon threw the case out and was ultimately affirmed by the Court of Appeals.

JC: It was still some time later that there was a cross burning in North Portland.

SL: Yeah, one of the things that we, one of the things that I want to touch on, that had to do with civil rights was aside and apart from the cross burning incident. 1974, within a six month period there were four police killings of blacks, within a six month period!

JC: In Portland?

SL: In Portland, right. One of them was a very bad one. At the very least it was gross stupidity on the part of the Police Department, which set up a kill or be killed for an officer. The last of those incidents was one involving Ricky Johnson, a 16-year-old engaged in a scheme to entice cab drivers to bring in Chinese food to empty houses and then robbing the cab driver at gun point. Instead of the—and when he tried it a second time—he'd done it once successfully at least once—they sent a Portland Police Officer in a cab with a, put a cabbie's hat on, brought the Chinese food, and when Ricky—according to the officer—pulled a gun on him, Ricky got shot dead. And that was just a terrible situation which could've been avoided.

The other three cases, there wasn't too much to criticize in the Police Department's handling of the situation. Not enough in any of those cases so that we felt justified in bringing a civil rights case. But we had an investigation by the

FBI that achieved a great deal of notoriety and that affected the Police Department. It was interesting to note that for, you know, an eight year period thereafter, I think there was only one police killing of a black. And without acknowledging it, the Police Department did change its gun policy drastically and asked officers, let officers know that their use of guns was going to be reviewed, and it was an era of professionalization of the police. In any event, I was given some credit by leaders in the black community and by our Civil Rights Division for having helped move that process along by calling for the FBI investigation even though the police didn't like it at the time. And we did have—there were a couple of cross burnings.

We also had one of which, of course, was based upon the—it was a prank by drunken fellow employees of a black who used to play pranks himself. They were co-employees of the Bureau of Land Management. And I remember when the black, the head of the community relations division heard that the black, when he was riding around in a truck with the other BLM employees who burned that cross, would put on a mask of a gorilla to scare drivers, he threw up his hands and said, "You're not going to make much of a civil rights case out of this given the bantering and frivolity between the individuals that took place." But I received some criticism from the black community, from some black community leaders for not having

prosecuted him. In that case, I just felt that there was no intent.

JC: I've been wondering here about the judges. Now we've been going through an era of protest so we spoke of Judge Solomon a bit, but there were others. There was Judge Belloni who came on in I think—

SL: '67, I think, approximately.

JC: Yes, and did we have anything to do with his appointment other than the usual stamp or were we even asked?

SL: No. I mean I knew about it and I knew what was going on. That appointment was [Senator Wayne] Morse's to make and he was determined that it was going to be somebody from Southern Oregon, outside of Portland. There were many, at least a number who were thought to be better qualified than Belloni, and more distinguished in terms of familiarity with federal practice. There were certainly some Portland Judges who were interested in it as well, but Belloni had, was seen to have been a long, long time supporter of Morse. Had been the mayor of Myrtle Creek, had been a Circuit Judge—and quite a good circuit judge in Coos County—and just a long time friend and personal supporter of Morse. Belloni was a good circuit judge in part because he—*[recording stops abruptly. End of Tape 5, Side 2]*

Tape Six

JC:—We were talking about Judge Belloni as circuit judge.

SL: Yeah. I remember he'd been instrumental in creating a camp for juveniles, which I think was ultimately named after him: Judge Robert Belloni Camp. Interestingly enough, Belloni—*notwithstanding the Italian ethnicity of his name—*was Italian Swiss and had been raised by a family which had become Episcopalian, and had, and, I think was one of the three [primary] Episcopal leaders in the state. Belloni and I had been friendly back in the days even before he'd become a judge. I remember him coming to the house and talking to him about the court and his work here. I think he was a somewhat shy and lonely person who very much missed the camaraderie of the circuit judgeship in the small town, and found himself somewhat lonely in Portland, and relied very heavily on the very few friends—one of whom was his former classmate Bill [William E.] Tassock that he later rewarded with the—

JC: Receivership in the Pollock United Fund Group Litigation [576 F.2d 217].

SL: One of the schemes of uh—investor schemes.

JC: Pollock, a born Oregonian, who created offshore funds and millions of dollars.

SL: Right, Bernie Cornfeld-type fund —

JC: That's right.

SL: And one of the great frustrations of my tenure is that we could not prosecute him because, by the time the case was resolved, he had left Oregon too long ago for us to get him for activities here and the San Francisco US Attorney's office—*notwithstanding the desire of the FCC—*chickened out on the case, and the department would not push prosecution.

JC: There was an FCC action here—

SL: Oh yes.

JC:—and it was out of that that there grew the receivership that went on for years and involved millions of dollars.

SL: Yeah, and I'm not suggesting that there was anything improper but there was a pattern. It was kind of a—well you remember that when the magistrates position came up, by that time Belloni had become the chief, which he became rather quickly because Solomon retired right after his 65th birthday from the chief's position—or I'm not even sure, at least after—no, 65th birthday became Senior [Judge]. I think he retired from the chief's position, and again Belloni turned to the son of a close friend of his, Mr. Hogan in Coos Bay. In other words, Belloni remained a person who was not entirely

comfortable with folks in the big city, and turned to the people he was the closest to.

JC: Then there was Judge East.

SL: Did we not comment on Judge [William] East?

JC: We really didn't comment much on Bill East and, shall I say, his retirement from the district bench.

SL: If I haven't said anything about it, I guess I have to straighten history out a little bit. Judge East had a drinking problem. Richard Neuberger incurred the wrath of many people in the state at the time of Judge East's appointment in 1958—

JC: To the federal bench.

SL: Yeah. At that time, [the question] of whether or not Judge East had a drinking problem. Neuberger was then the United States Senator from Oregon. And there had been some incidents when East was the circuit judge—he was a good circuit judge, a delightful gentleman.

JC: He looked like a judge.

SL: Yeah. Wonderful presence and certainly, we used to say—only half jokingly—that as lawyers we preferred to walk out of Judge East's court having lost a case because the judge would have your client feel that notwithstanding the

superb efforts of his lawyer that the judge had no choice but to do this, and we'd be happier with that. But having won a case in Judge Solomon's court—because of the feeling all too often that the client was left with—that despite his bumbling lawyer, Judge Solomon came to the conclusion that this client's case was meritorious.

And there were some cases in which Judge East actually did rise to rather substantial exercises of talent. The kidnapping of Frank Sinatra's son in California was such a case. But towards the, in the early '60's, there was no question. East had actually been appointed in '55. In the early '60's East was nipping. You began to hear rumors of East being out at night and being picked up by the police and brought home, and afternoons when the Judge was not available although having been expected to be.

Finally there came a time when Judge East was visibly teetering in his effort to get to the bench and was doing criminal sentencing. I observed it, and felt that I could not permit our office to be put in a position of having an Assistant US Attorney or myself be called at a later time and asked whether or not in our opinion the judge was sober, notwithstanding perhaps that in each of those cases the judge gave the minimum sentence. I felt that the danger was too great. I think Kilkenny was there at the time. Solomon was not available, I think Solomon was the Chief Judge. I would have gone to Solomon. And I remember Kilkenny asked me to talk to Judge Barnes who had

apparently got assigned—Stanley Barnes, Ninth Circuit, who was assigned—

JC: Former head of the Antitrust Division.

SL: Right—to investigate the matter and I remember feeling, feeling, not very happy about having to blow the whistle on Judge East but feeling that it was—there was no question, I mean we had talked it over in the office. It wasn't just an individual decision on my part. Everybody agreed that we had no choice but to do that. And then he was sent, there was a period of circumstances in which he was sent to Silver Hill, Connecticut or whatever the name of the—of what's considered to be one of the exclusive places, and effective places for drying out. He would come back and then I think there were a couple of remissions, going back. I remember trying one case in which Oscar Howlett just tried his patience to a fare-thee-well and I'm sure that, although we got a conviction in that case, I'm sure the stress of that case helped make him more susceptible to going back.

JC: So eventually he withdrew from the district bench, in effect.

SL: Eventually. Part of the problem, as I recall—others will have to take this up, as to whether or not he resigned—he would get half pay or full pay because of the service time that he'd been on. Ultimately he'd stayed on long enough so that he was permitted to retire with full pay.

JC: I see.

SL: Thereafter there came a point at which he only sat on multi-judge panels for the Court of Appeals or for three judge courts so I think that was how that was resolved. But it was interesting. Don Sterling of the Oregon Journal, then editor of the—well, who during this period was the editor of the Journal, once talked with me about how the newspaper knew that Judge East was actually being picked up off the street by the police on a number of nights and taken home, and that standards now would be that a continuation of such incidents would have been published by the paper but the standards then were such that they were not. Just as certain sexual peccadilloes were ignored by the press. So it was kind of a commentary on what has happened to the standards which the press permits public officials to go without pouncing on them.

JC: Well that gets to a very interesting subject though, your relations with the press. I'll let you characterize them, but they—

SL: Twenty years, Jack, without a serious problem. I ascribe it to one, number one—I remember there were a couple of minor problems. I remember we—there was one guy named—we called him the rat. Jim Bonet [sp?] or something like that from the *Journal*, and he was found—we gave the reporters pretty much the run of the place. They didn't have to clear with me

to talk to assistants, which was common practice in many prosecutors' offices that every press communication had to be cleared through the head of the office or somebody designated to that account. But Jim was found making a telephone call from an Assistant US Attorney's desk and looking at papers on the desk and he was told that, his paper was told that the relationship of trust and confidence was over with respect to him and that they would be better advised, if they wanted to continue the good relationship that we had, with assigning another reporter.

But he was about the only one that was really bad news in all that time. I think that, you know, I've—people have asked me, "how come?" Well number one, I think you were the one who called this to my attention. One of the reasons that some Republicans apparently said that it was okay for me to be reappointed, or to be appointed—you know to get through the Nixon Administration—was—I think you said, you quoted Herb Hardy, who was certainly one of the—he was the attorney for Safeway—he was certainly one of the most respected lobbyists—who recently died—as saying, "Well Lezak doesn't get on television or go to the newspapers, and he's not running, doesn't look like he's running for anything. And I guess in fact that was true. We did not hold press conferences. We only, we released information that was available to the public record, and eventually we established a relationship of trust and confidence with reporters

covering us regularly so that we could release information that would enable them to do a good job without having to be pressed on deadlines such as indictments coming out or briefs that had been filed or things that were coming in, on one condition—that nothing be published until it was on the public record. That condition was never violated by any professional journalist in all the years that I was there.

On one occasion I got accused by Judge Kilkenney of leaking something and he later apologized when he found out that the information had come from some other source. I mean we never, we just, you know, it was just like—I mean I really feel we went through a lot of mine fields. Number one, I wasn't running for public office, I did not want to be a federal judge so I wasn't looking over my shoulder to see whether or not what I was doing was pleasing the public or particular senators. And you know, something ought to be said about the remarkable fact that never, in the 20 years that I was US Attorney, did anybody come hat in hand saying Senator Hatfield or Representative Duncan, sent me to apply for a job in this office.

JC: Something which happened elsewhere.

SL: Oh, that it was, it was almost de rigueur elsewhere. It was how people got employed in many US Attorneys' office. Chuck Turner had to get clearance from an alderman before applying for a job in the Chicago office. I remember the US Attorney in Fort Wayne, Indiana said that

when he had a vacancy he called Senator Vance Hartkey's office and somebody was sent to him by Vance—

JC: —that he'd never seen before.

SL: That is correct. I mean it was not—they were patronage jobs in many places. Of course, if you recall, I had retained five of the six people that were in office for at least two years and a number of them remained forever, so—and now I think it's fair to say—and in fairness to Charlie Turner, he's continued that tradition. I'm sure that that office has the record far and away of longevity of any office in the United States of providing a career service for people who are Assistant US Attorneys.

I was talking to Don Sullivan the other day. When I first hired Don Sullivan I thought that he was, right at the start of my administration, I thought he was a Republican. It was only later that I found out that he had changed his registration in order to vote for Kennedy in the primary but that he really was a—

JC: Indeed, you didn't ask.

SL: Yeah. And [George] Juba, you recall, was hired by me in about '62, '63, shortly after I took office. He had been an Assistant US Attorney in a Republican administration and was, to the best of my knowledge, a Republican. And I made a point, I'm sure—that was one of the reasons I was retained was that I made a

point of running [a nonpartisan office]. I don't think I ever got seriously accused of ever doing anything on a partisan basis in the operation of that office.

JC: Well, how did it happen that after Kennedy and Johnson and then suddenly the advent of Mr. Nixon, you were not simply retained but reappointed, I mean renominated?

SL: I had sent in my resignation, along with all other Assistant, all other US Attorneys, and I was told—I can give you some reasons, and I can't verify all of them. I was told, one, that the story which I think I told the last time about my putting up a fight with Bobby Kennedy over David Robinson had come to the attention of Hatfield and other Republicans and that that somehow gained some respect in terms of my operating a nonpolitical office. There was, apparently, clear knowledge of my retention of competent assistants. The only one who left was Georgeff. I think I may have described that situation. And the, and there had been, and the office—there were no complaints about the office as I recall. I mean it was just, it was running relatively smoothly in the late—

JC: Richard Kleindienst [Nixon's Attorney General, appointed July 1972], at the meeting of US Attorneys, occasionally would refer to you as—

SL: The House Liberal. That was, of course, afterwards, later. Even though my ideological, I did not let my ideological

views—except to the extent that we were tough on draft cases—the office did not reflect my ideological viewpoint to any extent. I was certainly hiring people who did not agree with many of the views that I held. But there was something else that had happened, one of the keys [to retention during the Nixon administration was] the fact that notwithstanding that I'm not a low key personality, I ran the office on a low key basis in terms of the public confrontation. As I said, no press conferences no publicity releases or anything of that nature.

JC: I don't think you would go on TV.

SL: No I would not, and that was another thing. I refused to go on TV after discovering that on TV all they would give you is a 22 second sound bite, and that if the matter were important enough to be on TV that you couldn't explain something reasonably. And I just thought it was kind of show business. I could give them the same information that I would give the print media, and then if they got it wrong at least they wouldn't have me cut and chopped off making a fool out of myself out of my own mouth and I could at least argue that they had it wrong. But there wasn't ever a serious problem. But that's right, I guess. As a matter of fact I seem to recall knowing my proclivities, making a conscious effort to kind of suppress my own. When those desires would come to be front and center, kind of making a conscious effort to suppress them. I think

you were very useful to me because you tend to be a person who is very cautious about such things and I think I would use you to discuss decisions like this. I think we had rather frank discussions in which I think you were more likely to urge caution than I might on some occasions. So I give you some credit for having done that.

JC: I was thinking of John Kilkenney who then comes on the scene in his late fifties—what would now be a late age for a federal judge.

SL: Yeah. He came on, came on in '59. Yeah. and I won't go into all the problems about how he got that appointment, that was a—

JC: Well he waited quite a while.

SL: Yeah, a long time. And also there was a, well we've already, well in any event, I don't know if I'd mentioned, that I had outshouted Kilkenney in a Pendleton courtroom at the age of 26.

JC: Really?

SL: Yeah. And Kilkenney did not have a local judge. Judge Green had come over from LaGrande and gave me more room than I would have had in a, with the local judge. And I'm not sure if Kilkenney ever appreciated—and I won a part of that case. I'm sure Kilkenney thought it was outrageous, but I was fighting the whole Pendleton establishment in that case on

behalf of a guy who was trying to hang onto a hotel so he could run gambling operations during the Pendleton round-up because he had been assured when he bought the place, by the establishment, that he could, that there would not be a crackdown on gambling and he felt that he was being double crossed. We did not have the law on our side. We had a little equity and Judge Green gave us an injunction, or stayed the attempt to force us out until we got through the round, one more round. So there was kind of rough justice done in the case.

I guess you know, I always—I never felt entirely comfortable with Kilkenny. His style was not my style. He was—there certainly were lovable qualities. I mean he was, on social occasions at 9th Circuit judicial conferences he could be witty and utterly charming. On the bench, I may not have told this story, he was very odd. Kilkenny, to Kilkenny the Warren court was anathema. Judge Solomon was generally approving of what the Warren court was doing. At least philosophically approving of what the Warren court was doing in expansion of rights of criminals and minorities. But Kilkenny, to many in our office, appeared almost paranoid about what the Supreme Court, not only had done, but would do in the future. As a consequence we would get rulings suppressing evidence from Kilkenny. We had the paradox of Solomon, the liberal judge, refusing to suppress evidence on a version of the Supreme Court decisions that would elevate the rights and liberties

of criminals to an extremely high degree, but we would have Kilkenny granting, suppressing evidence, and giving us rulings based upon his predictions, of what this terrible left wing Supreme Court would do if the case got before them, because of his feelings about how far to protect the rights of these criminals as against the rights of society.

The court had moved. So we had a conservative judge giving liberal rulings and a liberal judge giving relatively conservative rulings trying to make the Warren Court system work. Something which a number of, a paradox which a number of people [relied?] on. And as a matter of fact I think, I think Solomon was seen largely in criminal cases as a progovernment judge and in fact I suspect he was. Whereas Kilkenny, now the thing about Kilkenny—bright man, and a lot of the rulings Kilkenny would make were not, and a lot of his fulminations about the Supreme Court were not on situations which were crucial to the outcome of the case. We still, by and large, won the cases that we should have won before Kilkenny, but it was made more difficult.

JC: Then, reaching a little further, [District Court Judges] James Burns and Otto Skopil.

SL: Well, [9th Circuit Court Judge Alfred Theodore] Goodwin. Goodwin preceded—

JC:—who you had known for many years—

SL: Goodwin was a breath of fresh air for me. Goodwin was an old personal friend. Our families—I guess candor should [explain]. There were eight Goodwin children of a Baptist minister. By the sheer luck of coincidences, Muriel and I, when we first came out from Chicago in 1949, became acquainted with several of the Goodwin kids and the Goodwins determined that because we had no relatives here that we needed an extended family to adopt us. So there was always this big joke about cousin Sid and cousin Jim and uncle Ted and so forth and so on. And we used to go once every other year at least, down on a traditional trek to Death Valley with the Goodwin family and a few others like [state Circuit Judge] Charlie Crookham, and occasionally [state Supreme Court Judge] Arno Denecke would join us. We went on five or six of those treks so we were part of the group. As a matter of fact, after Ted Goodwin became a [Oregon Federal] district judge I had to stop going on those treks. I felt that it was not appropriate for our families to go under those circumstances where he was that much involved with our office in passing upon our cases on a day to day basis. So Goodwin was for me, a real breath of fresh air.

And then when [James] Burns came what had happened was—it's fair to say that there was a change of style of leadership on the court. Solomon had been the "paternoster" of the courthouse. Wanted to keep his hands on everything, wanted to keep control of everything.

I think it's, I may have said, I may have already referred to the fact that I personally resented the effort. I was still, you know, as a young person having successfully rebelled from my own father, seeing somebody attempting to exercise control which I thought was both improper professionally and offensive personally, which accounts for some of the scratchiness of my relationship with Solomon.

With Belloni, it was avoidance of control, no more than absolutely necessary. In other words the atmosphere changed immediately and then shortly after Belloni became the chief, then you got Burns and Goodwin and Skopil to whom Belloni would delegate responsibility for day to day management. We started getting committees. We'd have committees on—Skopil working on civil rules stuff, we'd have Burns running the criminal part of the court even before becoming the chief judge—I remember meetings during the creation of the Public Defender's Office. It was Burns who was in on the attempt to get the Public Defender's Office established. It was Burns who would call the meetings and we'd establish the rules and try to work out the problems and we would all meet together and it was Burns later who would act kind of as a mediator when the relationship soured. And I'd have to say I can't be evenhanded about that. Dave [David] Teske who was the first Public Defender and who had an excellent relationship with the office for a number of years—

JC: This is the second side of the second tape with Sidney I. Lezak in our third session.

SL:—and he pirated people. I mean I had been instrumental in helping that office get established, I wanted a good Public Defender's office. I thought it would be good to have a, you know, institutionalized competent representation and it was, I think, for six or seven years. The thing ran with a minimum of problems except for the fact—the occasional excesses of some of our assistants whose habits and desire to win probably went substantially beyond the tone that I was trying to generally set in the office.

And there were complaints that certain of the assistants were withholding information that they should disclose or that they were more adversarial in their relationships, harder to bargain with in terms of plea bargaining, pressing harder for advantage or for harsher sentences than perhaps were appropriate for the general tone of the prosecution. And you know, we used to say the office ran through creative tension particularly on the criminal side rather than through achieving a consensus of like-thinking people. And in a sense I thought that was good.

JC: Well there were two, Michael Morehouse and Mallory Walker, who became administrative law judges at one point. Michael is recently retired and I can't speak for Mallory.

SL: Mallory went down to California, I believe. He may have retired by now as well. That reminds me. Mallory was the first black Assistant US Attorney that had ever been appointed in this district who made some inroads [into established policy] in the appointment. I think that there may have been an Assistant US Attorney who was female in the '40's for a very brief period of time. But Venita Neal became the first Assistant US Attorney who was a female and we went out—there's no question—we went out and—Affirmative Action to me meant going out and looking for people who were qualified. I'd have to say, looking back on my choices, that we did not—that with respect to the Affirmative Action appointments there were people who were appointed who would not have been appointed but for the fact that they were female or minority. That doesn't mean that they—and my rule was not to fill a quota but to try to meet a goal by at least finding qualified people who were female or minority. I've been criticized for having not found in every case, persons who were—there was some disagreement. Judge Solomon stated at one meeting that the Blacks that I hired did not meet very high standards. I don't agree with that. I don't agree with that. Every one of those folks worked hard, and did a good job. I think they all did a good job.

JC: Some other people who did a good job were the law clerks. Jay Folberg you may recall, now recently a professor out here at

Lewis and Clark [Northwestern School of Law] was the first.

SL: Yeah, now the Dean of the University of San Francisco Law School. Jay became a Law Clerk when Professor Sanford Kadish at the University of California at Bolt Hall said to some of his students, you'll get credit for going up to a US Attorney's office or a prosecutor's office and actually getting your feet wet. And Jay came up on a—I forget whether we had any funds to pay him with at the time. I don't think he was on work-study funding. He may have just been a—come up as part of his schooling at the U California Law School.

JC: We would call him an extern now.

SL: An extern, I think so. But having broken the ice, that was really early on for having law clerks—

JC: It was revolutionary—

SL:—in US Attorney's offices. And that was at a time when work-study funding was going to colleges to enable students, college students to work part time. And I would only have, I would have one opportunity to hire a law clerk on Justice Department funds every year. And after Jay came in, and maybe one or two years after, we had our one law clerk, I used the placement officer, Anne Kendrick, a former nun, at Lewis and Clark, and I think she is probably responsible for coming up with the idea, I'm sure in discussion with me. I

think it's like a rabbit to a horse, I think she probably had the idea and pressed it, that if the colleges were getting work-study funding for their students to get summer jobs in government offices, why couldn't the Law School get some of those funds. I believe that Lewis and Clark Law School, Northwestern School of Law at Lewis and Clark College to be specific, was the first school in the nation to get funding for law schools for interns to work and for clerks to work in US Attorney's offices.

Once we found that door was open we went to all the other law schools and I remember we had the highest percentage of law clerks of any office that I ever heard about. I remember one summer we had about 18 assistants and about 24 law clerks, jammed into every nook and cranny that we could find in the Courthouse. I'd have to say that if I had to pick out four or five things that I'm kind of proud of, what is the legacy I left, I think now that those law clerks are beginning to find their niche in the profession, on the Court of Appeals and other judges—

JC: Susan Graber [Ninth Circuit Court of Appeals Judge]—

SL: Yeah, and other judges—and Ellen Rosenblum has just become—well actually she was not, she was not a law clerk but we've had—

JC: She was an Assistant US Attorney recently.

SL:—but what was most interesting is that

those law clerks were all kids who qualified for work-study funding. So they were the poor kids. They weren't necessarily, they weren't the elite in terms of their socio-economic standing but they were the best ones that we could find because the jobs were sought after by at least the best of the kids in the local law schools that qualified for work-study funding.

I'm glad to say that we also, for reasons I don't entirely understand, were able to get a fair sprinkling of students from some of the elite schools back east and in California, which I think enhanced our program as well. We had a particularly good relationship with Yale, perhaps because of [Professor] Jeff Hazard sending people out to Oregon. And I would just have to say the law clerk program was 99.44 hundredths successful. There were a few clinkers and some of the students—and let's face it, the quality of the schools back 20 years ago was not as good as it is today in terms of the kinds of students that were available to us in every case. But we always had some top notch ones.

JC: But they all left beer cans in the joint library and Gus didn't like that so the joint library came apart. Remember that? *(laughing)*

SL: I do. *(laughing)* There were a few problems and perhaps it's just as well because there was almost an incestuous relationship between our law clerks and the law clerks for the judges and some problems could have developed from their working in the same library.

JC: You'd think it would be a good thing if we—and the suggestion's been made by [federal District Court Judge] Owen Panner himself, that within five years the US Attorney's office will be out of that building?

SL: A fellow alumnus of mine who has since gone on to become very distinguished, named Morris [Berthold] Abram [eventually became president of Brandeis University], from the University of Chicago, was an Assistant US Attorney in 1941 in Atlanta, which is where he was from, I believe. And he, in an article that he wrote some years ago, [said] that the greatest contribution that he could think of to make to federal criminal justice was to move the US Attorney's offices out of the Federal Courthouse. I'm not so sure that I was that enthusiastic about it at the time or now. But in thinking about it on balance, I'd have to say that, that I do, I certainly agree that there are some great advantages to moving those offices from circumstances where you become too close with the judges. It was very hard to avoid having ex-parte conversations with judges that you see on the elevators, in the halls, that you have cases before constantly. The judges are naturally sympathetic to the government's position in 99% of the criminal cases at least and in many of the civil cases although not nearly to the same extent. And it becomes difficult to maintain the appearance of complete impartiality under those circumstances and it was a problem.

JC: There's another area over there called Special Assistant United States Attorneys and what they are, are assistants to the United States Attorney appointed by the Attorney General and the Justice Department. They are people, lawyers from agencies, who are given that designation to appear in the bar, in court for the United States on more or less special bases. You had something to do with that.

SL: Yeah. I was one of the first US Attorneys to fight the Justice Department. The Justice Department, historically, had enormous fear of encroachments on its jurisdiction which would occur if lawyers from the agencies were permitted to participate actively in court. As I understood, historically, that main concern was over the Internal Revenue Service trying its own court cases. But as a result of the camel's nose in the tent kind of argument, it resisted any efforts of—on my part to try to get help from the agency lawyers by giving them an active role to play in the cases. And to me it was the most idiotic thing in the world because we were an office enormously strapped. In part this arose, I think, during the Vietnam era where we had just been deluged with cases and where we had some pretty good people in offices like Bonneville and the Interior Department, Agriculture Department. I mean, you know, we could name specific individuals that we had an excellent relationship with,

and we had an opportunity to ascertain whether or not they were good lawyers. And to me it was the most normal, natural thing in the world that we would get even more cooperation from them if we could designate them as Assistant US Attorneys, enable them to participate in cases. The first breakthrough I think we made was with George Dysart because of his special expertise in the handling of Indian fishing cases, getting him designated, And ultimately we took him away from the Interior Department and made him an Assistant US Attorney.

JC: Which he is today at age 67.

SL: After 40 years, more than 42 years in the government. And at some point we should probably not forget to talk about Indian fishing litigation, and another internal battle that we went in. So now we have it, as I understand it—it's one of the situations I've referred to in the past—to the fact that I'm doomed to be a person that enjoys being an advance man for ideas that, right or wrong, have not yet surfaced. And one of those where I was right was the creation of the Special Assistant category for agency lawyers and I now understand that that is done as a matter of course to mutual profit.

JC: We today have 41.

SL: Yeah. Right. I remember the second one may have been getting Peter Plumridge

to do the Small Business Administration cases.

JC: Yes, from which he has just retired.

SL: Yes, but the point is, the kind of people that we've got in the US Attorney's offices, they didn't come there to do the Small Business Administration collection.

JC: Mortgage foreclosures.

SL: Right. And so what we wanted, we wanted the work done. And the way to get it done was to have it done by people who knew that that's what they were doing, and who had other reasons for wanting to do, and knew how to do it much better, and would devote more attention to it than our trial hot rods. In any event, I ultimately prevailed but it was a terrible fight and I'm pleased to say that there are still agency attorneys around who remembered that I fought that fight. Another equivalent fight—it's now time to quit, I think, let's pick it up next time—was the fight to get a pretrial diversion program going using the probation officers as our investigators.

JC: That's a good place to stop, we'll also next time, come along pretty quickly to the Saturday Night Massacre and where you were, that sort of thing. And then take events on through Ford, Carter, and then your retirement from the office.

SL: Right. That should conclude it.

Tape Seven

JC: My name is Jack Collins. With me is Sidney I. Lezak, the former United States Attorney for the District of Oregon. This is our fourth session together, covering historical events that took place during his 21 years as United States Attorney for the District of Oregon. This is our fourth session, side one and the date is June 6, the longest day—

SL: D Day!

JC: Well, Sidney. What about that? Where were you on D-Day?

SL: On D Day itself? Well I was a navigator flying out of Chelveston, England with the 305th Bomb Group, 364th Squadron, and our plane was The Leading Lady. And on D-Day we started flying a couple of missions that were among the easiest that we ever did, in support of the troops doing, not strategic bombing but tactical bombing.

JC: Over Normandy.

SL: Right! Over Normandy to help displace some of the Germans who were bothering some of our guys who were landing. We flew in a lot lower than we normally did, as I recall—at 11,000 feet—but we had, we were able to chock up a couple of easy missions, as I recall.

JC: I see, yes one had to get how many missions, 25 missions wasn't it?

SL: Thirty by that time. Ultimately thirty-five. But I was right in that middle group, where we were boosted from 25 to 30 because from that point, from the point I came in or shortly thereafter, they wouldn't let us go into Germany without giving us fighter escort. From that point then, they raised the number of missions, I remember the griping and moaning. But it was justified. It was not as dangerous as it had been prior to that point.

JC: And so we jump very quickly—

SL:—now back to business, enough of fun.

JC: Yes, yes. Well, the last session, we ended up by discussing the personalities of the people involved in the events, and where you were, in the Saturday Night Massacre.

SL: I assume that we had talked about that evening where we had a group of people down at the Congress Hotel and watching the television and saying, "Oh shucks." or something close thereto when we could see what was coming. And I think it was right after that, that Monday after the Saturday Night Massacre—I think we came back on Monday and turned President Nixon to the wall. We were not a particularly loyal group of devotees out in the US Attorney's office in Portland at that time.

JC: But it then goes on, because you see

Watergate has to come to an end. And Nixon resigns, and then one has President Ford and then President Carter and then some of the Reagan, early Reagan—

SL: And of course one of the things that Ford did, that is one of the high points of my career in the Department if you'll recall, was to appoint as Attorney General my first Law Professor. Edward Levy.

JC: Edward Levy from the University of Chicago.

SL: Right. And while I didn't have any especially close relationship with him, I had enough knowledge of him and the people around him to have a good deal of respect for him. And he also was wise enough, if you recall, to bring in Judge Harold [R.] Tyler [Jr.], who had been a Federal Judge. Ace Tyler, as he was nicknamed, turned out to be a wonderful deputy Attorney General in charge of the day-to-day operations of the Department. And that is one of the periods that I remember most favorably when the Department, you'll recall, it had a somewhat nondescript, interim Attorney General by the name of—

JC: Well, there was a fellow by the name of [Wm. B.] Saxbe from Ohio.

SL: Saxbe. Yes, yes, and he wasn't much. Nice man but did not have the background in the Department, or the intellectual or personal stamina to do what was needed

to be done, to reestablish the Department's credibility after the disasters that it had been through and to reestablish the kind of principles that [Wm. D.] Ruckleshaus [Deputy Attorney General] and [Elliot] Richardson [US Attorney General] were trying to establish. Levy and Tyler, I think it's fair to say, got it back on track and we were very proud to serve under them.

JC: Ace Tyler, was he then or did he later become a District Judge in the Southern District [of New York]?

SL: No. He left, he had left the district judgeship I believe, to become the Deputy Attorney General, or had left just recently before that. Then went with Rogers and Wells.

JC: Right. Now Rogers and Wells, of course, is a leading New York law firm. But our office had an association with Rogers and Wells. I once met the Secretary [William P. Rogers], former Secretary of State and his wife, also a lawyer.

SL: And Attorney General.

JC: And Attorney General, in your office.

SL: That's right. That is correct. And one of the, among the many very good people that I brought on. it's true he—I'll never forget the time I first met Kris [now Olson, then Rogers] and Jeff Rogers. They had just come into town. They had tentative offers, I believe, and they were thinking

of—I had the one vacancy and they were thinking of coming into Oregon to settle. I was out at some conference at Kah-Nee-Ta and so they thought—and I remember. It was during the winter, and I remember they had to come through snow and ice to get there, but I remember them walking into Kah-Nee-Ta and that's where I first met them. They decided to come out and see what the reservation and the area looked like as part of their Oregon experience, and we just got on famously immediately. I think, as a matter of fact, let's see—Chris became the Law Clerk for Judge Burns, and Jeff went to, did some work with the Public Defender's Office, Kris came to work for us.

Later they both came back to work for us and, of course, the historical significance is that ultimately they established themselves as perhaps the first husband-wife job-sharing team of lawyers that anybody ever heard about in the government or anywhere else. and they were just, they were both, were and are exceptional people. She now is Associate Dean and on the faculty of Lewis and Clark Law School and Jeff is doing a very distinguished job as City Attorney. But that's an example of some of the innovative stuff that we were able to do.

JC: Well, how did you and the Department come to bring about such a job sharing?

SL: Well, that of course is an interesting story in itself. I did, I always had somebody

in the Department, or I searched for somebody in the Department who was at least sympathetic and understanding if not always approving of some of my eccentricities and of some of the experimentation. On this occasion, you may remember, that at the time that we got that through it was towards the end of the Carter Administration and Charles Renfrew, who later became a district judge and a distinguished one.

JC: And later a Deputy Attorney General.

SL: Deputy Attorney General, that's right. And Renfrew was somebody who laughed and thought it was a great idea to start with and, particularly, he had some knowledge of the background of these individuals and knew that they were more than ordinarily talented and energetic.

JC: I guess we haven't said it and maybe we should for the record, that Jeff Rogers is the son of William B. Rogers, the former Secretary of State and Attorney General of whom we were talking.

SL: And let me say very quickly that on no occasion have I ever seen Jeff do anything that was inappropriate given that background. If anything he's an essentially somewhat shy person who leans over backwards to avoid anything which would give the appearance of taking advantage of the fact that he does have an unusual background. Worked harder and

longer hours than almost anybody else who's worked for me.

JC: Well. I remember you were out somewhere and I was sort of acting in your place when Mr. and Mrs. Rogers came by to see Kris who was then an Assistant in the office. I had a very pleasant, I must say, they're very easy folks to talk to—very charming and pleasant. He wanted to know what she was doing, meaning by that, was she trying cases. And I said, "Oh yes, she's doing a criminal case every two weeks or so." He was a little surprised that somebody would be trying that many cases that fast.

SL: Well, and in addition Kris would be the first one to admit that her radical background—at Wellesley and at Yale Law School and work with the Lawyer's Guild—would not lead one to believe that she would establish herself that quickly as a prosecutor. And my impression was that he was quite pleased about it. That is, the old man. And they were, and are delightful, delightful people of high quality.

JC: Well, that does get us quickly to the Carter Administration and this very unusual man from Georgia. Did you ever meet him?

SL: Yes. He came to Portland once. I didn't ordinarily go to political functions but I was asked to be present on this one

occasion and I remember meeting him. He was shorter and slighter than I had expected him to be. And I remember somewhat sheepishly introducing myself as somebody that he had appointed to the US Attorney's job in Oregon and we had kind of a, oh slight, how shall I say it, it was a pleasant occasion. He was not somebody who expected people to bow and scrape. I rather liked that there was a kind of folksy presence about him that certainly made it easy to talk to him for just a moment or two. But that was a pleasant occasion.

JC: During his years. [in] the Criminal Division, there was a fellow by the name of Philip Hyman, I believe. who was an Assistant Attorney General.

SL: Yes and with whom I became very friendly. He had been a Law Professor at Harvard and he was clearly one of the more intellectually able and progressive Assistant Attorney Generals in that or any other Administration. From the stand point of the criminal law, it was delightful to have somebody in that office who had a somewhat global perspective about what are we doing here—what we are trying to accomplish on an overall basis, and who was open to some innovative ideas. At the same time, he wasn't a patsy. He was not—people expected that as a Harvard Law professor that he would be some kind of standard ACLU liberal type and that was not the case. That would be an unfair characterization of him. He certainly had a due regard for the rights of people and

concerns after Watergate about excesses of the agencies, but he gave good support to the Criminal Division in their [strained?] efforts to put forth what was largely a law enforcement agenda in the courts.

JC: Changing subjects a little, I was thinking that in all of the years you were US Attorney, the relationship with the Indian tribes assumed perhaps an increasing importance and in many ways a somewhat unique relationship developed. George Dysart, who remains an Assistant in our office had a good deal to do with that. He was with Interior and then came to the US Attorney's Office which, in itself, is a story.

SL: I think it's fair to say he was rescued by our office by the intolerable situation by which—you know I'm always a little embarrassed to say some of these things—but in fact, the worst Solicitor General, local Solicitor General or Regional Solicitor that we've had to deal with was his boss at Interior, Jean [P.]Lowman [Regional Solicitor for the Dept. of the Interior, Portland Region], who had not even applied for the job and was selected by the Carter Administration because they were desperately searching for women to fill these jobs. It just, it's one of the worst excesses of affirmative action run wild that anybody could remember around here. She simply was not well organized in terms of her leadership ability and she had very limited interests. She quickly got involved with battles with her own

staff and with the staff in Washington and with the US Attorney's Office. And I remember an awful case in which it was just impossible to deal with her.

Fortunately we were able to arrange a slot—again something I did with the Justice Department's permission. George had been a Special Assistant US Attorney on these Indian cases. You may recall, I think I may have mentioned previously, that one of my, that one of the innovations of which I'm very pleased is the effort in our office to fight that [?] battle—that Justice had always wanted to battle with the agencies and keep the agency people out of court and keep them from stepping on the turf of the Justice Department people. And we were one of the first offices to—and I'd say, maybe even first—to really go to battle for agency people and get them appointments as Special Assistants and get them to actively participate in the courts. And George was almost the bellwether because George just knew more about that Indian fishing situation than anybody else in the Northwest or anybody else in Washington for that matter. We were getting—and the courts—we talked about this a little bit, as a matter of fact, Judge Solomon, who handled some of the early cases even before *US v. Oregon*, just relied on George as the guru in the field. And it just made good sense to rescue him from a very unhappy situation and bring him over as a Special Assistant US Attorney and put him to work directly with our office because by that time the court cases were coming fast and furious.

I'll digress by saying I remember we once did a check, and there were some 17 separate cases that we had against the states of Oregon and Washington on behalf of our treaty obligations to the Indian tribes and I think we won every one of them. We had people, if you'll recall, like Henry Kane and Roy Atkinson, people who just did not do a very good job of alerting the state of Oregon to the fact that the world was going to go with the sympathetic view of the Indian treaty rights and that that was the right thing to do as well as the legal thing to do based upon the trend of the Supreme Court decisions. And what was happening was the states of Oregon and Washington just got trapped into the overwhelming majority views of the dominant society of not wanting to share the salmon with the Indians beyond their share as other citizens of the state and did not want to recognize the historic necessity and appropriateness of giving them their special rights to their usual and custom places or a share thereof, and as a consequence we just had a remarkable string of victories for which George Dysart was largely responsible.

JC: But then we also had *Wounded Knee*.

SL: Yes, before we get into that though, I think it should be said—because I want to put *Wounded Knee* in context. Remember that in the bringing of cases involving fishing we were certainly more than 90% of the time—we were on the side of the tribes. There were a couple of times we

were not on the side on some of the Indians who fished in violation of their own tribal regulations along the Columbia River.

JC: Yes. We would not protect them.

SL: That's right. That's right. But as far as the tribes were concerned, I think it's fair to say that, almost without exception, we and the tribes were on the same side in terms of the expression of their rights as against the rest of the world. [The tribes?] and the United States.

JC: That's right. It was always, and still is, the government's position that the treaty rights empower the tribes as an entity—

SL: That's right.

JC: —rather than to individual members of the tribe. And thus if a tribal member violated the tribe's regulations he could seek—would get—no help from us.

SL: Yes, because we're going to be talking here to people who don't understand. What I'm talking about is the kind of situation where the tribes were attempting to exercise some responsibility to demonstrate that they would not decimate the salmon runs if given certain privileges, and so they were trying to limit their own people to reasonable takes from the salmon run. To the extent that their own people were violating the tribal regulations, the tribes were being embarrassed. We felt that we should assist them in establishing the legitimacy of

their position even though there was some seeking out of individual tribal members for federal protection occasionally because of this argument that there were certain individual rights that they had separate from the tribe.

Prior to that, we also, had established excellent relations with the Warm Springs [Nation] in terms of the operation of their tribal court and the relations which that had to the function of the US Attorney, who was really—because the Warm Springs had been permitted to have an exception to what was called Public Law 280 which had been enacted back in the 50's. Now what that means is that almost all of the tribes in the United States gave up their jurisdiction over minor offenses committed by their own people and federal jurisdiction over the major crimes, as stated in the statutes. Public Law 280 permitted the states to establish their jurisdiction over tribal lands and reservations to the same extent as all other lands of the state, except for federal enclaves such as national parks and a few other things like that—military reservations.

The Warm Springs were one of the few tribes that were committed to retain their jurisdiction over their own people with their tribal courts and that meant that the federal jurisdiction over the major crimes continued. They did not seek this jurisdiction in the state. So that meant that we had a continuing relationship in terms of having to make determinations about whether to prosecute the major

crimes. And also that meant a relationship between deciding what was appropriate for the tribal court on the reservation—and what it meant was a more delicate balance than just saying, “This person committed this crime and therefore he goes to the federal court rather than the tribal court.”

It also meant a recognition that this was a small group of people who knew each other and that there were relationships between families and local history that had to be respected in making determinations as to whether or not that this was something that could be handled by the tribe or whether or not it was something that the responsible people in the tribe felt ought to be handled by the federal court. So there was no question that in the situation in which the tribe, the tribal people would say to us, “Yes we know that this is technically within your jurisdiction but this is something that we feel that we can handle,” we were very much motivated to pay respect to their judgment.

JC: But their tribal court, occasionally left something to be desired—(*SL laughs*)—at one point I think brought out the Civil Rights Division.

SL: Oh yes. One anecdote that needs to be told was occasioned by the fact that somebody who was accused of a crime by the tribal court got a lawyer from Madras, which was the closest county seat to the tribal court—the county seat of Jefferson County. And when that lawyer appeared, the tribal court refused to permit him to

represent the Indian defendant saying, correctly, that in order to represent a person before the tribal court one had to speak and understand the language of the Warm Springs tribal group. Well, of course, it is true, that there were a few people, old folks on that reservation who did in fact meet that qualification, but most of the people on that reservation did not speak and understand that language, and the tribal court proceedings themselves were not carried on in that language but were carried on in English.

So it was clearly an effort on the part of the tribal court to avoid too much interference by the dominant, or the outside, community with what was going on in the tribal court. And this excited the interest of the Civil Rights Division on the grounds that it was a constitutional violation to deprive, unreasonably deprive, a person of their choice of representation. There were long, long, long series of negotiations that went on and, I must say, it took a great effort on our part to persuade the Civil Rights Division to refrain from filing the case as they were insisting that they should do.

JC: They were going to sue the tribe in Federal Court.

SL: Oh yes. Yes, for violation of civil rights laws. But we were negotiating. I’m not sure whether Judge Panner, he may still have been lawyer for the tribe at that time. I do know that Dennis Karnopp is

now chief lawyer in Bend representing the tribe on much of its business. Both of whom of course were excellent lawyers and did a really good job for the tribe. But we ultimately wound up with an agreement after many hours of negotiation. I remember sitting, and for me it's sometimes difficult to exercise the kind of patience to let all of the chiefs and all of the tribal members have their say. We wound up with an agreement that would enable persons who were qualified, that is, outside the tribe who were qualified as lawyers, to appear provided that they had qualified by demonstrating their knowledge of Warm Springs culture and history. And there were actually, apparently, a few lawyers who actually took a test which was devised to establish their qualifications in that regard. I gather that there are now non-Indian lawyers who have appeared before that court which actually was a much better solution than having gone to court and embarrassed the tribe which certainly would have happened. And it would have affected the relationships that we had. I think it's a good example of how people on the scene can appraise how better to resolve a problem than through litigation which would be dictated by a knowledge only of the facts and the law.

JC: I was just thinking of some of the various sit-ins that occurred during the civil rights time, There was one at the BIA [Bureau of Indian Affairs] office across the river where the Indians sat in the office

after closing hours and I think that you took a role in that and probably brought in Robert Lamb of the—

SL: The Community Relations—

JC—Service, and eventually got them removed.

SL: Yeah, I think that's another, I guess that raises another thing that you know. Obviously, we're spending some time emphasizing some of the things I thought were innovative and that were different in what we were doing. One of the things I'm proudest of is that when The Community Relations Service of the Justice Department selected a US Attorney to go down and talk to them and help them in El Paso, Texas, in the—oh in the late 70's about how an appropriate relationship would work between the US Attorney's office and the Community Relations Service that I was selected to do that. In part it had to do with the relationship, the personal relationship that I had developed with Bob Lamb. You have to appreciate that Bob Lamb is a—just a huge man, 6'1" or 2" and probably weighed close to 300 pounds and he had been, he was black and he had been an ex police captain. He is black and had been a police captain in Atlantic City, New Jersey where he'd had plenty of experience in dealing with all kinds of problems. Bob was a natural bull shit artist and was wonderful at giving credibility as an ex law enforcement officer to the functions of The Community

Relations Service which was created in the Justice Department in about 1971 or 2 during the Nixon Administration—I remember Ben [Benjamin F.] Holman was the first chair, was a friend of mine—to help mediate or conciliate primarily racial and ethnic problems. So you had people—a lot of the people who were brought in were people with experience in labor conciliation, labor relations, and social work and so forth and so on, but Bob was unusual and unusually effective in that his law enforcement background, and his articulateness, and the fact that he was a very bright man, that just gave him a credibility that was—

JC: We've been talking about the BIA and an Indian occupation of its building at one time across the river during the height of the civil rights movement.

SL: Well this would have been afterwards, this would have been at the time of the Trail of Broken Treaties. Yes. I remember one time, one time I really took a chance. I went out into Holladay Park where they were encamped, and I remember I went out on my own. I forget who accompanied me, but it was without any marshals or any police presence, and these people were demanding that somebody from the Justice Department come and talk with them. I went out there and I was, for one of the few times that I was anywhere in my life, I felt there was real danger that there might be some

physical assault and I turned on my heels and walked away and said, "I just can't engage you in conversation." This was to an American Indian movement group. I think this probably was before the Dennis Banks and Wounded Knee group incident.

But it kind of alerted me to the fact that the American Indian movement people who were primarily urban Indians, at least here in the Northwest, they made no headway whatsoever with the tribal Indians of the Northwest as I recall. Particularly in Warm Springs there was somebody that showed up and I was told that they were practically evicted bodily. There was no representation of what we might call "the far left" of the Indian movement on the Warm Springs reservation because the Warm Springs had done very, very well in their relations with the government, both in terms of the support that they were getting for their job programs for Kah-Nee-Ta, the resort which was part of the job program, payments that were being made for their fishing rights that they gave up, and help on the reservation with the Indian Health Service education, and so forth and so on. The Warm Springs were just seen—they're sort of the Bellwether tribe in the Northwest. You know, we recall, that we may have already mentioned this but the Klamaths, were the object lesson to the contrary. Giving up their rights—

JC: They were terminated.

SL: Yes, terminated in '54. They were given money, they were given more money later that I helped them negotiate out and also went down to visit them to make sure, to help make sure that there was no replication of the rip-off of the money. Let's see—in the '70's they got \$103,000.00 apiece, in the late '50's they got \$45,000.00 apiece and no protection and nothing set up. But by the '70's they had the Organization of the Forgotten American [see L.B. Johnson speech Mar 6, 1968] and with advisors and structured arrangements to help them get some advice as to how to protect themselves and what to do with their money.

That's how I met Don Horton who was down there with the Organization of the Forgotten American who later came up to—had the Indian program, Indian Legal Services of Oregon State Bar and ultimately went to become a Deputy Attorney General for the Navaho Tribe. And also you may remember, Jack, Larry Aschenbrenner was also involved—State Public Defender, or maybe, I forget, he may have become, maybe he became State Public Defender after his experience with the Indians. But these were two unusually good people who ultimately went with the Navaho Tribe as Deputy Attorneys General for that tribe. One may have even become Attorney General for that period of time, or acting Attorney General.

In any event, the BIA sit-in was at one of those time when the Trail of Broken Treaties was going on and my

recollection is that rather than call in the police to have them evicted that we were able to work through the Community Relations Service which had some Indian people available and which was able to persuade them that they were not serving their cause if they were to stay overnight. I remember that we did have it in the back of our minds that we were not going to permit them to remain overnight and urinate in the facilities and make a mess of it and so forth and so on, and I remember feeling very, very grateful that we had not had to demonstrate the extent of power that we would have, had they remained. I did not believe that it was a good idea to let these people remain. Nobody, I don't think anybody ever remained in any of these demonstrations for a lengthy period of time, long enough to destroy anything.

JC: Well I was thinking of a group while you were at lunch one day that came to the office—

SL: Oh Boy!

JC:—a revolutionary, I'm trying to think of their title.

SL: A socialist workers group. They were so far out it's hard to know whether they were right or left; they were very angry people.

JC: Yes, and they all came storming down and wanted to talk to Sidney I. Lezak, and your usual tactic was, " I will select your leader or one or two of the group," and then they would talk, rather than attempt to deal with a mob scene.

SL: With them, I think I permitted a group of up to ten people. I remember they went down to the, we kept them down on the main floor.

JC: That's right.

SL: As I recall—yeah, we're thinking of the same incident, that's right.

JC: Room 102—

SL: Yeah, that's right.

JC:—and you got them in there and eventually they peaceably went their way as well.

SL: Well, I feel we were very lucky but I think that—and I took some criticism from some of the hard-liners that felt I shouldn't be talking to them at all—who would've been just as happy to see heads cracked and see essentially, a law enforcement show of force in dealing with these folks. And some who feel that by trying to deal with these people and reason with them that we just encouraged them. Obviously, I don't agree. I feel that we got through that period perhaps better than some because I think that there was some resentment that those folks had to ventilate. That's what they really needed was an opportunity to feel that they were being heard by somebody in the government.

JC: Through all of this, of course, is the

press and your relationship to the press, your attitude toward the press. There's been a good deal over the years—Bar Press Committees and that sort of thing—and many officials, many US Attorneys are downright fearful of the press. On the other hand, I never thought that you were, but you would not allow television cameras.

SL: No. I'm glad you brought this up. I think it's important. I'd have to say that we just had for 20 years, you know, being involved up there in the minefields we never really had a bad—even one single bad problem. There was one, there was one, John Painter, who was sitting in on a conversation that he knew was confidential. I remember I said something about the reason I thought Robert Armsbury, this was in the '70's, and he had, Armsbury was a white, married to a black, who was a teaching assistant at the University of Oregon and who was kind of a leader of a group of radical kids in Oregon who bombed six places in Eugene.

JC: Richard Oba.

SL: Yes. that was an unforgettable case for other reasons. I remember giving, talking with some lawyers, I think Frank Pozzi happened to be there, and Painter was there, about my personal theory of how I think Armsbury got involved with this stuff and what it was that he was trying to accomplish. And Painter made the mistake

of publishing something about that, and I remember Armsbury raised hell about it and Painter was good enough to get on the witness stand and on reflection say that he realized that it was material that was given to him off the record, and I've always been very grateful.

But the funny thing was that the—well, let's start out with the sense that, as a matter of fact I think that a lot of people are surprised because they think I've had a lot of publicity but in fact, during all the time that we were there we did not hold press conferences, we did not—particularly with TV cameras present. We didn't issue press releases that were prepared, except in the rarest instances and, as you correctly point out, I just made the determination that it was inappropriate for me to be on television because I discovered, for one thing, if it's important enough to be on television the issue is one that is usually fairly complex. So the problem is that all you're given is about a 22 second sound bite. Now, apparently it's even lower than that—ten seconds. Maybe it's a part of my, maybe it's a weakness on my part, but I'm not very good at 20 second sound bites and yes, I said, "Look, you can have the same information for television that we'll give the newspapers, but I don't think you're entitled to have me on camera." Although I remember one TV reporter saying to me, "Well I think we're entitled to see you on camera so that the public can tell whether you're lying," which I thought was somewhat offensive and I expect he was joking. But the, but I said, "You can

have the information, you can make the statement, you can state whatever you want in quoting, I expect I can trust you to quote me, but if it comes out idiotic because the whole quote hasn't been done, at least it comes out of your mouth rather of mine."

In any event, somehow, that had an interesting effect. The fact that I wasn't in show business probably gave me more credibility in terms of my relationship with the whole press than if it had, if I'd been willing to go on. At least it sort of sent a signal that I wasn't there to run for office, which obviously as I may have said, probably was one of the reasons I got reappointed. I was just—that wasn't my goal at any time. So I wasn't a threat to others who would be running for office, I suppose. But, by and large the press had the run of the place except for one rule. You can—they did not all have to be cleared through me. They could wander through the halls and talk to any assistant working on a case. And the rule was this: "You have your watchdog function to perform you know, Mr. or Ms. Press Person, and I want you to know what goes on in this place as much as possible, absent obviously the obvious restrictions on grand jury secrecy and any security or investigations on criminal cases in things of that kind—the only rule is, I don't want you to publish it until it becomes a matter of public record. Now, if you can't agree in advance, that that is the rule that you will abide by, then we're going to have to operate like most other offices did." I

don't know how I happened to hit on that but it worked in Oregon. I'm told that I was very lucky, that in more competitive cities that it would not have worked as well. But honestly, Jack, I can't remember that we had any trouble.

JC: I think that's right. I'm trying to think of an instance where they published quote: "secret" unquote, information.

SL: There was one case—the only time we ever got an apology from Kilkenny, kind of a half-assed apology. He accused me of leaking something the press got from somewhere else, as I recall. It had come from another source and they—obviously, if they got it from some other source it was something that we couldn't keep any control over, and Kilkenny actually apologized. But considering the problems that you would normally have in the kind of office that we were running, we just didn't have any. It's a real tribute, I think, there's more professionalism, I think, in Oregon among press people than I think there is in some of these other cities where people are more on strivers' row. We had some very good reporters.

SL: Blaine Whipple was it? No not Blaine Whipple. Blaine Schultz.

JC: Blaine Schultz.

SL: Dennis Buchanan.

SL: Jim Magmer, Ted Knapp, somebody that I remembered over a long period of time. And then over a longer period of time, Jim Hill, who really got the confidences of the court in our office, to a large extent. We knew he wouldn't cover up, but on the other hand he wasn't somebody who was out looking to embarrass us in order to, in order to sell papers, as they say.

JC: The years are moving by here. We're passing through the Carter years and we're beginning to approach Ronald Reagan and his Attorney General, Edward Meese. You served for a period under Ronald Reagan and Attorney General Meese about a year?

SL: Not under Meese, No. It was not, you see Meese did not become Attorney General until about 1985.

JC: Was it that late?

SL: I think so. But Meese's hands, were all over—

JC: That's right. He was an advisor to the President.

SL: That's right. He was number two, and at one time there used to be articles about that he was the second most powerful man in the United States. What was happening was, with Meese, somehow—we're not quite through with the Carter Administration but there isn't that much noteworthy and we may go back later.

JC: Well Benjamin Civiletti was the Attorney General through much of the—

SL: No, no. Griffin Bell. Then when Griffin resigned—Civiletti started out in the Criminal Division, then became Deputy AG, and then became Attorney General at the end of the Carter Administration when he had some problems, as you recall.

JC: Yes. Griffin Bell, the man from Georgia.

SL: Bell did not have trouble. I forget why Bell left. Bell had been a Court of Appeals judge, and was somewhat more conservative than some of the other appointees within the Department, but Bell did not run into trouble. I don't recall that. Bell has since continued to do distinguished service and has continued to be somewhat more conservative than other Democratic Attorneys General of his day.

JC: He came out and spoke here.

SL: Oh yes. We got along very well personally.

JC: I remember him at Lewis and Clark Law School.

SL: Yes, that's right. He was a real, a gracious—he would not mind being called a gracious Southern gentleman with some of the qualities of—oh, perhaps moving a little more slowly but inexorably towards where he wanted to go. He was, and he, I think he did a good job as Attorney

General. Civiletti, who placed him—and isn't that funny that I cannot now remember what it was that Civiletti got into trouble about.

JC: Well I can't either.

SL: Okay. It's amazing that we do lose touch. But Civiletti—it wasn't that bad a problem so that Civiletti wasn't able to continue on, went back to his Baltimore law firm and has continued to be a distinguished public participant in public matters involving the law.

JC: Well, who was Reagan's first Attorney General? I can't remember.

SL: William French Smith, who had been his personal lawyer, but then the point is—that what happened was that with the advent of Reagan, all of these people who had been biding their time and who had been developing federal societies which were the societies for the new right intellectuals and who were the devotees of William Buckley and Milton Friedman economically, and a lot of the other forces of that, of that—coming from that side of the political spectrum, were now placed into government. Largely by Meese and the people around him. Meese was the leader of that group. And the Justice Department felt it almost immediately because that was one of the crucial spots where they wanted to get these people in. Now—and Smith was somewhat patrician, a senior partner in a law firm who had his

own agenda and was perfectly willing—and was conservative—and was perfectly willing to have these activists come in and change the Department around, which certainly began to happen.

What happened was that we began to get a feeling that the agenda was going to be different, and there were a couple of things that happened fairly quickly that caused me to develop some concern. Now oddly enough there were a couple of people who came in that I liked very much and that caused me to feel, well maybe I can stay around and be comfortable. The man who is now a federal judge, [Delwin]Lowell Jensen, came in to head the Criminal Division, which was the most important one for the US Attorneys, and he was great. As a matter of fact, I had been one of a group of US Attorneys who had gone and interviewed him when we knew he was a potential candidate.

This was while I was part of, if you'll remember I became a part of the Attorney General's Advisory Committee so that I was exercising, going back and forth to Washington you know, once every month or two months or something like that, and we were actively involved with the Department. That was another part of the historical development of the US Attorney's office, that at some time after Watergate when the US Attorneys felt that they had been embarrassed, and under Levy's term, the Advisory Committee of US Attorneys was established so that there would be some feeling that US Attorneys were able to get some feedback into the

Department and get some feedback from Department officials. There had been too much of the feeling that we were just viewed as lackeys out in the field and that our views on policies were not being properly considered. So I think that was an important development in the Department—

JC: And it remains by the way, today, as an important—

SL: I'm sure it is. We established educational programs back in the Department for which a number of people from our office went back and talked, I'm sure you were one of them.

JC: The Advocacy Institute, as well as training programs.

SL: Yeah, right. And so there was a whole new professionalization, and what was happening gradually is that it was becoming recognized over the years that it was no longer appropriate that one of the most important law offices in any given jurisdiction, change overnight and leave the office without the experience or knowledge that those who make a career out of service—

JC: Well there was the famous story of, with the change of administration, how the entire office in Detroit left and it was run by the secretaries for six months.

SL: And there were other stories like that

as well, you see. And I guess if we haven't said so before, I think it is probably still true, it was true while I was still there, and I think it is still true to the credit of Charlie Turner, that there probably is no other office in the United States in which the average tenure of the Assistant US Attorneys is longer.

JC: I think that's still true. That the average tenure of the Assistants in that office, it's a little [different] now because there have recently been so many new ones. But with the older people that's absolutely correct. It used to be nine years, which was unheard of when Los Angeles was 18 months.

SL: Oh yes, and I think that had, obviously, something to do—and I think it's one of the legacies, in part, from my ability to have been able to stay in office for so long, of people having the feeling that if they wanted to stay they could stay and that they didn't have to worry about the vicissitudes of party election to do that. But, and in my case, in deciding—we'll get back into this, in deciding it was time to leave, I began seeing policy changes. Oh, and the other person that I liked very much who later had some problems of his own was the person who was named as Deputy Attorney General, the New Yorker, what was his name? Schmunk?

JC: Ed Schmaltz.

SL: Schmaltz, or something like that.

And I had a good conversation with him and he seemed to me a person to be representative of the high quality people who were by and large in the New York US Attorney's Office., and he seemed to be relatively nonideological, as did Jensen. So for a while I sort of, I said, "Well maybe it's possible to stick around."

And the other thing that happened was that there was an aborted attempt to replace me with Pat Horton, the District Attorney in Eugene, and all of a sudden, and all of the—I must say, the newspapers, the influential people in the bar, all of a sudden people rose up to my defense! There are still editorials that are in the Eugene Registered Guard and in the Statesman and the Oregonian saying in effect—well, let's put it this way, I was given more praise than I perhaps deserved, because Horton was seen almost universally as not being an appropriate replacement. That kind of support perhaps conspired, or contrived, to get me to feel, well maybe I should stay awhile, certainly at least to fight off the Horton thing. And actually, I was not forced out in any way.

But things started happening. Now the Department was being reduced to some extent and they were making priorities, but at the same time that they were beginning to tell us, that our role on the drug scene was going to have to increase. They were not giving us people to do that and, in effect, I understood that my complaints—I mean my understanding that I would have to take people off white collar crime stuff—which I felt and still

feel is the most important and significant work that the federal government does in the criminal justice field, or at least that the US Attorney's Office does and that it only can do—and wanted us to become closer and closer both to the [local] District Attorneys, which was fine, but also to pick up cases from the District Attorneys in areas where there were shortages of state personnel and facilities. The word was sent out that drugs were the number one priority and that we were not going to be limited to the major operations but [prosecute] what I consider to be essentially street drug crimes, which has since happened. So I saw that my view of priorities was not going to be followed.

I think it was about that time, that something happened that may have been the last straw. I think it was about that time that the Bob Jones University case, the case in which the Internal Revenue Service had not granted an exemption to an openly acknowledged segregated university, Bob Jones University, and Reagan ordered the IRS to grant the exemption notwithstanding the Supreme Court approval of the IRS' right to withhold the exemption. That sent a signal to me with respect to the change that was going to be taken, which ultimately did take place, with respect to the administration's commitment to civil rights. That was also somewhat chilling.

I despair that some of the policies of the administration—the tax giveaway, which was Reagan's most signal accomplishment in which, from an

economic standpoint, in many respects has turned out to do well by the middle class and wealthy Americans—but nonetheless the beginning of an era of ignoring unmet needs for minority. Well, at least for that portion of our minority populations which is dependent of course to a large extent, as well as other populations of the underprivileged, and a scaling back of programs that I thought government ought to engage in. I began seeing myself as being required to defend those policies as a presidential appointee. So in August of '81, which was about a year away from the time at which my appointment would have come up, I think it would have been August of '82, I finally decided that it would not be right for them to reappoint me and it would not be right for me to remain.

Now, if you look back at the articles at the time you'll see that I left without rancor and without a blast. I think it was Jake Tanzer who wrote a letter complimenting me for saying that I'm not leaving while I'm angry, that I've had no particular run-ins with the Department up to this point, but that I refuse to wait for martyrdom. and that was sort of the way that I felt. It was a very difficult, wrenching decision for me, and at the time it became a matter of personal difficulty after having been there for so long to have decided to leave. I agreed to stay on in order to demonstrate that I was not leaving because of any great amount of rancor or dispute with the Department. I agreed to stay on until my successor was appointed.

Tape Eight

JC: This is June 6, 1990, and it is the second tape, the third side, on session four of the oral history with Sidney I. Lezak. My name is Jack Collins. We had been talking about Sidney's departure [as US Attorney]. At the time of his departure, with one other exception, I think you were then the longest serving United States Attorney on active duty.

SL: No, no, H.M. [Hosea Manfred] Ray. H.M. Ray actually served as head of the office less time than I did. Hubbart [sp?] had served longer than I. But Hubbart was long gone by that time and so I was the one in present service for the longest period, but I think the point is that I may be the second longest. Hubbart may be the longest and I may be the second longest in the history of the United States. At least I've not been told to the contrary.

JC: We're coming along here

SL: Okay, but let me finish up one thing. I do remember, because I should have said something about it at the time. Jim Hill did what my mother thought was a very perceptive article about me back in 1980. I think it was October of '80, just about the time when the administration was changing, just shortly before the election. It was about six pages in Northwest Magazine. I say this for the benefit of

anyone who really wants to go take a look at what I thought was a very accurate—

JC—and comprehensive—

SL: Yes, and I thought it was, I must say I was, I thought it was very sympathetic. The only sour note were some quotes from David Tesky that we were losing all of our appeals, and I won't go into the technical details of that but it was just wrong.

JC: Yes, (*laughing*).

SL: It was just terrible and it sort of signaled that there was a problem that Tesky was having as Public Defender which was another kind of sad situation because we had helped—as US Attorney I had helped push the creation of a Defender's office in Oregon which we did not have, and we had had a really good working relationship for about five years.

I mean it was one of the things we may not have gone into about how the court operated with—after Belloni became the Chief Judge setting [Judge James] Burns to head up a committee of the court and its personnel with representatives from the defense bar and the Public Defender and US Attorney's office to work as a unified team. I mean, part of what we're—I may not really have mentioned the fact that after the domination of the Solomon era that what happened when Solomon gave up the control over everything that went on in the court house, things began

working with some sort of consensus, arrangement. Now, Belloni wasn't very good as an administrator, didn't want to do it, but Belloni was smart enough to have others who were good at it come in and meet with folks.[Judge] Skopil at first, later Burns, and they were marvelous people in terms of working with committees and getting communication going and the whole atmosphere of the courthouse changed.

I would have to say, by and large, the years after—well, I certainly don't want to say that the years under Solomon were unpleasant, but there was, there was occasional unpleasantness as a result of what I felt were the kind of—Gus' autocratic style, shall we say? We've already gone into that I think. But somebody needs to say that once he went off, the whole style of the way that court operated changed. In terms of its—there had always been reasonably good collegiality between Gus and Kilkenny, and Belloni after he came on the court. As far as I could tell that was fine. We'll leave aside the East problem which we've already talked about. But the—once Gus gave up the Chief Judgeship, there developed a different style of managing the court house and with much more consultation and communication and I would have to say that those were happy years and that was part of it.

Another thing that kind of made it happy for me was that I recognized, as time went on, I don't know if we've been through this, that if I were to try the cases

that I couldn't be the mediator. You see, one of the significant things about Hill's article, in the—on the front page he gave me three titles: Survivor, Prosecutor, and Mediator. So without—and he came up with that word through his own observations. That was not a time when I called myself a mediator; this was in 1980 while I was still actively serving. But I realized that that's what I was doing. And I realized that some of the problems that I had had in the past, had to do with the fact that where I had participated actively in the trial of the cases, I couldn't have the perspective to be able to work things out in the same way that I could if I were the head of the office. So there was a kind of a method. It wasn't just laziness that made me determine not to continue to be a trial lawyer—obviously I was plenty active in the first few years, and it just worked out that way. That because I withdrew from day-to-day participation in the trial of the cases I was able to be the middleman between the private bar, the agencies, the courts frequently, in trying to get things settled. Kind of putting a foot occasionally, a gentle foot I hope, on some of the hot rods in our own office of whom we had several. Yeah. (*laughing*)

JC: So let me ask you about a couple of cases.

SL: Yeah, go ahead.

JC: Do you ever remember a fellow by the name of Charles M. Simmons?

SL: Obviously, you're now into some of the cases that I actually did try and that were just completely memorable. It would be hard not to remember him. Twenty-eight separate [allegations ? citations? accusations?]-he was a quasi-religious fraud and he was just marvelous at stealing money from gullible people. He sold the same land three times over. He had just all sorts of schemes for land sales and development. A true dreamer and undoubtedly some of what he was trying to sell, he believed in himself, and he had a whole crew around him that were doing very well indeed. And appropriately, he was from Los Angeles. And of course we tried the case for nine days before he finally copped a plea and Kilkenny, I remember, sentenced him to ten years.

JC: I think nine.

SL: Yeah, maybe he got one year credit for copping a plea.

JC:—and [Kilkenny] said, “Mr. Simmons, you are a complete fraud.”

SL: Yes, but I have to say that that case perhaps produced the very best witness that I have ever seen or heard about in any case and—Mrs. Chanel, I still remember her name.

JC: Letitia Chanel.

SL: Yeah, and she was—let's see did you try that case?

JC: I helped try it.

SL: Yeah, and the, and Letitia Chanel was an 80-year-old black woman from—I think—Berkeley, California, that area, the Bay who'd been a missionary, yes—

JC:—to Liberia!

SL: Yes, she was a teacher, and she had saved some money, and she gave her money to Simmons on his assurance, that the money would be used for the propagation of missionary work in Africa which, of course, it was not. I've never seen a witness in any case in which the jury wanted to climb out of the box and physically clobber the defendant to that extent.

JC: Another one, I remember—your name was mentioned as having to step in and try suddenly dealt with “Dare To Be Great.”

SL: Glenn Turner. Glen Turner had the largest pyramid scheme going I think in the history—

JC: A lot to do with mink oil, if I recall. Wasn't there a lot of mink oil in that case?

SL: Well, Koscot [Turner's cosmetic marketing company]. He started out with a cosmetic group and then Dare To Be Great was just a straight pyramid scam on collecting money, selling nothing but advice—pamphlets, as a matter of fact. So

the SEC decided to bring the civil injunction case against him and we had 11—some of whom were very talented—11 lawyers came out to represent him, and various [?] of those groups. And there were—that money, the money— there was so much money flying around there and of course you had these people coming into the court house with thousand dollar bills tied to their hair—

JC:—stuck in their hat bands.

SL: Yes, it was a circus atmosphere. I do remember what happened in that case was, again, that was after the time when I was expecting to try the case. On the night before the case was scheduled to try, Jack came down with an intestinal virus that just completely disabled him. So I had to just take over and scratch. I had some help from Jerry King and I hadn't had much preparation, and I was really flying by the seat of my pants and we managed to get through it with a barrage of criticism from the 11 lawyers.

Our number one was Ted Koskoff who had been the president of the American Trial Lawyers Association. There were a few more Florida, New Jersey, hot rods. It was a real experience. But we got the injunction and that essentially put Turner out of business. That was Judge Skopil. and it was affirmed on appeal. Essentially the issue was: were what he was selling securities? So that they had to be registered, and it was an important decision.

JC: I recall an occasion where you cross-examined Senator [Wayne] Morse. Senator Morse was called as a witness by a man of the name of Griffin, who was a scientist, a federal employee, a black, at an entomology research station—

SL: Oh God!

JC:—down near Oregon State University or somewhere down there, and somehow or other, the defense called—

SL:—he was fired.

JC: He was fired and brought an action for reinstatement or something along those lines, and subpoenaed—and Senator Morse testified. I recall your cross-examination of him about—on what the Senator relied for his opinion that he was a good man or whoever he was. Senator Morse said something about, "Well it was all in the files," or something to that effect, and you asked him if he had read the files and he couldn't recall.

SL: Okay, yes. I didn't stint on what I thought was an effective cross-examination of Senator Morse. but on the other hand, it's fair to say that I did not go out of my way to be cruel to him. But we won the case.

JC: There was another Union person by the name of Morton Shapiro.

SL: I didn't actually try that case, but you'll recall that is a case in which the

office had a very difficult time in coming to the decision that the case should be tried, and I think, I had to make the final decision that that was a must-go case. I was very pleased that we were able to convict Shapiro and the facts came out. I do recall specifically that Peter Robinson just did an excellent job in that case and made me look good because I thought it was a case, we knew at the time that it was a case in which we had very little direct evidence. Fortunately some developed during the course of the trial that enabled us to convict him but there was a lot of controversy over that. Shapiro at the time attempted to make himself look like a martyr and it became clear later that we were justified in bringing the action.

JC: There was another fella by the name of Otis Paul Jordan Jr.

SL: *(laughs)*

JC: Big Otis.

SL: Yes, yeah. Well that, that case among other things, the trial, the defense of Otis was by two friends of mine—later Chief Justice of the [Oregon] Supreme Court Berkeley Lent, and Jim Redden, now a [federal] District Court Judge. Otis Jordan was a contractor who had managed to forge two million dollars worth of Portland Cement, Oregon Portland Cement Bonds, and sell about a million dollars of them to eight separate banks, and the defense was insanity. It was before Kilkenny.

What was interesting about the case—I should say quickly before going into the particular anecdote, that another very close friend of mine was the psychiatrist in the case, named Henry Dixon Jr. I must say, probably, my cross examination of Dr. Dixon was made very easy by the facts and I hope I didn't embarrass him too much, but poor Mr. Jordan never had a chance. He claimed that he had been an all-star foot ball player with Notre Dame. Well, the problem was that he had gone for half a year to Notre Dame but he had been expelled, and the problem was that he was up before Judge Kilkenny who had played football for Notre Dame back at the time the Four Horseman were there back in the 20's. The investigative agent for the FBI was Jim Maloney who was himself a Notre Dame graduate, and the chief witness against him from one of the banks from whom he had gotten the most money was Robert France who, I think, was a Notre Dame graduate. In any event they wisely chose not to try that case before the jury in hoping that Kilkenny would be more sympathetic than it would have been capable for him to be in that case. But I remember one thing. Otis Jordan had been Robert Duncan's treasurer. So he was given some money, a lot of money, and the money had come from funds that had been garnered through these bonds, and Duncan was an absolutely straight arrow, he was a Congressman and an absolutely straight arrow guy and I remember calling him when we got the Jordan case in and I said, "Bob, sit

down. I want to tell you something about the money for your campaign.” And I remember Bob saying, “It’s never you’re enemies, it’s your friends—*(laughing)* that get you.” Yeah, that was, that was one of the most memorable cases.

JC: There was another lady by the name of Ginger Cardwell. Of Ginger & Spikes. Does Ginger come to mind?

SL: Oh very much so. I did not try that case. Did we even have—no we did try?

JC: Oh yes, I had a lot to do with that case.

SL: That was your case and, Jack that was our one big obscenity case. But that in part was not just because of the obscenity—and nobody who knows me very well would think that I was very interested in bringing cases involving only adult publications. But the problem was that there were threats that were being made in order to get distribution of that paper, as I recall. You’re probably in a better position to say—and there was a kind of organized crime factor about what was going on and these people were engaged in other skullduggery as well, as I recall. So ultimately we got her and she escaped to Canada from which we ultimately brought her back, as I recall. Finally got extradition on her and what was her boyfriend’s name? Terry?

JC: Terry Midell [sp?].

SL: Terry Midell. And Terry had been

involved in some violence. So the case was unique. It may have been the only obscenity case that we ever brought. But it was quite clear that there were other things going on there that made it appropriate for us to bring the case.

JC: There was a rather dramatic series of events [1974] in which a man and, with the aid of his wife, threatened, called himself J. Hawker—

SL: Yeah.

JC—threatened to bomb—

SL—did bomb.

JC: Did bomb, and destroyed the towers of the Bonneville Power Administration and burned the watershed of the Bull Run reservoir. I just wonder if you remember that, David Heesch—Sheila, and David Heesch.

SL: Yes I remember it very well. It was very dramatic and of course it had residents of the Northwest terrified because, in fact, those towers placed as they are out in, out through hundreds of miles of territory that isn’t policed were very vulnerable. They’re very vulnerable. And it was a scheme that was done just for money. I mean we thought for a while it might have some political implication to it or something of that kind but ultimately, ultimately, he was tried. I remember there were a lot of—there was something special

about the FBI investigation in that case as I recall, and it was especially tense. And I do recall there were negotiations that had to be engaged in to get him to come in that were delicate.

JC: There was a man by the name of Robert [D.] Pollack and the United Fund Group. Do you remember an FCC Case? Eventually he was doing offshore tax shelters—

SL: Yeah, very well and the—one of the, yeah. Pollack was one of the Bernie Cornfeld type of persons who solicited investments. In his case he was soliciting much of the money from people who lived overseas and put it into mutual funds here in the United States but a lot of the money was diverted from legitimate purposes. One of the saddest recollections that I have is the fact that he had moved. By the time that we got onto the case and knew what was going on he had moved out of Oregon long enough ago so that the statute of limitations had expired and we were unable to bring the case, criminally, in Oregon. I remember my frustration and the frustration of the FCC that the San Francisco US Attorney's office refused to bring it and that the Justice Department would not push it [but see 503 F.2d 87, Aug. 27, 1974].

That reminds me, there were a couple of other cases where we felt that there should have been criminal prosecution very strongly and where it was not brought. One of the cases, I don't

think I've mentioned it, had to do with the Georgia Pacific Company and the use of employees funds, pension funds, to rig the price of St. Regis Paper Company so that the Georgia Pacific stock price was higher on the day set for the purchase of St. Regis, so that less money would have to be expended by St. Regis. I've never understood—the company accepted a—and some of the individuals involved including, I think, including one of its lawyers—accepted a consent decree in which they did not admit the skullduggery that I thought had taken place in that case and I could never understand why the New York US Attorney's office— Again, it was another situation which we initially thought that we might have had jurisdiction and discovered that we did not, and which I felt should have been brought as a criminal case.

Other frustrations had to do with the fact that we could never send anyone to jail. We had a number of antitrust convictions, but I think I've mentioned that from my standpoint, I felt that preferential treatment, given the seriousness of some of the crimes, was given in not having the individuals do some time. Particularly since I view, as I think I may have said before, a little jail time for these white collar crimes is a very effective—not a long time, but something with the clank of the doors behind them—that people who would think about those crimes would be given, In my experience they do think about what the consequences might be. So of course, and as I say, my feeling about

the importance of that was shown in my ultimate determination to leave when I saw our white collar crime unit being cut down in 1982, sorry 1981.

JC: Had you ever thought about becoming a federal judge?

SL: Oh, it's hard not to but I would say that when I was appointed US Attorney at 36, one of the reasons—there were a couple of people who told me, “for God’s sake, one of the reasons you ought to take that job at a young age is because it gives you an excellent chance to become a federal judge.” It took me about a year to realize: one, that wasn’t what I wanted to do, that I’d be lonely as a federal judge. One of my criticisms of Solomon was that he wasn’t lonely enough, and that there ought to be—people ought to be willing in taking the robe, to take the veil, and restrict themselves in their social life and their acquaintanceship among the lawyers who are trying cases before them. In a relatively small town like Portland, I felt that I would be lonelier than I wanted. I felt that I would be required to meet what I regarded as high standards in that regard, that it would not fit my personality to be that lonely.

Number 2, I recognized that my temperament would not be correct for being a judge. And also I do not have the love of the law as an academic pursuit enough to have really enjoyed the kind of—enjoyed or been capable of doing the kind of fine reasoning that the best judges

were able to do. I really decided, not too long after becoming the US Attorney, that while I might have been an adequate judge, I might have been, I probably would have been no better than mediocre in terms of real judicial skills. I mean I might have been able to do the job well but I wouldn’t have enjoyed it like some judges who really loved the law and want to devote their lives to it would have.

So I think it was helpful to decide rather quickly that I did not want to be a federal judge because then I just stopped looking over my shoulder. I don’t think I ever did that anyhow, but we were relieved of the necessity of conducting our office with worrying about what we were going to do was going to have any effect on people who might have the appointment power. It was just sort of—just like not wanting to run for public office. Another determination I made. It took a lot of monkeys off of our back. I think it was a way of saying—I used “we”—I mean it in a sense because I was consulting with people like you at the time about, you know, what kind of office we should be having and what our goals were. And I think looking back that we had a fairly high-minded view of what our obligations were. We made some mistakes, of course—not very serious ones and I think it was helpful that we weren’t looking over our shoulders about either political gain or a higher appointed office.

JC: Well, in leaving, what did you have in mind, if anything that you would do

at once and as the months developed through the '80's?

SL: I said at the time that I wanted to contemplate my navel for a while. But, in fact, I had already prepared myself in ways that—without knowing quite where I was heading, to do what I'm doing now. And that is, a year before I left, I went back to the University of Maryland and took a 60 hour course in mediation which was one of the first courses being given by one of the gurus—Bill Lincoln—at the time. I remember how it happened. It was at a Federal Executive Council meeting that took place at what was then the Hilton Hotel at Agate Beach. I remember sitting in a room and somebody telling me in 1980 about this group up at the University of Washington that was funded by the Ford Foundation to do environmental mediation. I remember almost feeling like "Eureka!" because of my frustration, the frustration that we all had with how difficult to get those damned environmental cases resolved that we'd put on and that no matter how many expert witnesses that you had the other side had just as many. That the courts were— that the problems— that the solutions to the problems were beyond the courts. The courts were only supposed to determine whether or not the agencies had touched all the bases necessary, but that it was impossible for a court to limit its views in that way and it was also impossible for the agencies to do everything that they were supposed to

do. I just said "Ah, what an opportunity to see whether or not you could actually get people to sit down and find out if there's not a better way to resolve some of those problems." So that really was the start.

JD: Sidney we were talking about mediation and how you got into it.

SL: The field was just developing. I also remember reading, reading at about the same time, a seminal article by Harvard Professor Frank Sanders in the *Federal Rules Decisions*, for the [1976] Pound Conference. This was in Minneapolis. It was the 75th anniversary for the first conference that had been called in 1906 on the "Causes of Dissatisfaction with the Administration of Justice." This was a conference called 75 years later and Sanders wrote an article talking about a mutli-doored courthouse in which people could come and get their disputes resolved in various ways: with conciliation, through mediation, through arbitration, through community level discussion, and not just going through litigation which was the only thing that the courthouse provided now. Again a feeling of just almost, almost revelation. So I became interested in the movement. I became, even before I left the US Attorney's Office I think, I became a member of the Metropolitan Human Relations Commission which had jurisdiction over neighborhood mediation. So I started reading, and doing, and finding—you know, and it wasn't hard to read all of the literature.

JC: Because there wasn't much.

SL: There wasn't much, it really was—I really did get in on the ground floor, and the proof was, of how important it was to me was that on April 9, 1982—I have that date because I have the City Club Program and I refer to it occasionally because I use it in speeches—I gave my Swan Song lecture to the City Club. I could pick any subject I wanted, and it was—right after I left the US Attorney's Office—was entitled, "Let the Forum Fit the Fuss" You know, better ways of resolving disputes. I titled it; I gave credit to whoever it was. I think Maurice Rosenberg [lobbyist in DC] had figured, had used that title but I thought it was appropriate as we needed different kinds of places to get our disputes resolved. So from that point on, other than—well I've been on Oregon Prison Overcrowding—the other thing that I got involved with right after that was the Oregon Prison Overcrowding Project which I chaired, which led to the creation of the Criminal Justice Policy Review Commission which is the first time that we got a group of people from various disciplines together to try to work on the prison overcrowding project.

Again, I'm reasonably pleased with what we accomplished there. But actually, the thrust by and large has been towards dispute resolution solutions and so I became the first chair of the Federal Bar Committee on Dispute Resolution of the state bar committee. I think it's fair

to say that I helped nag the state bar into creating the committee. There were a lot of people opposed. Lawyers are still very leery about how this new movement is going to affect what they do and their income and the rights of the parties. Some of those concerns are legitimate. I don't sneer at them.

And then I was asked by Governor Goldschmidt to chair the Oregon Dispute Resolution Advisory Council which has resulted in the legislation creating the commission and providing funding now for neighborhood dispute resolution. Now I just see, I see it blossoming all over and I now have the satisfaction of actually, after a long period of having to do mediation—of having to urge people to let me do it for free, it's now of some value to me, because I'm not a wealthy person, to actually be paid, to do this stuff. And now I have a good record of success in helping even very complex cases get resolved.

JC: I was going to ask if our federal court had been referring cases to you or people you're associated with for mediation.

SL: Yes, and we have a, there is a list of people to whom those cases are referred. A number of lawyers were on the list and originally began to—and still do—take those cases for free. I feel that's inappropriate and I feel it's an imposition on lawyers who are required to do it because they have cases before the federal court and they don't want to displease the court and they also are public spirited. But

it demeans the growing professionalism that is necessary in order to do a good job in mediation. Being a good trial lawyer or a good judge does not mean that you're going to be a good mediator. As a matter of fact, maybe even just the contrary. Mediation takes much different skills from those of being either a trial lawyer, or a judge, or an arbitrator. One of the ways in which I know I will have achieved real success, now that we have a Dispute Resolution Section of the bar on this, is when most lawyers know the difference between arbitration and mediation, which is still not certainly correct.

But it's a real pleasure now to see people for whom I have mediated cases coming back and—who did so very reluctantly—coming back and asking that that be done, and to see the growth of group, including groups of retired judges who are now doing this, getting trained to do it. I take some pleasure in feeling that I was among those who helped pioneer this movement. You know I tend to be somebody who is off on something which a lot of people regard as eccentricity and frequently more advanced in terms of where the public is than I ought to be in order to maintain respectability. Some of the things that I've done have undoubtedly not worked out and have been crazy schemes, but enough, enough of the stuff that I've done has worked out. And this is certainly more than any other thing: the notion—number one, that lawyers have priced themselves out of the market for a

very, very large proportion of the people of the United States who needed other ways to get their disputes resolved with community help and even as to those cases in which lawyers were necessary—that the lawyers should be encouraged by their clients and by the courts, by the public, to attempt to get their cases early on, in many cases even before all of the discovery and the interrogatories and all of the other expensive efforts were being made, that you could do that informally sitting around the table. I really feel proud that at least as to that, I don't really feel that I'm seen as a kook. (*laughs*)

JC: We're coming toward the end—

SL: I hope so—

JC:—of certain things that relate to your term as United States Attorney and its subsequent events. I'm just wondering if there are particular subjects or particular things that perhaps we should add more about or that stick in your mind, or that come to mind that I haven't raised or that we really haven't done justice to.

SL: Well, you know I could talk forever, and as you well know, about some of the things on my mind. I would just have to sum up by saying that I was pleased to exemplify and have our office exemplify, by and large, an impression in the legal community and perhaps to a large segment of the public as well, that prosecutors were

not necessarily hard-nosed defenders of the most draconian measures. That we too could be part of a system that was looking for better solutions to the resolution of the enormously serious criminal problems that we had and recognition that the criminal justice system can be of limited value only in solving the real problems of abhorrent behavior and antisocial conduct. And to that extent, attempting to have the prosecutors seen as a part of a larger system, attempting to urge cooperation between prosecutors and other law enforcement people and people interested in working at other levels in dealing with behavior and the causes of abhorrent behavior. I think to some extent we were able to achieve that over a period of time.

I think we've lost some ground. It's quite clear that my predictions, that having the federal court and federal system jump into the drug enforcement field in a massive way would not cure the problem, have unfortunately been more correct than even I thought. I just saw an article indicating the price of cocaine is certainly as low, and even lower, in many places, than it was in 1982. I felt we were being pressed to push this. I don't know I think there were—I'd have to say—

You know the ten-second lecture that I give all of the clerks: "as between rational choices, don't try to sweat it too hard. You might as well toss a coin because serendipity will play a greater role in your life than any plans that you make." In

my case, I think we went through rather exhaustively about the serendipity that got me, a very unlikely person—given my background and given expectations that I would have had at the time that I graduated from law school—to have spent the bulk of my career as US Attorney. Even the prediction that I would have been able to spend over 20 years as US Attorney and to have been able to walk away with my head high, is one of the most serendipitous things in anybody's legal career that I know about. I think there were people who could honestly say, as one did in one of the articles about my departure— somebody said I'm a very nice guy and a very honest guy, but it was a law enforcement person and he just said, "but from the standpoint of law enforcement people, he just should not have become a prosecutor." Now in a sense, from the traditional view of the public and of law enforcement of what the prosecutive function was seen to be back in those days that was certainly correct. But I like to think that our office, and the spin and the tilt that I have put on it, perhaps have brought the prosecution function more into line with other professional efforts to make an improvement in society's function.

I would also say, I know I've said something about it before, but the important thing to me was the Archibald Cox and Bill Ruckelshaus notion that we weren't representing the government in the same way that we represent an insurance company—to squeeze out the

most that we could for the government and its agencies. But in the long run, to do the best we could and to do the right thing by the oath that we took to support and defend the constitution and to do the right thing by the people who entrusted the important discretion that we had to us.

[End of Tape 8. End of Interview]

