

Interview with John J. Todd
Minnesota Supreme Court Historical Society
Oral History Project
Minnesota State Law Library

June 1, 2011

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Justice, Minnesota Supreme Court, 1972-1985
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John J. Todd: JJT
Paul Anderson: PA
Tom Boyd: TB

[Track 1]

0:00 TB: Welcome. My name is Thomas Boyd. I am an attorney in Minneapolis and I am a founding member of the Minnesota Supreme Court Historical Society. I am here today with two very fine members of the Minnesota legal and judicial tradition and this is part of a continued program sponsored by the Minnesota Supreme Court Historical Society. It's our mission to preserve and celebrate the history of the Minnesota judiciary and the lawyers who have practiced before the courts. This is the third of an ongoing series of oral histories we're doing of retired justices of the Minnesota Supreme Court.

Today, we're very pleased to have with us retired Associate Justice John Todd, as well as current Associate Justice, Paul Anderson. I'll turn it over to Justice Anderson to get us kicked off.

PA: Well, John, I'm going to want to get to how you became a lawyer and a judge, but to do that—I know you are a native of South St. Paul.

JJT: That's right.

PA: Born and raised in South St. Paul?

JJT: Yes.

PA: Okay. You're eighty-four now, right?

JJT: I just turned eighty-four in March.

PA: So you must [have been born in] 1927.

JJT: Right.

PA: So, first of all, what did your father do?

JJT: Well, my father had great ambitions because he had quite a history. His father was an alcoholic and he had to quit school in the eighth grade to go work in the yards because his mother needed the money.

PA: This is the stockyards.

JJT: Stockyards. He went to work in a sheep farm [unclear]. Then the sheep commission man, Felix, hired him and told him to be a sheep salesman and then Felix retired in '28 and my dad took over the business and expanded it and actually did very well during the Depression and everything because sheep were the cheapest animals and therefore the farmers were raising more sheep than higher-priced cattle. There were twenty-six firms and the smaller ones couldn't afford a full-time salesman so my dad had thirteen of the small sheep places that he represented. He had a big business during the Depression.

PA: South St. Paul was second to Chicago as to the size of the stockyards. That was a pretty booming place then.

JJT: Oh, absolutely. My dad would get several thousand head of sheep every weekend from about labor day to December.

PA: Did you ever work in the yards with your dad?

JJT: Oh, yeah. When World War II started, he didn't have any help and my brother and I spent weekends down there. Our job was to sort the lambs from the ewes and then we'd end up with about a thousand ewes and then you'd have to mouth them—jump on their back with a blue chalk and count their teeth—two for a one-year-old, four they were two years old, six they were three and then they were full mouth. So you'd mark them and then you'd have to sort them because the younger ones were worth more money. So that was our job every weekend. Then Monday, after school, we would have to come back and go down and feed the ones that didn't get sold that day. Then I'd get home about nine or ten o'clock and do my homework.

PA: You are noted for hard work and you learned to work hard down in the yards.

JJT: My dad taught us that hard work was what you had to do. And I always admired him because he just instilled it in us. Both my brother and I worked and during my junior and senior year at Cretin—I was sixteen years old and I went down to [unclear] and got a job making sausage—shoveling into a grinder and mixing it up. Fifteen cents an hour.

PA: Now, I remember a picture of another Supreme Court justice who was then governor, Luther Youngdahl, in South St. Paul with a sledgehammer smashing slot machines. Can you tell us what the scene on Concord Street was in the bars when you were growing up down there?

JJT: Well, you've got to remember that a lot of the farmers [who] used to come into [unclear] would come in with the truckers and they'd be sitting around waiting for their checks. We had fifteen bars on Concord Street down there and they all had slot machines. So it was pretty big business down there.

PA: A little wild at times?

JJT: I suppose. [Laughs]

5:00 PA: [Unclear] phrases you hear in South St. Paul.

JJT: It was an organization that had marching units and little carnivals; they had a horse patrol and my dad was part of the horse patrol. My mother marched with him in the carnival. It's an organization that still exists and it does a lot of good.

TB: It's unique to South St. Paul.

JJT: Hook 'em Cow—I don't know when or how it started but it was there when I was a kid.

PA: How did you get from counting the teeth of sheep and making sausage—which some people say is kind of like law, maybe that's the connection, I don't know. They said if you like law and sausage, you shouldn't watch either being made. [Laughter] But how did you get from there to decide to become a lawyer?

JJT: Well, I got out of high school and I had just turned seventeen in '44. My buddies were all going into the service and I wanted to join and my dad wouldn't let me. He made me go to St. Thomas for fall semester.

PA: You were seventeen so you couldn't join without his permission.

JJT: That's right. So I started in pre-med at St. Thomas and then I went into the Navy in February of '45 and served until July of '46, so I'm a non-combatant World War II veteran. [Laughs] And we had to do some time on the Atlantic on a ship. They kicked us out when the war was over because they didn't want to pay fifty percent flight [unclear] and so I ended up on the USS Auburn as a clerk in the office. That got me qualified to be with the VFW which I still belong to.

PA: Did you go back to school then after you got out of the service?

JJT: Yeah, I went back to one semester of pre-med and chemistry was beating me. Bill [unclear] went out and had a beer or something and decided we didn't want to be in

pre-med and we both switched to law. I did one semester of law and GED'ed a semester, so I ended up under the Minnesota Plan, which was two years of pre-law and four years of law school, going to law school with three semesters of law and GED a semester. So I got into school in the fall of '47.

PA: There is a rumor out there that you actually got to take your bar exam before you graduated. Any truth to that?

JJT: Absolutely. I went two summers and I had one quarter left in the fall of '50 and the law school switched to semesters. And so there was about eight or nine of us in the same boat and we went to see Dean Pirsig.

PA: Maynard Pirsig was the dean then?

JJT: Yeah. He said, "Go to SLA and get fifteen credits and we'll graduate you in December." So I started in SLA and eight or nine of us had coffee one day and we said, "You know, there's an October bar exam. If we're done with law school, let's see what Pirsig will do for us."

So we went back there and he certified us for the bar exam. We took the bar exam in October of '50, went back to the SLA professors and said, "We'll see you when we're done." GI's—they didn't care. And so I took the bar and I graduated December 20th, got the results of the bar exam December 27th and was sworn in January 5th, two weeks after I graduated.

I went to Bodman Toohey because I had been a law clerk for them and then I got paid some ten bucks a week as a law clerk and thirty-five bucks a week as a lawyer. Bodman and I—he had a big case and I had done a lot of work on it. He defended the superintendent of schools at Farmington on a molestation charge and sprung him twice.

PA: Right out of law school, huh?

JJT: Well, I was twenty-three when I graduated. I turned twenty-four in March. Then I got another big boost of experience. Toohey—Bodman and Toohey were the two lawyers. Toohey took a leave of absence for a year for OPS.

PA: OPS?

JJT: Office of Price Stabilization.

10:00 PA: DC job?

JJT: Well, it was in Minnesota. So all of a sudden I inherited all these clients and all this business. I had to learn a lot of law in a hurry. He had a very broad practice—real estate, divorce, corporations—typical small town. I had to learn quick. Then Bodman was a part-time municipal judge at that time, so I was named Special Municipal Judge and I'd sit on the bench at the ripe old age of twenty-four. [Laughter]

TB: Were you named by--?

JJT: The mayor. Because it was a local job and it was part-time.

PA: So you became a judge pretty early in life, then. Did you like it?

JJT: Yes, it was fun. Interesting stories and experiences. I had one guy come in and he was charged with assault and I said, "Do you plead guilty or not guilty?"

"Well, I want to explain it to you."

I says, "Well, I can't do that unless you enter a plea."

"Okay. Guilty."

"What happened?"

"We were arguing and I told her 'Don't step over that line,' and she stepped and I shot."

[Laughter]

[Unclear]

TB: I hope he wasn't a very good aim. [Unclear]

JJT: That stuck with me all my life.

TB: Was that a good way to learn how to be a judge? The municipal court?

JJT: Yeah. We had everything. We had [unclear]; we had criminal court and you had [unclear]. I didn't have any jury trials or anything. I had a couple court trials.

TB: Did it help you become a better trial lawyer?

JJT: I suppose. It's hard to remember. [Unclear] Through the years, I gradually developed a pretty good P.I. practice. [Unclear]

PA: What kinds of personal injury cases would you do?

JJT: Anything. [Unclear] I had my own full-time investigator. [Unclear]

TB: That was fairly unique.

JJT: There was only one in South St. Paul.

PA: Now, I have to ask you a question. Full disclosure: I practiced with the [unclear] down the street. Harold Stassen, who started a law firm in 1929 down there, he said what it was like to start a law firm in South St. Paul because old D.L. Grannis thought that that was his territory and he was an interloper. But then you had Stassen and Ryan and LeVander and it began to be a little bit of a Republican center of practice so now you're coming down there—were you well-received or did you have a little bit of--

JJT: I just walked in because Bodman and Toohey was a Democratic firm. They were the only Democratic firm in Dakota County at that time.

PA: Okay.

JJT: Practicing law was different then. I could battle with the LeVander firm or Grannis but I'd go fishing with Art Gillian and I'd play golf with Dave Grannis and Vance Grannis. So when the day was over, we were still friends. Today, I don't see any of that.

PA: Little more competitive in the practice.

JJT: I don't think it's as upright as it used to be. I have gotten very defensive. If I make a so-called deal with a lawyer on the phone today, I immediately dictate a letter and say, "Confirming our phone conversation, this is my understanding of what we agreed to. If it's not correct, please advise."

PA: You're one of those lawyers who shook their hand on it back in your day.

JJT: You didn't have to shake hands.

PA: You didn't have to shake hands.

JJT: Your word was it. And even if it cost them, their word was good. Same with me. That's the way we did it. In South St. Paul, there were a lot of good lawyers.

PA: Yes, it used to be the legal center for the county.

15:00 JJT: Lawrence Leonards was there. Even Old Judge Shepley was pretty good.

TB: As I understand it, you did most of the trial work for your firm.

JJT: Toohey did a lot when he came back. Bodman didn't do too much.

TB: Who were the district judges you appeared before?

JJT: Well, Judge Shultz was [unclear] from day one. He lived not too far from where I lived in South St. Paul and I knew him as a kid. And Christensen down in Red Wing.

PA: Yeah, he sat at Nuremberg. Did he ever tell you stories about that?

JJT: I don't think so. But those were the two and, of course, Wayne Nelson got to be district judge and former county attorney and he was a good friend of mine.

TB: Did you appear in Ramsey County Court very often?

JJT: Occasionally.

TB: Did you know any of the judges there?

JJT: Well, [unclear] lives in the same building that I'm living in now.

TB: Did you ever get in front of Judge Devitt when he was on the probate court?

JJT: Oh, yeah. Very much. He played golf. Great golfer.

PA: So now, the firm became, as I remember it was Toohey, Todd--

JJT: Well, it started as Bodman Toohey. Then it was Bodman Toohey and Todd. [Unclear] He was with us for a while, I think it was 1960, Bodman and [unclear] split off because Ray wanted to stay but Bodman was his uncle so he had to go with him.

PA: I never knew that Bodman was his uncle.

JJT: Yes. Then it became Toohey and Todd. And later on we hired Bob Collins and then Toohey came back from the legislature one day and said, "Good young legislator just got fired by one of the big firms downtown. He voted against the First Bank and they are a big client. Will you talk to him and see if we can do something for him?" It

was Wendy Anderson.

PA: Okay. Wendy took a vote that his firm didn't like and they fired him.

JJT: Yep. So I had lunch with Wendy and I hired him. And we set him and Tom Bowman up in an office down in the First National Bank Building. Toohey, Todd and Anderson, and then Oppenheimer expanded and we had to close that office and they came to South St. Paul and Wendy was there. He came back from the '69 session and said he wanted to run for governor. We had a meeting and said okay and that's about the last time Wendy did any law office work. I delivered his last payroll check from our firm to the governor's office. [Laughter]

PA: What was it like? Wendy was a bright, young senator at the time. You've got a law practice; you've got to bring in revenue. What was it like when he said, "I'm going to run for governor"?

JJT: He was a trustee in bankruptcy and that was pretty lucrative at that time and so was [unclear]. But he had client help on the east side, there. But we paid him every week. He never missed a paycheck.

PA: Did you get involved in his campaign at all?

JJT: Yes, somewhat.

PA: That was no sure thing. It was George Scott running, David Graven.

JJT: Yeah, and then, of course, the attorney general was--

PA: Doug Head.

JJT: Doug Head—that was a tight race for a while but Wendy kind of pulled away at the end.

PA: You know when I knew that race was over?

JJT: When?

PA: There was a billboard that went up. This is 1970. Wendy looked like a model, almost.

JJT: Yes.

PA: And he had a light blue shirt—and people didn't wear light blue shirts then—with a striped red and black tie with the sleeves rolled up and I saw that billboard and I said, "There is no way that you can compete with an image like that." He presented this kind of Kennedy-esque energy and vigor and he really did come across very vigorous and he did a good job.

20:00 TB: He was the real deal, right?

JJT: [Unclear] He came in second, I think.

PA: So now he's governor. What does that mean for you?

TB: I hate to backtrack, but I wanted to ask you a little bit more about your career in private practice and also your service on the tax court. As I understand it from your discussion, Paul Toohey had been in the Minnesota Senate.

JJT: Yes, he was minority leader.

TB: And then Wendy Anderson and the others that you mentioned—did you ever seek public office, either elected or otherwise?

JJT: Yes. Once.

TB: When?

JJT: I was about twenty-six and I ran for county commissioner and came in third.

TB: Was that enough to clear you out? [Laughter]

JJT: I did run as a justice, unopposed. [Laughter]

TB: While you were still practicing, you mentioned that you were a special municipal judge, but you also went on to serve with the tax court. I understand from some of the materials I've read that you were appointed initially and there was some kind of a dust-up about whether or not the appointment--

JJT: I don't remember all that, Tom. There was a back and forth with [unclear].

TB: [Unclear]

JJT: It got straightened out somehow. I don't remember the details but it got straightened out.

TB: I don't know if this would jog your memory, but it sounds as though he was appointed to the Court, but not fully confirmed by the Senate. So he was in limbo and then you were appointed when he came off the Court.

JJT: Yeah. I don't remember all the details.

TB: Well, you served on that Court for a number of years, from about '65 until--

JJT: That was interesting when I got up there. They had a practice that the attorney general would call and say which cases he wanted to hear. They had a backlog of 200 cases or something. I said, "That's ridiculous." I says, "Let's have a calendar call."

He said, "Can we do that?"

I said, "As far as I know, we can."

We got done with about three calendar calls and we were down to twenty-five or thirty cases.

TB: How long did that take?

JJT: Probably three months.

TB: Wow. So you got them current in just a few months.

JJT: They were letting the attorney general run the show and I said, "He's just a practice lawyer."

PA: You talk about Paul Toohey. He got elected in 1958. He had a son, Steve. Did you know Steve at all?

JJT: Very well. You know, Steve was killed in Vietnam.

PA: I know he was. The story about Steve—here is somebody who had everything. He was in law school. Could have been deferred and he said, "I'm going to serve my country."

JJT: He was second in his class or something. He said, "It's just wrong, these people going over there." He went over there and he was a captain in the Marines. Apparently, they were driving back from a court martial or something and hit a land mine.

PA: It's quite a story of patriotism. Life was good for him, he said. But he said, "You can't let the lower socioeconomic class fight this war."

JJT: That was Steve.

PA: That must have been hard on Senator Toohey.

JJT: I can remember. He stormed out of that office. But the one thing that came out of that—Billy, his younger brother, was a maverick and that snapped Billy out of it. He just retired as district judge.

PA: He became a district court judge.

JJT: That turned him around. He was kind of a wild man until Steve was killed.

PA: People forget that era and the sacrifice of people.

JJT: We just remember him so closely and my kids took it hard, particularly my oldest son. He liked Steve. He got a lot of Steven's books. He was very sick over the whole thing.

PA: So now, Wendy is governor and you are practicing in South St. Paul. You become a Supreme Court justice. How did that happen?

JJT: I asked him.

PA: What do you mean? You asked the governor? [Laughter]

25:00 JJT: He said, "What can I do for you?" I said, "Well, Nelson's retiring and I'd like to replace him." Next thing I knew, I replaced him.

PA: Okay.

JJT: It was the era that there weren't commissions or anything. Governors were their own--

PA: But he knew you, though. He knew your background and all that. So it's not like you [unclear].

JJT: Not a lot of people knew me. Some of them were pretty disappointed, I think, when I got appointed. They didn't know anything about me. But I think they found out.

TB: Had you appeared much before the Supreme Court?

JJT: A few times. I argued some cases up there.

PA: Who was on the Court then? Was Oscar Knutson still Chief?

JJT: He was chief. Otis and Peterson, Rogosheske, Murphy was still there for a few months after I went on.

PA: Was Fallon there?

JJT: Fallon Kelly.

PA: You knew Fallon from South St. Paul.

JJT: I knew him all my life.

PA: Now, just to be fair, here, Fallon Kelly was former Governor Harold LeVander's partner, too, so I mean, it's not that it was out of the envelope when Wendy asked you.

JJT: No, it had happened before. [Laughter] South St. Paul sticks together.

PA: So, you went up to the Supreme Court. I assume everything was just pristine and great and running smoothly and functioning as you came up there. Would that be a fair statement?

JJT: No.

PA: You're pretty definite in that "no," sir.

JJT: I got up there and I couldn't believe the status of those quarters. They were dirty. The law library was on the third floor. The law clerks were all in one room on the third floor in the back. The clerks' office was a mess. Judges had no good equipment or chambers. I couldn't believe it. I wasn't there very long and I went to Oscar and I said,

“Oscar, we ought to remodel or do something.”

“Well, we got to get money.”

I says, “Can I go to the legislature?”

He says, “If you can get the money, we’ll do it.”

So, I went to the legislature and we got the money and we remodeled.

PA: So, what did you do?

JJT: One of the first things we did—the Ford Building had space, so we moved the law library over to the Ford Building and then we just tore everything apart completely. One of the interesting stories during the remodeling—I used to check it a lot and I was over there one day and they had all this scaffolding in the courtroom way to the ceiling and the contractor said, “You’ve got to come with me. I’ve got to show you something.” So I’m climbing up the scaffolding to the ceiling in the courtroom.

PA: That’s high.

JJT: Yeah. We get up there and he says, “Look at this.” And they had pulled off a piece of acoustic tile. He says, “Look. They put acoustic tile over the gold leaf.”

TB: Oh, geez.

JJT: And, sure enough, they had, at some time, put acoustic tile over the gold leaf and on the side walls they had acoustic tile. So we had to take all of that acoustic tile off, redo the gold leaf on the ceiling and you’ll see it there today. That’s how it got back there.

PA: I will look at that gold leaf with greater appreciation now, knowing how it came to be uncovered.

JJT: Yeah. And the side panels are sound panels now, where they used to be acoustic tile. We had to redo the bench because it was for seven and it was going to be nine, so that curved bench that's there—an outfit in St. Paul did that. That's the original bench that's just rebuilt.

TB: Where did the Court sit and have its chambers and hear cases during the renovation?

JJT: Fallon Kelly made a deal with Devitt. He leased the Court of Appeals space for a buck a year.

TB: In the federal courthouse in St. Paul? Wow.

JJT: Yeah!

TB: Wow, for a dollar a year. That's pretty—can't believe GSA would allow that kind of thing.

JJT: Well, I don't think he'd have worried about it.

PA: So how long did you sit down at the federal courthouse?

JJT: We were there over a year, I think. It was quite a while. You know, there was a lot going on to tear that place apart and they rebuilt all the offices, the conference room, they put the law clerks where the law library used to be and they had their own space and they redid the clerks' office. It was a big project. But it got done.

PA: Where were your chambers?

JJT: Down in the Court of Appeals.

PA: Okay. But I mean, when you moved back up, were your chambers right there?

JJT: On the second floor.

PA: Did you do some work on the chambers, too?

JJT: They were all new.

PA: All new.

JJT: They were all remodeled. New desks, new equipment. Just kept going.

PA: The south side of that, where the chambers are, that's prime space for senate offices, now.

30:00 JJT: Yeah, that's where my office used to be!

PA: Senators have some offices there and some conference rooms.

JJT: Our old conference room was on the east end of the building.

PA: Yeah, we still have that. And they haven't done too much to the old chief's chambers with the fireplaces.

JJT: Yeah. That's in the corner, there. Mine was two down or right next to it.

PA: So you used to go into that old chief's chambers from time to time?

JJT: Oh, yeah.

PA: Ever light a fireplace there?

JJT: No. So I stayed quiet for a little while.

PA: One of the things that was happening in the mid to late-seventies is the caseload was [rising]. Maybe it's because you started out counting sheep's teeth in South St. Paul, but you had this facility to kind of organize and categorize things.

TB: Did you learn that, in part, from your father?

JJT: Well, just the discipline. He was very disciplined. He believed in hard work. But the next thing that caught my eye was—Sheran was chief then and I says, “Bob, we got a huge business, here. We got one of the biggest businesses in the state and we don’t have an inventory of what we got. We don’t know what we’re dealing with.”

He says, “Well, what can we do about it?”

I says, “I don’t know anything about computers, but I know they work. I think we should computerize the whole darn thing.”

“Well, we need money.”

“Yeah, maybe we can get it from the legislature.”

We had a grant from the Feds for some other thing. He says, “See if you can get the legislature to approve that we transfer that grant to computerizing the Court.”

They agreed and the long and short of it is that led to—Honeywell had the contract, I think—SJIS and TSIS.

PA: You were one of the first supreme courts to do that, weren’t you?

JJT: We were early. Ohio came up afterwards and wanted to see what we were doing. I remember a couple of other courts, too. A lot of the trial judges didn’t like it because that immediately put their cases on the ninety day calendar.

PA: You keep track of it, then.

JJT: Well, it was computerized. It would pop out a letter on the eightieth day. The clerks didn’t like it. The clerks were against computers because they made all their money dealing with people. Anyway, I wasn’t popular with a lot of the district judges and the clerks of court for doing that.

PA: But having come on to the Court in the '90s, I can tell you that in the budget crisis at that time, the efficiency that flowed out of having things on computers and figuring out how you could manage your inventory really saved us a lot because we were able to manage and plan. So we really owe a great debt of thanks to you to get that in place.

JJT: I still don't know much about computers but I just know they work.

PA: How about the case numbering system?

JJT: Well, I kind of told you that story. I was looking at it one day and I thought, My God, we're up at fifty some thousand cases.

PA: It used to be [consecutively] numbered?

JJT: They ended up at 55,000 when we finally stopped. Every time a case was filed they'd add a new number. I went back to Sheran and I says, "This is ridiculous. We had a system in our law office and I'd like to put it here. If it was '78, it'd be 78-100."

PA: So 1978--

JJT: Or someplace about that time. The first time I went in was in '81. Then in '79, it'll start 79 with 100 again.

He says, "That makes a lot of sense. Then we know what year the case was filed."

TB: So you can tell how old the case is right away.

JJT: Yeah. So that system went in and I guess it's still used.

PA: We still have it. My cases still show 09 or 10 and then it has [the case number].

JJT: It starts at 100 but they've added more sophisticated numbers, but most of the trial courts use it now.

35:00

PA: Oh, yeah. That was your idea and your thought. Another question, here. Robert Sheran was the chief and I've heard stories that you and he worked very closely on this and he was quite comfortable kind of giving you a free reign to be innovative and try and put some of these things in place.

JJT: He was very supportive. I couldn't have done it without him. He was the key to it.

PA: And so he had to provide the good leadership on that.

JJT: Oh, yeah. He'd get the heat from the clerks of court or the people that didn't like the computerization. He took a lot of heat.

PA: I can tell you, though, that they knew you were behind it.

JJT: [Laughs]

PA: And you are right—in some quarters, they'd say, "What is John Todd trying to do?" Because you were identified with those changes.

JJT: I had a lot of people that didn't like me.

TB: I read that another change that you supported relating to computers was to introduce word processing.

JJT: Well, yeah. I bought the first ones. They were big units. I got the money for it and then some of the secretaries didn't want it.

PA: Unbelievable.

JJT: But my secretary had it and then a few other ones. Well, that lasted one year. The following January, the ones that didn't have them were asking me how to get them.

But they weren't the simple little ones like today. They were a big unit on the side of the desk. But by God, carbon paper disappeared. So I had the first ones, anyhow.

PA: There is another thing that was going on and maybe you can explain it to me. I remember I had a case out in Washington County that time and it went up to the Supreme Court. Of course, there was no court of appeals. I got this notice there would be a pretrial conference. Also, sometimes, you would have three or five judges hear cases. What was going on in the Court then?

JJT: Well, we were up to a couple thousand cases and we just had to do something. I had been at a seminar out east where they were talking about this pretrial conference and George Scott had heard something about it so he and I got together and presented to the court that we'd organize pretrial conferences and we set it up that you'd file an appeal and you'd get a notice very shortly thereafter. And we would assign them—the judge that took the pretrial conference, we had a rule, would not sit on the case afterwards. But he had authority. It was his job to either go panel of three, full court, or non-oral. Eighty percent of the cases ended up non-oral and went to the commissioner's office.

PA: Okay.

JJT: We got rid of the backlog in a hurry.

TB: Would that judge meet with counsel or would he just review it on his own?

JJT: No, no. Counsel would have to come in and sit there and we'd talk to him and tell him why, how. What I did, I'd just say, "Well, this doesn't look like a big issue. Why should it have a hearing? Tell me." And usually they didn't do very good.

[Laughs]

TB: Would the judges or the justices ever involve themselves in any kind of a settlement conference to see if they could just resolve the case?

JJT: Not so much *involve*, but it's amazing that sometimes when they were there, they'd go out in the hall and come back and say, "We've settled it."

PA: Okay.

JJT: Because things were not going the way one guy wanted them to go or something.

PA: I would imagine serving on the Court is—there is a different perspective as a judge and you could tell them how a judge would look at the case and that brought a sense of reality, I would say, to some.

JJT: That's what we tried to do.

PA: Now, did you like that system? Obviously, it was efficient and it dealt with the backload but do you think you got good justice out of it?

JJT: Yeah, because the cases we decided, we really put good effort into. I didn't totally like the commissioner's set-up because they had a good staff of young lawyers and they did a great job but they'd come back with an opinion for the judge. Each case was assigned to a judge.

PA: So there is always a judge supervising.

40:00 JJT: He had to approve the final thing. I made sure I read all the briefs and all the commissioner's cases that I was involved in. So I knew what was involved in a case and I think there were sometimes justices that just took the commissioner's report and passed them on and I didn't like that.

TB: Were the commissioner's cases the non-oral cases?

JJT: Yes. All non-oral. But it was the only way you could survive.

TB: With that workload.

JJT: In order to do justice to the good cases. That was the important thing to me.

PA: Now, when you talk about reading all the files on the non-orals, you also had a reputation that when you had the oral argument, you knew the file. You were prepared.

JJT: The nicest compliment I ever got from one of the staff up there, I think when I was leaving the Court, he says, “I want you to know, you were the best prepared I’ve ever worked with.”

PA: You spent a lot of time working on the files beforehand.

JJT: I was a good reader, a quick reader. I guess I saw Kennedy do this thing with his finger—you read a page with your finger. And I started learning that I still do that today. It’s amazing how much you can pick up. You just bring your hand down each page. The [unclear] comes right through. And then you stop and do something that’s a little tougher and dig in and read a few sentences but I still read like that.

PA: You were on the court of appeals.

JJT: We got it started, yeah.

PA: Did you like the idea of a court of appeals?

JJT: Yes, very much.

PA: You know, Harold and I had a little hard time with that. I can remember Harold at some bar meetings at Dakota County and you’d be down there and you’d say it was a good thing and Harold would say another. I think he was worried about one governor having all the appointments. [Laughter]

JJT: I remember one thing—Pete Popovich was chief and they were going to sit on those different panels, you know, and I do remember talking to Pete. We’d been good buddies for years and years and I says, “Pete, why don’t you let me get these kids in here

again and we'll computerize the different sections so if there is a conflict, the computer will catch it."

"Oh," he says, "We don't need that."

Well, you can talk to the bar today. There is still misapprehension of mix-ups. One is not talking to the other.

PA: Having served on the court of appeals, one of the real legacies that I know of is that when you started the court of appeals, you didn't send a bunch of cases down to them.

JJT: We cleared up our calendar.

PA: Were you part of that decision?

JJT: Well, the whole Court made that decision. Just because we got dumped on, we weren't going to dump. They started fresh.

PA: Yes. I thought that [unclear] that was the greatest gift to that Court to get started fresh without getting a bunch of [old cases].

JJT: Well, we could clean them up with the commissioner's office and everything. That kind of phased out the commissioner's office eventually.

PA: Okay. Are there any cases that you sat on that are particular[ly memorable]?

JJT: I had a couple books with all my opinions in them and I can't find it! [Laughs]

TB: I was leafing through an article someone had written about some of the cases you wrote and some of the articles you had authored.

JJT: You can remind me better than I can.

TB: One I found was a choice of law case. [Unclear] Professor Rustler.

JJT: I went to a seminar and bought into his idea and we sold it to the Court.

TB: I remember learning about it. I went to law school in Iowa and we had a conflicts professor and he would talk about who had adopted Professor Rustler's multifactor approach. He said, "Minnesota is on board."

JJT: Yeah. I went to his seminar and came back convinced it was the thing to do and talked the Court into doing it.

45:00 TB: There were some other cases this gentleman had mentioned that focused on a party's right—particularly in personal injury cases, when a plaintiff's right to have their day in court and defenses that would include procedural [unclear]—not necessarily statute of limitations but some notice of time. I gathered from the essay that you wrote some decisions that were enlightening in terms of distinguishing when there was a real [unclear] versus something that was just a procedural matter that shouldn't bar someone's day in court.

JJT: I imagine I would have done that. [Laughs] I mean, I know from the South St. Paul practices, that the idea is that if you can get to the merits, get to the merits.

PA: Part of the approach to the law is that you get to the issue as much as you can.

TB: I think that's the point this author was making, that you wrote a number of cases that went right to that point, that the Court should look to the merits.

JJT: I tried to focus on the issues in everything in I wrote, I tried to define the issues right up front and then [unclear] write to them.

TB: Were there particular areas of the law, either from when you were practicing or as you developed as a judge, that the other members of the Court kind of looked to you for your expertise or guidance?

JJT: Oh, I can't remember that. It was a collegial Court and you'd get your say.

PA: Being on the Court, for a period of time, you were one of the top experts on a particular question. And then you'd move on to the next issue and the next. But it's really the ultimate general practice of law, isn't it, on the Court?

JJT: Well, yes. You know, yourself. I mean, everything comes there. It's very fascinating to sit and listen to the approaches of different justices and it enlightens you as to—maybe you see it in a broader light than you thought you did.

PA: Or narrower!

JJT: Or narrower. But a collegial Court has to function by listening to everybody. I worry when I read about some of these courts that are bound by politics to be one way or the other and they are not doing justice when they do that.

PA: Now, you've brought up *collegial* and there is one aspect of collegiality on the Court that you joined that I understood that you maybe didn't enjoy so much. That was the Minnesota Club tradition. Can you describe that? [Laughter]

JJT: Well, everybody that practiced law knew that I went there. If you wanted to see the Minnesota Court, go to down the Minnesota Club at noon and have a drink with them. Oscar and a couple others—that was the ritual, that you had to go to the Minnesota Club every noon and order martinis and manhattans down there, which I just didn't understand. But it happened and it continued even when we moved downtown to the Court of Appeals.

But the day that Bob Sheran was appointed chief, he had a Court meeting and he says, “We have a new rule. If you go out at noon and have a drink, you don’t come back to the office.” I follow that rule in my own practice today. I don’t have a cocktail until the five o’clock hour.

PA: So when Bob Sheran came in as chief, that’s when – BANG. Because I’d heard that he didn’t like that practice when he was on the Court as an associate justice.

JJT: I don’t know that. But he didn’t waste any time eliminating it. [Laughter]

PA: I know that lawyers used to talk about it.

JJT: I heard that before I went on the Court.

TB: When I first practiced in St. Paul, I remember hearing that about the district judges, as well, at the St. Paul Athletic Club.

JJT: [Unclear]

TB: I recognized that was sort of part of the society and the times. When Chief Justice Sheran laid down that rule, did the others follow it because they had respect for him? Because I would imagine that would be--

JJT: The Court members?

TB: Yes.

JJT: Well, that was it. Nobody on the Court—the guys that used to drink stopped immediately.

PA: Big change when you were on the Court—1977—Rosalie Wahl. You’ve used the pronoun he or whatever all the time but all of a sudden, you had a woman on the Court.

50:00 JJT: Oh, she was great.

PA: What was it like? Was there an adjustment at all?

JJT: Not that I recall. She just was a competent, good lawyer and she had argued a number of cases so we all kind of knew of her. She was with the Hennepin County Attorney's Office and argued a lot of cases before she went on the Court. She was a good lawyer.

PA: Did you have to change bathrooms?

JJT: I don't know how that all worked.

PA: Two separate bathrooms at the Court now, so you had to make some--

JJT: I don't remember the details. I wasn't really involved in that.

PA: But it was an easy transition.

JJT: Very quick and easy.

TB: Was that generally true for the other members of the Court?

JJT: I didn't see any change [unclear].

PA: I know that she was very grateful. C. Donald [Peterson] was on the ballot with her in '78 and she said what a marvelous job C. Donald did and stood shoulder to shoulder with her. But there were some district court judges who challenged her.

JJT: I forget the details, but she [unclear]. But she just was a good lawyer.

PA: And then it wasn't too long after that [Mary] Jeanne Coyne joined you.

JJT: Yeah. And she was a top lawyer, too. She was a defense lawyer and very good. She just brought a nice, different perspective to some of the cases. She was so bright.

PA: She had been out working and toiling and she understood workers' compensation and she knew what it was to be an employee and to be injured.

JJT: She brought a good perspective on both sides of the coin.

PA: Now, when you left the Court, it wasn't under the best of circumstances.

JJT: No.

PA: What was it like, transitioning off the Court at that time? Was that hard?

JJT: Very hard. I hated to leave the Court but there was a gross misunderstanding on my part and it's my fault that I misunderstood. I thought I had an understanding with Dick Klein and I'll take the blame. I did misunderstand. [I thought] I could bring some books into the multi-state exam and they accused me of cheating. I did a darn dumb job of cheating because I had the books sitting there! [Laughs]

PA: Right on the table with you!

JJT: But the Minneapolis paper grabbed a hold of it. I kind of summed it up afterwards—sensationalism was the name of the game and honesty and truth were the enemy. The guy was copyrighting his stories which made me think he would write a book. So I couldn't escape. It was a thunderous roar. So I got out.

PA: So, what was it like? You were fifty-eight, fifty-nine?

JJT: Yeah.

PA: You were now having to practice law. Was it a tough transition?

JJT: Yeah! [Laughs] Had to get an office over in North St. Paul and Harry Strom kind of put me in touch with a friend of his and so I rented space from him and he had secretaries and I got started that way.

PA: Did you get any clients?

JJT: Yeah, I had some old ones come back. I lucked out. I had played golf at Mendakota years ago with Jim—his last name escapes me, but he started Sun Country Airlines.

TB: Was it Jim Olson?

JJT: Jim Olson! And his fiancé—now his wife—was a flight attendant. Northwest-- a bunch of those guys that Jim hired were unemployed [unclear] and they turned on him. They were going to sell to Northwest Airlines. One night, Jim was telling me about this and I said, “Jim, I think we can stop it.”

He says, “How?”

55:00 I said, “They’ve got a conflict of interest.” I forget how, but I figured it out. Long and short of it, I represented Jim and his fiancé and [unclear]. The long and the short of it— we went to trial and it didn’t come out too good and we had an appeal and then someone stepped in and bought Sun Country Airlines and paid off everybody. Part of the deal was that he was to pay my fees, so I got a nice six figure check that rescued me from the ranks of the poverty-stricken. [Laughter]

PA: It had to be hard. I saw Harold LeVander after he left the governor’s office and it was a year and half before he started rebuilding the practice. It’s hard.

JJT: Yeah.

PA: Are there some clients that came back and some that come to mind that you really have some appreciation for?

JJT: A couple of them—[unclear] Motors. We grew up next door to each other in South St. Paul. I was representing the Chrysler dealer and he wanted to sell. And Red

was managing down in Rochester at the time. So I called him and I said, “Do you want to buy a dealership?”

“You bet.”

And he was up the next day and the long and short of it is that he got his partner, Tom—but they bought it in 1963 and then it was in an old [unclear] building across the street from 740 and down in that metal building down there. Then [unclear] had the 740 building and we leased from him and moved the Chrysler dealership. Red built that thing up and then the two boys have taken over and I still represent them today.

PA: I understand that their two dealerships are the number one and number five dealerships in the state.

JJT: South St. Paul is number one and Lake Elmo—we had to fight to get the franchise back—it’s number five.

PA: You were part of that fight?

JJT: I wasn’t the lead man.

PA: You took them on on that.

JJT: I was part of that. But I wasn’t the lead attorney. There was a guy who specializes in these.

PA: There’s got to be a certain satisfaction that you can work somebody through and—look at the successful business that you were a part of as their legal counsel.

JJT: Yes. And I still represent O & S Cattle Company, which—most people have never heard of them.

PA: Wait a second, here. You’re eighty-four, right?

JJT: Yeah.

PA: And you are still practicing law.

JJT: I go in four mornings a week if I don't play golf. I'm *of counsel*. I always remember that term. It's an elite term for a low paying job. [Laughter]

PA: You say O & S is one of the biggest--

JJT: They do well over \$1 million a day in business and they have [unclear] in fifteen states. And then [unclear] on their own out in Colorado and one in northern Minnesota. But Harold still is the brains behind the whole thing.

PA: I'm listening to you, now. And I know you are eighty-four, okay? You were born in March. How old do you think you are?

JJT: I don't know. I don't feel old.

PA: You keep in such good shape.

JJT: Every morning, I get up around five or five-thirty. It was five o'clock this morning. I go in my office—one of the bedrooms I converted to my office—and I've got a bicycle there. I do twenty minutes every morning on the bike watching the news. I read the paper and I go back to bed and sleep! [Laughter] I do six days a week unless I play golf.

PA: You still love the law?

JJT: Yes.

PA: What would you—you've noticed some changes in the practice of law. What advice would you give to somebody who is younger and starting out in law? Obviously, you have a passion. You've been successful. What would you say about the law?

60:00 JJT: I'd say, "It's going to be a lot more difficult for you than it was for me. It's more competitive and if I had one thing to tell you, it'd be, 'Be true to yourself.' Don't compromise because everybody else is doing it. At least you'll be able to sleep at night and feel good about it." There is too much cutting of corners and lack of just straight out honesty. My advice would be, "Don't compromise yourself. Be true to yourself."

TB: One way in which practice has changed a lot from when you were practicing was the specialization. Reading about your career, particularly when you were in private practice, the breadth of things you did, including criminal cases—I read about this Olson case.

JJT: Well, we defended that guy that shot the sheriff. I defended him and got him off with second or third degree.

TB: Yeah—it was pretty open and shut but Miranda--

JJT: I always thought the way they handled Miranda in that case—there was an editorial attacking me. [Laughter]

TB: It was Judge Marsden.

JJT: He hung on. [Unclear] I forgot about that case. That came out—I forget how I got that case. Somebody up there called me and I went up and met with them and ended up representing them.

TB: Well, I'm envious to learn about your practice. It was so varied. The practice today is much more focused on a particular area. I don't know if I'd trust myself with a criminal case but it would make the practice pretty exciting.

JJT: Well, there are so many more lawyers today, that there isn't room for a general practitioner, really, anymore, because each person's got to make a living and if they can focus on one field, they've got a better chance.

TB: When you were practicing in South St. Paul, there were fewer lawyers and you knew everybody.

JJT: [Unclear]. Your firm, our firm, Lawrence Leonard, the Grannis firm. I mean, just great lawyers.

PA: What voices from the past do you kind of remember and hear from time to time? I remember, I just celebrated fifty years since I graduated from Eden Prairie High School and I went out there and there were some voices from the past that I kind of remembered and missed. Are there some that you recall?

JJT: Well, Toohey and I were very close, Paul Toohey. We just were close all through the years, even after I went on the Court.

PA: Did Paul ever have any desire to be a judge?

JJT: No.

PA: He didn't.

JJT: He was [unclear] St. Paul Fire and Marine and then he started practicing in South St. Paul and he and Bodman went together. More recently, George Stoddard.

PA: You miss George.

JJT: He and I got along good. We tracked on the same field. And John Simonett—I wasn't that close to him but I respected him so much and I enjoyed talking with him because he was so good and [unclear].

PA: Country lawyer, right?

JJT: I always wanted him to write the autobiography of Rosenmeier.

PA: Most powerful man in the State of Minnesota.

JJT: That was my opinion. I think I told you the deal that Toohey had with him.

PA: No, you never did.

JJT: Well, I think I told Tom. Toohey was minority leader and Rosenmeier had too many senators. He had more than he could control. Sometimes he'd want something and some of the outlaws wouldn't go with him. So Toohey cut a deal with him. He said, "Anytime you have a problem and you want twenty votes, I'll deliver. But if some of these guys got some little local bill they want, then you've got to get it through for them if I do this." That was the deal.

He goes back to his group and says, "Do you want your little local bill passed or do you want to stand up and give a speech?" [Laughter]

So he had those twenty votes and when Rosenmeier needed twenty votes, Toohey would deliver twenty votes and all those twenty senators had a little local bill they wanted and they went to Rosenmeier and it went right out.

TB: I'd never heard that. That's fascinating.

65:00 JJT: I was talking to my barber, who is a big Republican. He and I have a lot of discussions. I had a haircut yesterday. We were talking about this lockdown. He's sort of broad-minded. I says, "I'll tell you the problem today is all those new Republican legislators don't know how to negotiate. They've never had to negotiate. They think negotiation is *my way or no way*. The old timers know you never get a hundred percent. And they don't seem to realize that. That's the problem with Dayton and the legislators today. The new ones don't know how to negotiate."

PA: You need some seasoned people like Rosenmeier or Toohey who know how to [do things].

JJT: It's a give and take. Accept the fact you're never going to get a hundred percent and if you [unclear]. You don't get everything.

TB: The old way worked, because Rosenmeier and Toohey were in those positions of leadership for many years.

JJT: Oh, yes.

PA: We are running out of time. If there is something you wanted to comment about or a piece of advice on your experience or talk about some of the lessons, what would you say?

JJT: Oh, I just would say, I've been very lucky from day one. I had a lot of good breaks along the way and couple bad ones, but I survived and being a lawyer—it just made me a better person and I enjoy it. I still enjoy it.

PA: I can tell that.

JJT: Yes. So I wish young lawyers could reach their eighties and feel the same way that I do.

PA: What a marvelous thing to say. "At eighty-four, I'm still enjoying being a lawyer and I wish you could be doing the same thing I'm doing."

JJT: Yes. That probably sums it up.

PA: Well, thank you.

TB: Thank you very much. On behalf of the Minnesota Supreme Court Historical Society, we really are grateful for the time you've spent with us today. Justice Anderson, thank you so much for all you've gone today and throughout this program.

PA: John, thank you so much.

JJT: Thanks, Paul.

TB: Thank you very much. Until next time from the Minnesota Supreme Court
Historical Society.

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