ARTHUR G. SCOTLAND. Welcome to the chambers of George Nicholson, Associate Justice of the California Courts of Appeal, Third Appellate District, right here in the magnificent Library & Courts Building in our state's capital, Sacramento.

I am Art Scotland, the retired presiding justice of this court. It's a treat for me that Justice Nicholson, known to his friends as Nick, asked me to interview him for this Legacy Project Interview.

The purpose of the Legacy Project is to preserve the history of the California Courts of Appeal and its justices. This project is a worthy and important endeavor, because as observed by Martin Luther King, Jr., we are made by history. And as noted by American historian John Henrik Clarke, history tells us where we are, but more importantly, where we must be.

Nick, we have been colleagues and friends for about 35 years, and because you have had such an interesting and meaningful life, both on the bench and off the bench, the challenge will be to limit this interview to a reasonable amount of time.

The interview guidelines understandably asked me to begin with eliciting some biographical information about you. So let's start by please telling us about where you were born, when you were born and about your parents and any other individuals in your life that had a big influence on you during your early years.

JUSTICE GEORGE NICHOLSON. I was born in Dallas, Texas, in 1941, in February, and I was the firstborn child in the family. My father was one of five boys and a girl. My mother was one of six girls, so they came from large families. I knew all my aunts and uncles; they were all married.

All the men except my father went to World War II and some were injured; all survived. My father was a baker. He was frozen on the job, which was wholly surprising to me when I learned about it, but that's what happened.

So I didn't have him at risk during the war, but I had all my uncles, and when they came back, they told me—all of them told me of their different experiences.

I was close to all of them and all of them came back. One in particular had been severely wounded at Normandy, and he was my favorite uncle and his wife was my favorite aunt. And as it turned out, he had been in a coma for months after he was injured at Normandy, and the family thought he was gone, and he turned up alive and worked the rest of his life.

All of my aunts and uncles lived into their 70s and 80s, and all of them worked. Everybody on my father's side stayed married; one or two on the other side didn't. But for the most part, it was a stable family, so I came from that kind of environment.

Brenda and I got married three months out of high school and we have been married 58 years now. And our kids are married and they have stayed married, and I think it's all rooted in this frankly humble beginning of faith in family that everybody was—everybody was a person of faith, it was not spoken of so often, but it was always there.

We were taught early right and wrong. I was born and lived on my grandfather's farm and all my aunts and uncles on my father's side lived there, with property my grandfather gave everybody, and they all built their own house and most of them were two rooms with an outhouse, which means no indoor plumbing, no electricity.

So I and the other children spent a lot of time in the fields—the cultivated fields—running barefooted on the soft soil when it was soft and freshly cultivated, and not having radio and television or video games or anything like that, learned to get along with one another and love one another and play with one another amicably.

(00:04:52)

And I think it was a fortunate beginning, because I loved everybody around me at the time and I loved everybody around me as I've grown up and grown old. And I still love everybody around me, particularly the people in my family and on this court, but everybody. It sounds kind of remarkable, but I'm sorry to say, if anyone wants to doubt me, it's true.

ARTHUR G. SCOTLAND: I can vouch for that, Nick. You treat people so nicely. You really do have a very generous and caring spirit, and it starts with that humble background with—your dad was a baker?

JUSTICE GEORGE NICHOLSON: He was a baker. My mom didn't work. He was 6′5″, she was 4′11″. It was the most amazing couple you ever saw.

But digressing again, near the end of his life, that little woman refused help. His mind never went, but his body began to fail in his 80s, and she took care of him till he was taken to the hospital and died.

And on the day he died, this little woman—the whole family was in the hospital and clearly [6:10they retired?] and I told Mom, I said, "We're going to have to take him off life support, Mom. You stay here with all the kids and the grandkids and I'll work with the doctors."

She said, "No, that's my job." (I am almost crying mentioning it.) And she went in, and she did what she had to do, and we all watched him die together; it took about 30 minutes, but she took care of him until his last breath. And that's the way he felt about her—he just happened to fade earlier than she did—because he would have done the same.

But [her] being tiny, he would have had an easier job of it. I don't know how a little bitty person like that can care for a person in the home alone, going through physical failure when you are 6′5″, 265; she is 4′11″, probably 100 pounds.

ARTHUR G. SCOTLAND: So you started out in a very humble beginning. It sounds like you did have fun, but it was not necessarily easy.

JUSTICE GEORGE NICHOLSON: No, no, my fa—everybody worked, like I said, and we never were hungry or anything like that. But I just learned to love the farm and the animals and working people.

And one thing I learned before we left Texas—we left when I was about nine—my grandfather had a black friend in an area of Dallas that other people had a disparaging name for; it's where black people lived. And my grandfather would take me down there and I'd sit on the front porch while my grandfather, who was an old man, spoke to his friend, an old black man.

And when we left Dallas, I asked my father and mother to go down so I could say goodbye to this man. And we looked around a while and I couldn't direct him to where he was, but after a while, they said we are going to have to go and they left with me crying, because I didn't get to say goodbye to my grandfather's friend Josh.

And it may seem like a small, insignificant item to remember, but I've never forgotten it and I've had a life full of experiences with people of other ethnics . . . of other circumstances that are different than our own and they've always been positive.

I grew up playing baseball with black kids in Oakland where I grew up. It was a hotbed from the time we got there and Jackie Robinson and Branch Rickey broke the color barrier in '47. That same year, a white man returned from World War II. His name was George Powles, and he went to McClymonds (I went to Oakland High), but he was there when I got there in the 50s.

From 1947 until 1960, he sent Frank Robinson, Vada Pinson, Curt Flood, any number of players to Major League Baseball. He sent Bill Russell to the NBA. Bill Russell became the first black NBA coach, and Frank Robinson—Major League Hall of Famer in both the National and American League[s]—became the first black manager in Major League

Baseball. All from this one man, all from the same year that Jackie Robinson and Branch Rickey did theirs.

And these two men are proceeding on parallel tracks: Rickey, a lawyer, and George Powles, a high school baseball, football, and basketball coach, track coach. He coached Jimmy Hines. He went to the Olympics and won the sprints.

(00:09:54)

It was just a miraculous time to live, and I was with all of these people. I knew these people. They were heroes at the time, as were Branch Rickey and Jackie Robinson. And they were my heroes from the time I first heard of them when I started playing baseball in Oakland.

I was probably 10, playing Little League, and I played baseball in school and out of school, and I got good grades in school, because you weren't eligible in those days to play if you didn't have good grades: B over B, B substantive grade, B citizenship. And I played Little League, Catholic Youth Organization, Young American, Babe Ruth, American Legion. I can't name all of them, but I played varsity baseball at Oakland High three years (you only went to high school three years in Oakland), and I learned from everybody.

And one time, one time George Powles also was a scout for the Cincinnati Reds and he signed all of his players and a few players from the other teams. Three or four years after I graduated from high school, I was playing a semipro game at a very famous high school baseball park in Oakland (ballplayers know the park, called Bushrod Park), and I hit a home run (it must have gone 400 feet), and as I rounded third I saw George Powles sitting in the bleachers. And I yelled at him, "Hey, George, see what you missed by not signing me?" I thought he was going to have a heart attack laughing.

ARTHUR G. SCOTLAND: So, regrettably, during your youth, race relations were difficult; there was a lot of racism.

JUSTICE GEORGE NICHOLSON: Well, there was, but not where I grew up, because at my school—well, as an example of the integrity of what I just said and the incredulity of it for others, my wife and I ran our high school reunions for 50 years and our committee was multiracial, our class was multiracial. And when Brenda and I finally decided after 50 years of doing it we couldn't do it anymore, one of our Chinese friends, Henry Chang, took over as chair of the committee.

And all of our reunions through the years had every ethnic group you could imagine, and some that people don't even think about anymore: Portuguese and Italian and

Scandinavian. I mean, if you really broke 'em down, it wasn't just black, Asian, and Hispanic: it was everything. And it was a time of peace, really, and brotherhood. And everybody supported one another and all of the—it just was a great time to grow up in Oakland in the 50s.

ARTHUR G. SCOTLAND: So you mentioned school and you mentioned you had to get good grades because you wanted to be able to play baseball. In your family, was there urging of you to become a good student, or was that all just self-generated?

JUSTICE GEORGE NICHOLSON: My parents always urged me to do good and be good, but they never—for the lack of a better word, a poor word—micromanaged my schooling or my athletic activity.

And when I was growing up, there were fathers that wanted their boys to be Major League Baseball players; I know three in particular. And they really hounded their boys, and sometimes at the games—they were on other teams than ours—and sometimes at games they would demean their boys during the course of the game in front of the other team, the umpires, the students that were gathered to see the games, and so on. And my parents would be sitting over in the stands never saying anything.

And I learned then—I am coaching, I am helping coach my grandson's team; my son is the coach. In the 70s, I was my son's Little League coach. And I am very low key with kids because of what I saw these other fathers doing.

And one of these boys was a great ballplayer, but he wound up in a mental institution, and I think it was overbearing parental force and threat of force that did it. I have always loved children, and I love the people that I grew up with when I was young, and I have been very careful about the way I treat children.

One of the troubling things we do here are dependency cases, and a significant fraction of our work deals with that subject, and they are always difficult for all of us because there's such pessimism associated with so many of the cases and all you can do is hope and pray things turn out better than they appear to be in the four corners of the case—particular dependency case you are working on.

(00:15:13)

ARTHUR G. SCOTLAND: Let's go back to the baseball thing, and let's go back to your—you really had aspirations to be a professional baseball player then.

JUSTICE GEORGE NICHOLSON: There was a time when I was probably 14 years old; we were working out, all the kids I grew up with. I grew up with the same kids, played on the same—with the same guys from elementary, junior, and senior high school, and even into semipro. We were very close. We're still very close. All of them are alive, remarkably. We're all late 70s. They've all attended the reunions through the years, so we've never lost track of each other.

But we were probably 14, it's raining lightly, it's at a ballpark in Oakland called Allendale. We had been playing for hours. We practiced all the time—weekends, dark—and we all said, as we were getting ready to go home, we are all going to play Major League Baseball, and none of us will sign unless they sign us all. It was the most childish thing you could ever imagine.

ARTHUR G. SCOTLAND: That's sweet.

JUSTICE GEORGE NICHOLSON: And before it was over, two of us signed: our pitcher, Carl Shelen, he played nine years for the Giants in the Minor League, several times was on the verge of being called up. He was a great pitcher and a great basketball player, all-city in both sports. And he hurt his arm when he was playing for the Tacoma Giants and probably going out that year.

And Jimmy McClure was our shortstop. We called him Spider; he was long-armed and long-legged and looked like a spider, but he was a great shortstop, great ballplayer. The Dodgers signed him, and he played several years all over. They played all over the country.

ARTHUR G. SCOTLAND: So now you though, Nick, I understand—I have heard a story and you can tell me if this is accurate or not, but something about a game where you played with another young fellow, Willie somebody. Can you tell us that story?

JUSTICE GEORGE NICHOLSON: I should clarify, because it really wasn't a game. I don't know how now, my memory is forsaking me, but I was part of a Giants rookie league team that played in the Bay Area but practiced at Seals Stadium. And Seals Stadium was the Sacramento Seals ballpark before the Giants moved west in 1958; it's where the Giants played until Candlestick was built.

And so we practiced at Seals Stadium and one day we came—I don't remember the day, it surely was a weekend—and Willie Mays was taking batting practice and he was doing his typical kill-the-ball routine very smoothly and easily. But his last hit was a

resounding, would have been a double in a game off the left centerfield fence, which was solid in Seals Stadium.

And I got up first after he had departed and I hit one so far over that same spot you wouldn't have believed it. And it was always—it was always personally rewarding to me to have hit one longer than Willie had hit.

But that's as close as I got to playing with Willie, and I got to say hello to him. You got far closer to him than I did. He has autographed a ball for you and you have a picture with him, which I don't.

But it was really a thrill to be there. Some of the older ballplayers, when I was playing as a sophomore and junior at Oakland High, when the Giants came (like I say, they came in '58)—so in '58, the spring of '58, some older ballplayers at Oakland High took me to a game at Seals Stadium. I thought I was in heaven with these older ballplayers that I looked up to taking me to see the Giants play.

And I had watched the Giants play the Oakland—the Seals play the Oakland Oaks in Seals Stadium and Oaks Park. We used to ride our bicycle to Oaks Park in Emeryville from East Oakland. So we lived baseball. I grew up with baseball.

ARTHUR G. SCOTLAND: Speaking about living baseball, even in—you just talked about old guys—there was a time when you played on the court's softball team in the Justice League.

JUSTICE GEORGE NICHOLSON: I played for years, Scotty. And I still could hit. We were well into our 50s, maybe we were 60 by then, I don't know; we were old. And I hit one a mile and barely limped into second base. It would have been a home run for anybody with legs left, and I finally scored from second base and you drove me out of the game, because when I ran by you on the way to the bench you said, "Nick, I have never seen anyone that looked so funny running." And I said, "Scotty, I have been thinking about quitting for a long time and if I look that funny, I don't want to be seen out here anymore."

(00:20:15)

ARTHUR G. SCOTLAND: Oh Nick, I didn't know about that. I know I teased you about turning a home run into a double, but I didn't realize that drove you away from the softball game.

JUSTICE GEORGE NICHOLSON: Well, it really was the time. It was an idea whose time had arrived.

ARTHUR G. SCOTLAND: So as I am listening to you, it's obvious that baseball had a major influence in your life. Did it lead you to want to pursue law as a practice, and if so, why?

JUSTICE GEORGE NICHOLSON: Like I say, Jackie Robinson and Branch Rickey worked together and broke the color barrier in Major Leagues in 1947. I really wasn't aware of it in 1947. But by 1950, I was—1951—and I learned all about Branch Rickey and Jackie Robinson. I learned about Rickey being a lawyer, I learned about his life, his career, his attempt to be a Major League ballplayer. He played for several teams and wasn't altogether a great player. He managed and coached. He brought championships to St. Louis, Pittsburgh, the Dodgers. He was a remarkable man. But he was an inspiration to me and really was a significant factor in me deciding to go to law school.

Jackie Robinson, on the other hand, was a California boy. His family had brought him from Georgia. His mother had brought him from Georgia to Pasadena. She wanted to get him away from the south and she had gotten a home, and it was very difficult; it was a white neighborhood, but the neighborhood finally accepted her.

Jackie was a great athlete. He excelled in high school and in Pasadena Junior College, UCLA. His brother, Mack Robinson, nobody knows, but he was an Olympic sprinter and he would have been Jesse Owens if he hadn't been injured. He was on the Olympic team when Jesse Owens thumbed his nose at Hitler and won the sprints. And Mack was better than Jesse Owens, but he was injured.

But he was at the Olympics, and he got a gold medal because he was on the 100-meter relay team. They call it the 4x100 now, but when I was a kid, it was the 100-meter relay or the 440 or whatever. But he won a gold medal. And down in Pasadena there is a statue of Jackie and Mack right in front of City Hall, right across from City Hall.

My baseball really began as a serious endeavor with Rickey and Robinson. It was cemented by George Powles, even though he coached McClymonds; I was aware of everything he was doing. And my own coaches, my junior high and high school baseball coach—give me one quick second with both of them.

My junior high baseball coach came to Bret Harte Junior High in Oakland when I was in the eighth grade. He had just come back from combat in Korea. We were his first class. His name was Ernie Fernandes and we became friends, and he taught me a lot.

I had a hot temper at the time, and he pulled me from games a couple of times and said, "Control the temper or you won't play." And I said, "You can't do that; the team needs me." He says, "Go sit down and relax."

And so beginning in that year, when I was in the eighth grade, until he died, we remained friends, and most of all the teams did.

But we were special to him and he was special to us and we didn't know how special he was, but I'll tell you how special we were to him—but I'll tell you how special both ways it went.

Around 2005 to 2008, I got our eighth grade team together and we went to Bret Harte and tried to persuade the principal to rename the gym—which it still stands, and it's the same one we had—for Ernie, Ernest G. Fernandes, our coach, while he was still alive.

It took us three years. We finally got the principal, the Oakland School Board, the Oakland City Council, the Mayor; everybody agreed. So we are going to have a big ceremony at Bret Harte and the school repainted the entire gym. There was no graffiti when I was a child; it was covered with graffiti by 2010.

(00:25:00)

So it was repainted inside and out; they painted Ernie G. Fernandes Gym and all that on there. And his family came; he couldn't come. And while we were doing the ceremony, a letter was brought in. It had arrived at the school, and my mind has just gone blank now, but who is the actor that did the gay man in the Philadelphia story or Philadelphia—

ARTHUR G. SCOTLAND: Denzel Washington, was it?

JUSTICE GEORGE NICHOLSON: No, it's not Denzel.

ARTHUR G. SCOTLAND: I can't remember the name.

JUSTICE GEORGE NICHOLSON: I can't remember and I am sorry I have forgotten.

ARTHUR G. SCOTLAND: Tom Hanks.

JUSTICE GEORGE NICHOLSON: Tom Hanks. He went to Bret Harte, he had Ernie Fernandes, and he said, "I am sorry I can't be there, but this $5,000 check ought to help with the scholarship fund." That's the first we heard of it.

But Mr. Fernandes died a year or so later and six of us from the eighth grade class were asked to be his pallbearers. And when we put his casket to rest, he and his casket, and went over to the tent, it was misting, as often happens. His wife, Dee, hugged each of us and handed us a whistle that he had saved from our eighth grade class that he used in the class while we were there, and he knew then that he was going to have us, or six of us that still were around, take care of him when he died.

And then with Mr. Marcoulis, Mike Marcoulis, who was our head baseball coach at Oakland High—these people were part of our lives. We helped get the field at Oakland High named for Marcoulis, and we were there when it was dedicated.

And when I got out of high school—Mike was Greek. Nick Petris was an Assemblyman at the time; he was Greek, from Oakland. He was a scholar and a collector of Greek historical artifacts, and he had a great library. He became Senator Petris.

But anyway, Mr. Marcoulis introduced me to Nick Petris, and I was interviewed for an hour, and both of them helped me get into law school at Hastings. So baseball helped again.

And both Mr. Fernandes and Mr. Marcoulis were with me when I passed the bar. And when I became a judge, Mr. Fernandes was with me, but Mr. Marcoulis couldn't. So they remained with me until I became a judge.

ARTHUR G. SCOTLAND: So let's go back. You've talked a lot about baseball in your life and the influences it had. Tell me a little bit about being a kid: did you have jobs as a kid, did you have jobs during law school? What are some of the things you did to make money?

JUSTICE GEORGE NICHOLSON: I really never had a job until I got a job that I had one summer at a gas station and I got it so I could get money to buy a car. You could buy a car for $150 or $200 in those days.

And so the first car I got was a '49 Ford; it cost me probably $175, which I earned working at a gas station and an appliance store. And I drove it for a while and blew low gear and second gear—blew low gear and reverse; I had second gear and high.

And just as a digression, that's the car I had when I started dating Brenda. So I had to take her on dates with second gear and high gear and occasionally, she had to drive while

I pushed to get us out of a dead end street we got onto or something. But that's what I did for work.

But beyond that, I worked at the Chevy plant in San Leandro all summer when I graduated from high school. That was the first real job I had. I worked swing shift there in the warehouse. And I learned a lot.

There was a PhD student from UC working that same shift, and there was only one foreman and there were about 20 of us working. And all of us—high school kids, except for this gentleman—worked and did our job. He would go up on the second floor of this place and find a truck fender and sleep. It always impressed me and depressed me that this person that ought to be a role model for the rest of us behaved in that way, and I just concluded I was never going to do anything to—might depress young people that way.

But then I worked at odd jobs; Brenda worked at odd jobs. Like I say, we got married three months out of high school, a year later we had a child. We became grownups very early. It's like kids who got drafted and had to go to war: you grew up quickly when you are married and having to make a living, whether you are 18, 19, or 30.

(00:30:06)

And we had to make it on our own, we wanted it that way, and my parents had to have it that way and her parents were far better off, but they thought we ought to make it on our own, so we did.

Well, I got a job as a process server in the third year of college, and I was making $1.10 a paper serving legal papers. This is in downtown Oakland. I worked every day, seven days a week; I made a $1.10 a paper. And I went in to see him one day a few months into the job and I said, "Would you give me a raise of $0.10 a paper?" And he said, "No."

And I said, "This looks easy to me," and I went to the management of the biggest and best office building in Oakland, the far west building and it was at the corner of 14th and Broadway; it was full of lawyers and I said, "I would like some space, cheap, near an elevator." They had parking in the building. And I went to an auction and bought $200 worth of furniture and I created a form, because you have to have a record of everything so you can testify if anybody says you didn't serve them.

I had quadruplicate forms to do different things that were required, and I sent out 1,000 letters, and within about three months we were making money. And I'm still in college. And this thing blossomed and I served papers when I could and Brenda managed the office. We had 15 or 20 college and law students that served papers, and we helped support others, and it paid my last year-and-a-half of college and all of law school and through the bar.

And many of the lawyers that I had as clients said, "I wouldn't sell this business just because you passed the bar; you are never going to make as much money as you are making now."

And I said, "You have got to believe this: I haven't worked all this time and through all I have done to do this the rest of my life. I have a job in the DA's Office and I am out of here." And we sold that for a considerable amount of money. And it started because a guy wouldn't give a dime a paper.

And that business, as small and insignificant as it might seem to others, taught me independence, responsibility. I had to testify one time, and the judge believed me and affirmed the service.

One quick thing about process serving: I had a man up in Kensington, which is above Berkeley. He was a football player; he played for the Raiders. He was a flanker, and he was an all-league flanker. His name was Art Powell. And I would go to his house and I would see the curtains would flutter. And the Oakland Raiders had just moved into the Oakland Coliseum, seating 50,000, 60,000 people.

I had season tickets on the 50-yard line on one side, about 10 rows up, because I had had them since they came to Oakland and they played in a place called Youell Field. And I got tired of Art Powell playing games with me at his house.

So I walked all the way around the Oakland Coliseum to the other side of the field, which was the Raiders' side, and there were guards marching back and forth, police marching back and forth, to make sure nobody jumped the fence.

Art Powell caught a touchdown pass. The waters parted. The police parted. I jumped the fence. He was sitting alone with one of those big capes draped around him with his arms up on the bench, and I went up next to him and put my cheek next to his and put my arm around him and I said, "Art, it's taken me a long time, but I figured I ought to finally give you this paper."

And I laid it in his lap and he looked up at me and smiled, and I turned, and the police parted again. I jumped over the fence and went back in my chair and sat there and watched the rest of the game.

There were any number of events like that.

ARTHUR G. SCOTLAND: So you anticipate where I was going to go, and that is about Brenda. You have had a remarkable, loving marriage for many years. How did you happen to meet? What led you to—

JUSTICE GEORGE NICHOLSON: I met her in art class. She was very attractive. She wore, I don't know if this is the full name, but midis; they were kind of white naval tops with a blue scarf tied around and hanging and blue pleated skirts and white bucks; girls wore that a lot.

(00:35:06)

We wore Levi's. Boys were kind of scruffy; the girls were always—all the girls were very well dressed, perfect hair. In that era, people dressed nicely, we dressed nicely, we just dressed in Levi's and white shirts and things.

So she wouldn't pay attention to me so I threw an eraser at her a time or two, and she never told on me, but she didn't appreciate it. So that was first semester of art in the eleventh grade.

In the second semester, somehow, we wound up sitting next to each other; there were two rows of desks pushed together, probably four rows like that. And she would never say anything to me. So one day I passed her an eraser and said, "May I take you home?" And she thought about it. She talked to one of her girlfriends, didn't say anything that day. The next say she said, "Sure."

And her thought process was, "I have a long walk home from Oakland High through Trestle Glen, over to Mandana, and up toward Piedmont." She lived right at Piedmont. "So if he wants to take me home, great."

So I started taking her home and we got friendlier. Oakland High had dances regularly. We had more than 3,000 students and everybody could fit in the auditorium. We had an auditorium, movie stars came, it was—we had regular movies, regular dances. I don't want to say every Friday, but at least a couple of times a month, we had dances. No real chaperones, just teachers. It was very peaceful.

And she wound up double-dating with me and I would be with another girl and she would be with one of my best friends. I am really telling the tale out of school here.

And one of the times, she is with my best friend, Carl, the one that signed with the Giants, and I am with—no, she is with me and Carl is with a girl named Allison. Carl and Allison are in the front seat and Brenda and I are in the back seat. So Carl and I go to get popcorn at the drive-in in Alameda, which is the only thing we could afford, all of us.

And while we were gone, Brenda asked Allison to trade places because I wouldn't kiss her, and didn't kiss her. And Allison, who liked me—I didn't know it—wouldn't trade places.

So we had a couple or three incidents like that and then we wound up together on our own date at our own dance, and still probably in the eleventh grade. And we started going to—I can't remember the name of it, but there is an ice cream parlor at Lakeshore District of Oakland, that I am sure is still there, and I would buy giant sundaes and split them with her. And she would have a spoonful or two and I would eat the whole thing. And then I would take her home.

We just became friends and by the time we were in the twelfth grade we were talking about getting married and driving her parents silly, and my parents were just very easygoing and didn't believe it, but never fretted about it, never said anything. Her parents were mortified.

And when we did it, we got married in St. Paul's Episcopalian Church near Lake Merritt in Oakland and all the ballplayers were my best men and groomsmen and her sister and some of her girlfriends were there, and we have been inseparable ever since.

ARTHUR G. SCOTLAND: It's a lovely story, and of course, your first child came across—came along—

JUSTICE GEORGE NICHOLSON: Peggy. And Peggy is now married and she and her husband are retired. He was a lieutenant in the highway patrol; he was the commander at Grapevine. He was there 12 or 15 years and he was the one the mayor called from Los Angeles complaining because he would close the freeway.

And Craig would say, "Call the commissioner." And the mayor would call the commissioner and the commissioner would say, "Call Craig." They never second-guessed him.

ARTHUR G. SCOTLAND: So going back to you and Brenda, and Peggy, I mean this was all while you were going to law school, you were married and—

JUSTICE GEORGE NICHOLSON: College, law school, we were inseparable with the baby and we wanted another baby and 10 years we waited before we got rid of the crib and the stroller and everything.

(00:39:57)

It's like the story in the magazine or the movie: we kept everything, and about three weeks after we got rid of everything, we found out Brenda was pregnant, and then Chris came along.

We just love children. We love Chris and Peggy and Craig, Peggy's husband, and Renee, Chris', and we have helped raise two older grandchildren, Jesse and Jenny, Jessica and Jennifer. Jesse is married now. And Katie, Corinne, and Kane——the girls are 10-year-old twins and Kane is 6.

And he just told me yesterday, I was with him yesterday (he is 6): "I have decided I am not going to play football, Grandpa, because I have learned that if you play tackle football you might get injured and it will keep me from playing baseball."

I didn't play football for that exact reason, and I didn't tell him that. But he had his uncle, his mother's brother, is a head baseball coach at Penn State and they are very close. These kids are flown back and forth and they are together, and Tyson and Jake are in high school, they are the cousins and they are great ballplayers. They are already being scouted for colleges and universities, and they really teach Kane everything and they have taught him keep your eye on the prize. Baseball is a game for the family, and Kane is already into it—at 6.

ARTHUR G. SCOTLAND: Well, I know you do have a lovely, close-knit family and you spend a lot of time with them, which might be a motivating factor for you retiring. But let's go back to law school. Obviously, you have got a family. Was it difficult?

JUSTICE GEORGE NICHOLSON: You know, I don't recall it being difficult. Growing up and working and getting through school and all of that, I don't recall it being difficult. We didn't have a lot, but we always had—Brenda and I always had an apartment, and within a year after we got our business, we bought a house, bought two new cars. We bought two new cars because we did a lot of traveling and we couldn't afford unreliability. They were Ford Falcons.

And so we bought a house for $1,000 down and didn't have any problem paying for it or the cars, and we were just very successful kids.

And when we first got married, probably the first—probably when I was—before the business got rolling, my parents sometimes brought us groceries, but we never felt at risk, because we had her family, my family, one another, Peggy, and we had to get through school.

And Brenda decided that she was going to work and since we got to Sacramento, it took her 15 years. She got through Sac City and got an AA in photography. She got through Sac State and graduated the same year as our son and got a degree in communications.

So we just collaboratively and affectionately, frankly, made the decision that I was going to be the one that had to make the money and support the family, so get through school.

And one year, my—after my first year of college—I took a year off school and went to work at her father's business, which was a part of Detroit Steel—it was in Emeryville—and I worked there. I did largely shipping and receiving. I forgot this job. This was when I—between my freshman and sophomore year, and I worked on different presses and cutting machines and whatnot. And they decided and I decided that working the machines wasn't for me.

I also went to Oakland City College at noon and I went in the nighttime. So I was working pretty much 24/7. And after a year of that I told Brenda, I said, I have got to quit work. I have got to quit working full-time—I can work part-time—but we are never going to get me through school if I keep doing this, or I am going to melt, one or the other. And so we just decided get back in school and get through straight through.

So after that interruption I went back to school full-time: first year full; that year off, with night and lunch schooling; second full year at Oakland City College; third and fourth years at Cal State in Hayward. I got through in five years with that one interruption and then law school was straight through.

(00:45:08)

When I got out of Cal State, they forgot to send my grades to Hastings; everything was done properly except that. So I don't complain, but about a week or 10 days before it was time to go to Hastings, I called. They said, "Well, I am sorry, you are not going to be admitted; you didn't get your grades."

I about had a heart attack, drove out to Cal State, told them what happened. They expedited the grades. I went back to Hastings. They said, in effect, "We feel your pain; we are going to put you on the waiting list. You are number one. Come to school the first day."

I came to school the first day and I got in. I very easily could have got out. It was a very unpleasant weekend before that Monday.

ARTHUR G. SCOTLAND: I can imagine. So you were at Hastings at an interesting time in terms of the faculty.

JUSTICE GEORGE NICHOLSON: It was an incredible faculty, the 65 Club; I don't know if they still have it. But every professor I had except one who taught taxes (he was a 50- to 55-year-old lawyer from San Francisco)—taxes was not something I was interested in—but everybody was a former law school dean or text writer. They were the elders of the legal profession.

There were 600 kids in our class, three sections of 200, 12 girls, 12 ladies in the class. And I heard more than one professor say, "Why are you here?" to one of the female students.

And I didn't have Prosser, but Prosser was there, having left Bolt, but I had a man named Frederick Moreau. He had taught towards 39 years before I got him. He had been the dean of Kansas Law School. He looked like Edmund Gwenn of the *Miracle on 34th Street*, and he was an actor like Edmund Gwenn. He never brought a text, he never brought a casebook, he never brought a note to class; after 40 years he knew it.

And he often would just recite from Shakespeare or from a case. He was the most inspiring teacher I ever had; I got the best grade I ever got in my life in his class. And I took him again in my second year in a class called Quasi-Contracts or Restitution.

And when I graduated, he wrote me a letter, this grand old man, and said, "I don't know of anyone more qualified to practice law than you." I have still got the letter.

And I had dinner with him many years later when I was invited by the president of Pepperdine University to attend a Pepperdine dinner event at the Century Plaza. And I sat with the president of Pepperdine and his wife, Brenda and I and a couple of other couples, and Professor Moreau and his wife and he was 100. And I have got a picture of me right over there on my desk kneeling between Professor Moreau and my wife at that dinner, and he looks better than I do. He died within the year.

ARTHUR G. SCOTLAND: So while you were going to law school, did you have an idea of what you wanted to do in the practice?

JUSTICE GEORGE NICHOLSON: I wanted to be a prosecutor.

ARTHUR G. SCOTLAND: Why is that?

JUSTICE GEORGE NICHOLSON: I think being a process server, as one example—not the only example—but there were several times I was cornered by someone with a gun, who said, "You are either going to take the paper and leave or one of us is going to be dead."

And I am—this is the truth—I am so ornery, I never thought of taking my paper and leaving. I could only think of, How do I get out of this and get the paper served?

I got out of it every time, but it bothered me that people could behave that way with a gun and get away with it, because at the time there wasn't much law enforcement interest in

getting involved in process serving and protecting process servers. So you are pretty much on your own.

I saw a lot of lawlessness while serving papers and I had to read a lot of the papers to figure out what I had to do to get the paper served. I was in and about the court constantly. And I don't know how or why, but I occasionally watched criminal cases. So I don't know when, but at some point very early I just decided I wanted to be a prosecutor and I wanted to be in Alameda County; I didn't want to be anywhere else.

(00:50:03)

And so when I heard during my second year that the Alameda County District Attorney's Office took externs—they called them law clerks—but you were paid and you worked all summer between your second and third year and you did both legal work and investigation work. But at that time you couldn't do what you can do now: actually go to court and present cases as long as there's a prosecutor in court with you. We just could do the legal research, writing, and investigation.

And so we worked on everything under the sun with really the most prominent lawyers in the Bay Area, as far as I was concerned.

ARTHUR G. SCOTLAND: Who was the *we* among the *we*?

JUSTICE GEORGE NICHOLSON: Ming Chin, who is now in the Supreme Court, of course, and Raoul Kennedy. And Raoul Kennedy, who is a dear friend—as is Ming—we all worked together, and we had about three days together because they—when we first got there, they didn't know what they were going to do with us or who they were going to assign us to. So the three of us were cutting news clips for the DA for the first three days up in the loft on the ninth floor of the courthouse.

The DA had the top floor—the jail had the top floor, the DA was next, lots of people including courts next, and the public defender was on the second floor.

But the loft was between the DA's office and the jail and we were up there in this little cubbyhole with Thompson submachine guns bolted to the wall all about us from Earl Warren's day. And down in the basement, which was the DA's as well, were guns that had been collected and so on.

And some telephone poles with leather thongs riveted to them that had been used by Earl Warren in his days to break in to speakeasies and other things—some with and some without search warrants. When Earl Warren was DA, they had a different approach to law enforcement than they did after Earl Warren got through being Chief Justice.

But it was a museum, the courthouse, and Earl Warren's legacy was well represented there. But we were into everything. We saw everything that summer. And I didn't know if I was going to get hired or not, and I found out later, much like Hastings, I was very lucky, because at that time the DA's Office was civil and criminal, like the AG's is now; DA's were both the county counsel and the DA in those days, but it was beginning to change.

Well, the man doing civil and doing the county counsel function was the man that interviewed me first for the DA's Office, and I found out later that he wanted me to go civil. I wanted to go criminal. I knew none of this.

And so before I was hired, the DA, a man named J. Frank Coakley—who was everything in the nation for prosecutors, *the* elder prosecutor—interviewed me all day in June before Election Day in '66. Earl Warren called him twice, the Governor called him twice while I am sitting there; we were the only two people on the ninth floor that day.

And, finally, when it was over he said, "If you are not everything you appear to be, you are not going to last long here." And I left there absolutely mortified. I had no idea what he was talking about, but he hired me.

And Ming and Raoul and I became friends, and we are friends to this day. Ming and I became deputies later; Raoul went into private practice and is now one of the most successful and able trial and appellate lawyers in the nation.

And Ming was in private practice a short time but came back and has now made his way to the Supreme Court, where he still serves. Raoul and I are retiring this year; Ming isn't.

ARTHUR G. SCOTLAND: So that was your first job in the law, the DA? You had some interesting cases, challenging cases?

JUSTICE GEORGE NICHOLSON: In the DA's office?

ARTHUR G. SCOTLAND: Uh-huh.

JUSTICE GEORGE NICHOLSON: I tried a lot of death penalty cases. I tried a lot of psychiatric defense cases. I found a book at that time that I think every prosecutor should read, even though it's out of print. It was written by a man who became my friend and who I used in education programs later when I ran the DAs Association. His name was Jay Ziskin. He was a PhD psychologist and lawyer. He wrote a book called *Coping with Psychiatric and Psychological Testimony.*

(00:54:46)

I read the book, learned everything in it, read the Evidence Code, knew everything about the Evidence Code, knew the trial objections. I figured trial objections, the Evidence Code, and *Coping with Psychiatric and Psychological Testimony* were about the three most—and CALJIC, now CALCRIM—are the most fundamental things that you have to begin with as a trial lawyer, and I had mastered them.

I did my first psychiatric murder case and you would have thought I was the world's foremost authority on cross-examining psychiatrists because of the work I had done ahead of time and the preparation I had done.

And so I, to some extent, specialized in doing that and eventually was assigned to hire the psychiatrists for the office, and I, for a time, assigned the murder cases. And I had the most difficult and perhaps most notable murder case I tried was tried against Clint White, a huge robust black man with a voice like James Earl Jones; a great baseball fan. He sponsored Connie Mack Baseball teams. They had the best uniforms in Oakland. And he was also the greatest trial lawyer, defense lawyer.

ARTHUR G. SCOTLAND: Who went on to be a Justice?

JUSTICE GEORGE NICHOLSON: He became a presiding judge on the First Appellate District, and we were poles apart politically, but he was a very loyal and loving friend and I was to him.

And I tried a case called *People v. Lance Brown*, which was a death penalty case, and I got a call from a black prosecutor in San Jose who said, "Clint's on his way up to you and he's going to try to get your case continued." We were going to be in jury pick that morning. So I was armed and ready when he made his motion.

And our judge, a judge named John Cooper, denied the motion. So we began jury pick. Clint didn't even know what the case was about because Clint always did that. He never prepared until jury pick, and like Nate Colley, a great lawyer here in Sacramento, he did much the same thing. He prepared during jury pick and then he beat the tar out of you during trial. As far as the jury was concerned, he was a smartest guy in the courtroom.

So the next day, the presiding judge of the Superior Court in Sacramento—in San Francisco—came over and asked to have us continue our case so that San Francisco Superior Court could have Clint to try the Zebra case. And our judge denied the motion by the presiding judge of the San Francisco County Superior Court, and we finished the trial.

And during the course of the trial, the defense was—I had examined this defendant before trial (you can't do this anymore), gotten him on a statement, an incriminating statement—and Clint's defense was I was an overbearing prosecutor who took advantage of this poor defendant and drove him over the edge and got him to make these incriminating statements. That's his opening statement and we proceeded, but he put Lance on the stand.

And I cross-examined him for a while and got him to talking about what an independent person he was and so on. And I said, "Well, it boils down to this: can people put words in your mouth, Lance?" And he says, "No, least of all you, M-F," in front of the jury. Clint was fit to be tied.

Well, we get a first death, and as the defendant is walking out of the court, he tells a full house of his family and friends, "I want this M-F dead." And so we had guards surround my family for several weeks.

I come up to San Francisco, you remember; you don't remember. Pete Wilson was a newsman here in town, not the Governor. He invited me to do a debate with a public defender in San Francisco on TV. I go down there and Pete sandbagged me and had a defendant on death row televised in saying that he was railroaded by a corrupt prosecutor and a corrupt defense lawyer, and it was Lance Brown, who had the best defense lawyer in the Bay Area, and I was the corrupt prosecutor, according to Lance Brown.

And as soon as he finished with the video, Pete Wilson called on me to respond, which I did, exposing Lance Brown for the corrupt individual he was and the debate went downhill from there.

But can you imagine the coincidence of that, Lance Brown? Pete Wilson didn't know Lance Brown from a tree trunk.

ARTHUR G. SCOTLAND:So at some point you left the DA's Office. Why?

(00:59:55)

JUSTICE GEORGE NICHOLSON: Joe Taylor, who was the assistant chief deputy prosecutor in Sacramento, who had been hired by Bob Puglia, the presiding judge of our court, who had been the chief deputy in the Sacramento DA's Office, asked me to come to Sacramento and meet with him, and Bob Tait, who was the DA at that time of San Luis Obispo. And we met in John Price's office; John was out of town. He was the district attorney of Sacramento.

And Bob Tait and Joe Taylor said, "We would like to talk to you." And they wanted me to apply to become executive director of the DAs Association, which had just begun. It was probably six months old, and it was largely bankrupt and had one staff member. And they wanted me to come to Sacramento and take it over and in their view make it work, and they said that they wouldn't let me out of John Price's office unless I agreed.

And so we talked for an hour or two, and I said okay, and I applied and a few weeks later there was a meeting at Lake Tahoe of the board and they had their annual meeting, and they hired me. Even though I was working in the DA's Office, Brenda and I stayed in a motel without a phone, which was really a hardship on me because I didn't have cell phones in those days, but I lived on the telephone because I worked with people all over the place even then.

But it was all okay because they hired me and I met the most remarkable people. I worked with all 58 elected DAs, all 2,000 prosecutors for the next three-and-a-half years, and we made the California DAs Association into something significant.

We were largely dealing with adverse support from the Governor's Office, the Legislature. The Supreme Court was hostile to law enforcement, in our view, and so we were very active with amicus curiae, with legislation. We had a committee. We had a very active legislative—I would go over periodically. We had a lobbyist, and we dealt with the Governor very effectively.

Tony Kline was legal affairs secretary; he now sits on the First District, and Jerry Brown was Governor, one and two—his first two terms—and now he is three and four; dealt with him all four times to some extent.

And we were very successful from time to time with our amicus curiae work and our legislative work. Up until the time I came to Sacramento, the Alameda County District Attorney's Office from Earl Warren's time until then, until 1976, had allocated a deputy DA to represent all of law enforcement during the legislative season.

And that deputy DA was Carl Anderson, for example, who became the Presiding Judge [Justice] in the First District; Ed Meese, who became chief of staff to Governor Reagan and then later presidential counselor to President Reagan and the 75th Attorney General. These people all represented law enforcement, representing the Alameda County DA's Office based on a program that Earl Warren started before he became AG, Governor, and ultimately Chief Justice.

We took that over. The Alameda County Deputy DA representative no longer represented law enforcement, the California DAs, so that was part of how it gained in credibility when I got there. That was the doing of the Alameda County office.

And the person we hired to do it was actually a brilliant law and motion prosecutor from Alameda County named Tom Condit that I brought up to do that, and we worked together very closely.

Law and Motion was something that was just beginning when I was a deputy DA. Los Angeles had a Law and Motion department in their office; the rest of the offices didn't, but we all began—all the big offices began to develop that.

So digressing just a second, I got a federal grant and created a Law and Motion unit in the DAs Association for the probably 35 or 40 small counties, and they would send us key legal questions that they had pending for 995 motions or 1538s that they didn't have the staff to do, and we would write the briefs and send them back down.

And we had a case digest. We would get the slip opinions; there were no digital opinions. We would get the slip opinions and send them out to two or three dozen deputy DAs. They would brief them. We published a hard-copy case digest and got it to all the prosecutors.

(01:04:58)

We created education and training programs. I created the National Homicide Symposium from scratch between June of 1976 and October of '76. I did it at the—well, at the grand hotel in San Francisco on the hill, I have just forgotten the name of it—the Fairmont. I picked the best place in San Francisco I could. I got Evelle Younger, who was the Attorney General, to keynote one day; Bill Clark on the Supreme Court to keynote other day; Alister McAlister, an assemblyman, who was active in law enforcement, the third day.

And I got 36 of the best people in the nation to teach all of the subjects related to homicide investigations and prosecutions, over a three-and-a-half day program that began at eight in the morning, went through lunch, broke for one hour—which we couldn't afford—and then came back for a three-hour evening program, two days in a row. Friday we broke at five. Then Saturday morning we had three hours on how to deal with the media in a major homicide case.

I planned and conducted three of these in the three-and-a-half years I was at CDA. The 20th was conducted last year. It's gone to every other year, but it's still the biggest moneymaker and probably the biggest educational program they do, and I put it together from June to October.

None of the speakers I got ever charged an honorarium. I paid transportation and lodging and that's all. In that first Homicide Symposium, I think we got 300 people there paying $200, and like I did with the prosecutor service I began, the process service, I sent out

one letter that I personally signed to 5,000 prosecutors nationwide, which was a lot of work. But through them, we got prosecutors from all over the country.

We also had judges, public defenders, and major journalists, and that's the way it was. I went to POST; the California Commission on Peace Officer Standards and Training. The first year I got what were called points for the peace officers, the second year we got transportation and lodging for peace officers, and third year we got points, transportation, and lodging and their salaries paid back to their departments. And besides all the prosecutors and defenders and judges that third year I did it, we had 200 peace officers at the National Homicide Symposium.

So the thing that I would do at these programs was, although they were tailored to prosecutors, I opened them to everybody, because we had nothing to hide, and we were trying to be the best prosecutors we could be, and we thought we could help judges and defense attorneys to be better at what they're doing if we shared what we thought were the best presenters in the nation.

That's where I brought Jay Ziskin, the man who wrote *Coping with Psychiatric and Psychological Evidence [Testimony],* and I would like to digress for one second to teach you a lesson that I learned there.

I attended American Academy of Forensic Sciences, American Academy of Forensic Psychiatry programs, met and became friends with those people, looking for faculty for programs.

I met a psychiatrist who is a liberal in San Diego named Mel Goldzband and I didn't like him. He was at the American Academy of Forensic Psychiatry. So I invited him to present at a homicide symposium opposite Ziskin, who I thought would outclass him.

Actually, the two of them hit it off and made the most incredible presentation collaboratively that I ever dreamed possible. They became friends, the three of us became friends, and Goldzband became a very close friend—he and his wife—to Brenda and me, and he invited me to speak at American Academy of Forensic Psychiatry programs.

And so, the point of that lesson is, which was one of the very few times I ever tried to do anything that negative, was don't do things like that. Look for the best in everybody and be open and honest with them, and nothing but good will come of it. And so that's the way I operated, after that awful lesson, and everybody that I dealt with.

And Jay Ziskin is gone now and I don't ever do anything like that, and haven't since, but while I was at CDA, I also met George Deukmejian, who was an Assemblyman. I don't know if he was an Assemblyman who became a senator or he was a senator by then, but we worked very closely. I worked with him on restoration of the death penalty, crime victims programs, and another way I came to Sacramento simultaneously with Joe Taylor

and Bob Tait interviewing me was George Deukmejian called me because I'd been prosecuting with a man named Jim Anderson, who was a colleague in Alameda County.

(01:10:02)

A gang of about two dozen young gang members, who were identifying and attacking 75- and 85-year-old couples in their homes in Oakland and robbing them and beating them and murdering them, and this was highly visible nationwide.

George had a bill in to enhance punishment for people that hurt old people, which seemed very far distant to me at the time. It was people who were over 65, and you got an extra three years if you hurt one of them and you knew they were over 65.

I tried to get George to change it to 60 and say "whether you know it or not" because it doesn't matter whether you know it. You take your victim as you find them, according to the law—case law. And he wouldn't change it but he asked me to bring up some of these elderly women to Sacramento, same summer that Joe Taylor talked to me. And I brought a busload of them up and the Assembly Criminal Justice Committee, which as I said, was an adverse forum to law enforcement, never called the bill, and so we had to send the ladies home. This happened more than once.

And George went to the chair of the committee said, "One of these ladies is going to die, and if they do while you are playing games with tabling my bill, I am going to be candid with the press on what's been going on here. So I would encourage you to call my bill." And they called the bill. We all testified, and we got the bill.

Nate Holden, who was a black state senator from Los Angeles, was sitting in the audience the day I testified on that bill. And I had a very hostile relationship with Michael Ullman, who was the chief consultant, later became judge—became my presiding judge—when I was on the municipal court. And the committee often would delegate to Mike the cross-examination of witnesses, and Mike did that with me, and I didn't tolerate it, and so I responded with affirmation and conviction.

And my wife was sitting in the audience next to Nate Holden—neither of them knew the other—and he turns to her and says, "I wish I had a lawyer like that on my staff," speaking of me. And I later talked to him about it, and he said, "Well now that I know who you are and what your politics are, I couldn't hire you, but I still feel you are pretty good."

And so I came back to a program here a year ago and his son was here, and I told his son that—he presented on a program in the state capital and I'd never met his son, but it was an interesting story to tell.

ARTHUR G. SCOTLAND: So you ultimately began working for Deukmejian.

JUSTICE GEORGE NICHOLSON: George asked me. Well, he ran for Attorney General, and I played it right down the middle but I created forums with all four candidates. The Democrat was Yvonne Brathwaite Burke; she was in Congress. But on the Republican side there were several. And so I would have forums with all of them there and played it right down the middle. But when it became George versus Yvonne, I still played it down the middle but there came a point when I was so troubled by what was going on, I called George and I said, "I'd like to resign as director of CDAA, Executive Director, and endorse and campaign for you," like it was important that I do that.

He said, "I don't want you to resign, I don't want you doing that, I want you to stay doing what you are doing. Everything is going to be all right. The campaign is going to work out just fine." And it did. He knew what he was doing. And a while after that, after hiring you and a number of others from the Department of Justice, he called me and asked me to come over, and well, actually, you were already there.

This is not the Governor's office, this is the AG's office. All of you were there. He asked Rod Blonien, who later became Legislative Affairs Secretary, and I to come over and work with him. Rod had run the California Peace Officers' Association, and I had run the DAs Association, and we had worked hand in glove in those roles and then we were very close friends.

And you and I were pallbearers for Rod when he died a few years ago unexpectedly. He was a great lawyer and a great hero and a very common, ordinary, boot-wearin' cowboy, but one of the greatest lawyers and greatest legislative advocates. When Chad Chaderjian got cancer (undersecretary of—secretary of Youth and Adult Corrections), Rod went over a few—correct me if I'm wrong—to run the department while Chad was recovering.

(01:15:00)

I don't know if Rod was undersecretary or what his role was, but he ran the place. He could do anything. He raised horses; he bought and sold horses. He came to work with stable on his boots. George loved him. We all loved him, and it was a sad day when he died, but we had to fight in those days. We had to fight when I was a prosecutor. I didn't mention this, but one of the assignments I had in the DA's office was to head an outlying office. There were several outlying offices. I headed the San Leandro office, and I was assigned the task of watching a corrupt judge and to keep book.

And I kept book and eventually the Commission on Judicial Performance—I forget what it was called at the time—took the case. The AG's office represented it at the time, and Bill Stein, who I would serve with on the Court of Appeal, represented the Commission, and Linda Ludlow, who was in the DOJ at the time, worked with them. I was the key

witness. After half day's testimony, they rested. The Commission found all of the facts they should and voted to censure, and I called a lot of heck from everybody back home, because now the judge was going to return to harass everybody.

I told them, "Fear not. The Commission found the facts. The Supreme Court will remove." And they did, 7–zip. And that was a lesson I learned about the way a judge should behave, watching the misbehavior there. I watched the judges when I was a prosecutor doing law and motion, doing trials, doing preliminaries. I learned what judges should and shouldn't do watching in court, and documenting, and frankly enduring the good, the bad, and the ugly of what it is to be a judge.

And I learned, frankly, even before I got to the municipal court again, that judges like all people and public life, are or should be the servants of the people and of the law; they are not masters of it. And I learned very early in my life and I learned very early as a prosecutor and as a judge that, frankly, one of the most indispensable qualities of being a prosecutor or a judge is humility, and I've been on this court 28 years and all I want to say about this is a discrete and quiet, "I've never sworn at another judge or another staff member, and I have never raised my voice to one in 28 years, and I never did as a trial judge in muni and superior court, and I never did as a prosecutor."

And when I think back to my baseball coaches and to baseball, that's the reason, in part; I was taught humility. You may be a good ballplayer, but you are not playing if you don't play by the rules; and you don't get angry. You can't get angry. You can't be harsh and hostile and loud.

And that's what Mr. Fernandes and Mr. Marcoulis and my parents taught me, and that's what I've remembered through my time as a prosecutor and a defense attorney, I mean a prosecutor and a judge.

And I have worked with Fern Laethem, who was a state public defender on these things as well. And anytime I did anything as a judge for the prosecutors, I would call Fern and I'd set up something with the defense attorneys. And if I did something with Fern, I'd call the prosecutors and do something with them. And I've played it straight as a prosecutor and as a judge from day one, and I'm—it's all a function of having learned it; as they say, Been there and done that.

And I was glad, and I learned from a judge in the First Appellate District named Scott. He was a great trial lawyer when he was appointed to the municipal court, and he was interviewed in *The Daily Journal*, and he was asked, "You are a great trial lawyer, you are an important man, you are making a lot of money. Don't you feel kind of demeaned being appointed to the municipal court?" And he said, "I think everybody can learn and re-learn whatever they do." And I read that story and I thought, "What an incredible thing for such an important man to say and think and live."

When I got through, I had been friends with Duke, the Governor; I had worked with him. I had worked with Pete Wilson. I had worked with everybody; I knew everybody, and yet I got appointed to the municipal court.

And once I got there, I was glad I did, because I had started as a prosecutor in the municipal court and progressed through the superior court, and I started as a trial judge in municipal court and stayed a year, year-and-a-half there. I did 11 months on the superior court, and then I came here.

(01:20:00)

ARTHUR G. SCOTLAND: So I have been quiet, but I just want to say, Nick, it was always a pleasure working with you. You were one of the most collegial justices in the court and one of the most kind justices, not only to other justices but to staff—a very caring and kind person. And I can attest that you never raised your voice ever about any disagreement.

But we're getting a little ahead of ourselves because you worked for—with Attorney General Deukmejian. You did some things. You—wasn't there some proposition that you wrote?

JUSTICE GEORGE NICHOLSON: It has roots in the DAs Association, and when I was in the DAs Association, I asked a quartet of legislators, two Democrats, two Republicans: Bob Presley and Jim Nielsen in the Senate, a Democrat and a Republican; Alister McAlister and Dave Stirling in the Assembly, a Democrat and a Republican. The *Sacramento Bee* called them the "Gang of Four."

I gave them DA bills to carry on a variety of issues: important substantive issues; procedural issues; and, in particular, crime victims' rights issues. When I came to Sacramento with the DA's Association, I got together with Alan Cranston, S. I. Hayakawa, the Democrat and Republican senator. Jerry Brown. Anybody and everybody I got together and got them to endorse the idea of victims' rights.

We created a California Victims' Rights Center. The Gang of Four helped with the victims' rights program. It eventually led to President Reagan declaring the first National Victims' Rights Week in 1981, but it all began in 1977 when I came to Sacramento and got partisan democrats, partisan republicans.

They proclaimed—Jerry Brown proclaimed Victims' Rights Week. The legislature issued resolutions. You would have thought this was the biggest thing going, but it was a carrot and a stick, it was a chicken and the egg. It was feeding rather than beating, it was

creating an image before the reality; but it began to develop, so we had the Gang of Four carry these bills.

We also had them work with all the 58 DAs to try to do an initiative in 1978, the same year Proposition 13, the Jarvis-Gann initiative, was on the ballot and took the state by storm. We failed to qualify this initiative on these bills that I had given them.

And so I met Paul Gann, and Paul Gann and I became friends, and I put together the bills, most of which I had written, and we created Proposition 8, the Victims' Bill of Rights. And we got it qualified with the help of Pete and George and a number of other people, and—for the June primary in 1982, and I ran for Attorney General in '81 and '82 and I also campaigned for Proposition 8. And among the opponents of Proposition 8 was the State Bar and the president of the State Bar. Tony Murray and I, he was the president, debated all up and down the state, and I debated a number of people, including a very good friend named Jerry Uelmen, who was a professor at Loyola in L.A. He became the dean of Santa Clara.

And I won the Republican primary 2–1 over Dave Stirling, one of my Gang of Four, and the—Proposition 8 passed. It had been challenged preelection by a former president of the bar, Jim Brosnahan and *Brosnahan v. Youell*. He tried to keep it off the ballot, and by a 4–3 margin, the Supreme Court left it on. After it passed, the Supreme Court was again challenged to throw it out and it was *Brosnahan v. Brown*.

And in that case—so I filed an amicus curiae for four dozen parents of murdered children, which I'd represented for years, pro bono. They'd never had anyone represent them before; they'd never been to court before. They cried when we won the case, 4–3 again.

And in those two cases, preelection and postelection, I was asked by newsmen, endlessly, "You don't really believe the Supreme Court is going to uphold this thing, do you?" Well, I did, and they did. And it created crime victims' rights where there'd never been none. It did away with the independent state grounds for admissions and confessions and for physical evidence. We now had the Supreme Court as the bottom line.

Earlier, I had worked with a lawyer, named Frank Carrington, who had filed—appeared before the U.S. Supreme Court four dozen times as amicus, and he and I filed an amicus together in two or three cases, including the Supreme Court cases that ultimately—*U.S.* Supreme Court cases—that ultimately created a good-faith exception to the exclusionary rule.

(01:25:15)

So while we were trying to do in the exclusionary rule [K9?can, 1:25:18] and its progeny in California and to at least create a stable baseline where there was only one moving

target, and that is the U.S. Supreme Court defining and redefining the nature and scope of the exclusionary rule, instead of the two of them puddle-jumping with one another, we only had *it* to worry about, and then we got the good-faith exception so reason and logic and practicality could be returned to the law in what was our opinion.

And we could vindicate Cardozo's ancient wisdom of—question, Should the criminal go free because the constable blundered? And so when the constable truly blunders and it's not a function of deliberate misbehavior, the criminal doesn't go free. And so now, that's largely where we are because of Prop. 8 and some work Frank and I and others—many others—did at the national level.

But one of the most important things is crime victims, the parents of murdered children in particular, get to appear at parole and probation revocation proceedings and sentencing proceedings and be heard of when the killers of their children are sentenced, whereas, before, they were never allowed to do that.

I also put in a right to safe schools. George Deukmejian, when he had been Attorney General, had filed a lawsuit against the City Council, the Board of Sups., the DA, the Police Chief, the Sheriff—everybody in Los Angeles—asserting, in substance, all of you have a piece of the pie; none of you are fully doing your job, protecting school children.

This is '79–'80, and here we are, 2017, still fighting the safe-schools battle. George filed this lawsuit. He lost in the trial court, he lost in an unpublished appellate opinion, and I wrote it in, a constitutional right to safe schools and to propagate the Victims' Bill of Rights, and it says, all K–12 students, staff of all public schools are entitled as an inalienable right to attend safe, secure, and peaceful schools.

And now in 2008, when Proposition 9, the Victims' Bill of Rights of 2008, Marsy's Law, was adopted, they expanded it—which is what I wanted to do, but was afraid to do, in 1982—they expanded it to include colleges and universities. So it's K–graduate school now, and it's a complement to Clery's law [the Clery Act], which is a law the federal government wrote with help from Frank Carrington—and I helped Frank—whereby colleges and universities have to monitor safe schools in their immediate area and on campus, and report it to faculty and students and parents of students so that kids and faculty can decide whether they want to go to a particular university or teach at a particular university.

These are all of a piece that I and others dreamed in the '70s working together. And all of these ideas and these goals and these aspirations and hopes and prayers were what I think got Rod Blonien and I together and what got Rod and I and George Deukmejian together. And he blessed us with the opportunity to work with him in DOJ and then later, even more evidently, you and Mike Franchetti and others in the Governor's Office and I there for a year.

We were truly blessed to have such an honorable and ethical man as our mentor and teacher and leader, and the leader of our state to help us see the way a man should behave and a leader should lead. He was a great father, he is a great father, he is a great husband. He is—whether it's proper to say it on this videotape or not—a child of God, as is his wife Gloria and their family, and he was a humbling figure in all of our lives, and I think you'll concede it, a humbling and inspiring figure to you.

And all of the judiciary that was sprinkled and remains to a lesser extent sprinkled with his mentees has been the better because we've been here and we have been worthy to the extent we have because we had him in our lives.

(01:30:03)

And now this court is blessed, because one of us is still here as the presiding judge, Vance Raye. And Vance and you, Scotty, and Bob Puglia were the presiding judges—justices—of this court from 1974 to the present. And there are great presiding judges all up and down the state—this is my opinion. But no appellate court in this state or any other has been governed as well as by you three since 1974.

And if you figure that out, that's going on 45 years. That's a lot of years for three men to preside over an appellate court and to establish the reputation that this court has because of you three and the others on this court that have served here.

ARTHUR G. SCOTLAND: Well, the others on the court for sure, and we are indeed fortunate to have learned so much from Governor Deukmejian, Attorney General Deukmejian and Governor Deukmejian: a person of character, a person of integrity, a very wise person that treated everyone so kind and thoughtful.

JUSTICE GEORGE NICHOLSON: I never heard *him* raise his voice. Did you?

ARTHUR G. SCOTLAND: He never used a swear word.

JUSTICE GEORGE NICHOLSON: He never used a swear word.

ARTHUR G. SCOTLAND: Never.

JUSTICE GEORGE NICHOLSON: But he never raised his voice. I never saw—he only *almost* got angry at me once when I thanked a bunch of people at a meeting that I had gotten together for him, when I indicated that although notified late, they'd all made it a

point to be here. And in front of everybody, he turns to me and he says, "Nick, why were they notified late?"

And I looked at him and I thought, "I don't have an answer for this, so I think I am just going to sit here." But that's as close as he ever got to demonstrating anger, and it was very subtle.

ARTHUR G. SCOTLAND: Now, you in terms of school safety, you did more than just ideas in creating laws, you also had programs and things of that nature?

JUSTICE GEORGE NICHOLSON: We created the California School Safety Center. George directed me to in DOJ. I worked with Wilson Riles, who was Superintendent of Public Instruction, and his staff, promoting a collaborative approach between the Department of Ed and the AG's office. Despite George's campaign staff and Mayor Bradley's campaign staff not wanting the two of them photographed together in the year or two leading up to the election in 1982 when they were gubernatorial adversaries, I talked to both of them candidly: "Your staff don't want you together but couldn't we get together and have a press conference and have you two talk about the need for safe schools and try to motivate everybody below the two of you to get with it and to collaborate and do what you are trying to do, work together to make schools safe?"

And so they did. We had a press conference in L.A.; George and Tom were there. We got the pictures, we got the proclamations, we got the papers, and when they would do the visible things, then the rest of it that's below them would go out and do the work.

And one of the things that George asked me to do is, when he filed that lawsuit, was to call all the editors and publishers of the state's newspapers. And when George held the press conference announcing that lawsuit, it looked like something out of 1935. He was at a lectern; there must have been 40 microphones, if you can imagine.

I still have a photograph, a still shot; you can hardly see him peering over these microphones. *Newsweek*, *Time*, *New York Times*: the world was there, because no one but this Attorney General had ever sued their own kind, the leaders of an entire county, particularly the largest county in the nation, Los Angeles County, and said, "You people are not doing your job. Each of you has a piece of the pie; get together and make this happen. If you can't do it, who is going to do it?"

And he said, these schools—all schools—should be islands of safety. That was a phrase that he used. And these pleadings are still available, and the thesis of the pleadings are still unfulfilled—*is* still unfulfilled. I think AGs everywhere in the country ought to get George's pleadings, and I'm not speaking as a judge or a lawyer, I am speaking as a father and a grandfather. But there are children dying just like what happened in Florida a

couple of weeks ago, because we still aren't doing our job as a government at the state, local, and federal level, and we really ought to start doing it.

Anyway, I worked in—I was the deputy director of the Governor's Office of Planning and Research, the deputy director for Special Projects for the Governor, and during that time, I was asked by President Reagan to create a National School Safety Center.

(01:35:05)

And I filed a grant that I wrote with the Office of Juvenile Justice and Delinquency Prevention for roughly $4.5 Million, and I was called in by the comptroller of OJJDP, and I was told in my face, "We know you padded this grant request. There is all kinds of fluff in all these grants. We want to know where you have been disingenuous with us."

This was a true conversation between me and this lawyer. And I said, "First of all, you are asking the wrong man. I wrote this, I wrote every word of it, everything in there, down to the price of VHSs. I got them, I did it all, and there's no fluff." And we argued for an hour, and I left and I thought, well that's the end of that. I got every dime I asked for. Now I had going on $4.5 million; I had that and I had me and nothing else.

So I looked around California and tried to identify a place to put the money and the program, and I read about every college and university, public and private, the best I could, and I selected Pepperdine. It was a private faith-based school, it had a good reputation, it had a lot of money that it could complement the $4.5 million of government money we had.

And I went down there and asked to meet the president. It was a man named Howard White, who at the time was five years younger than I am today; he was 72. I thought he was ancient; I thought he was Methuselah's brother. So he and I had lunch, and he loved everything I said. I want the grant to be Pepperdine's. I would like to work with you to develop a National School Safety Center.

I've talked to everybody involved in Washington, DC. They are willing to bill it as a partnership between the U.S. Department of Justice, the U.S. Department of Education, and Pepperdine University. The president personally will support it, the AG will, the Secretary of Education will. I talked to everybody. How could they not love it? And they loved it, and they took it, and I worked there with them for two years. We set it up initially in Sacramento. I wasn't moving to Pepperdine. And after two-and-a-half years of programs involving education programs, much like I set up for the DAs Association on law and motion and prosecution and press.

I set up education programs nationwide. One I did in Jacksonville, Florida. I took Stanley Mosk with me because he had done a safe schools' opinion and had proselytized in

effect—in the opinion—for people doing better and trying harder to promote safe schools.

I had done the same with Cruz Reynoso. I took him to Chicago. And he's Catholic, and Chicago has a lot of Catholics and a large Hispanic population. And we had a Catholic priest—they were enthralled having Cruz there—but we had a Catholic priest, an Irish guy who could speak Spanish, usher us around to high schools all day long that were Spanish speaking.

And Cruz spoke at probably half a dozen high schools and then we went to Loyola, and this was the same year that Cruz and Rose Bird and Joe Grodin were removed by voters in November. But even that year, Cruz went with me, and he was trying to do the best he could to help kids all over the country, but in Chicago in particular, as the National School Safety Center. And Stan was with me in Florida.

And I met Chief Justice Burger in Williamsburg; a bus almost ran over him, and I wasn't sure it was him, and I ran up to him after he got safely across the street, introduced myself, and he says, "Why don't you walk with me and we will have an ice cream?" And I spent the day with him.

And so Stan Mosk helped me with safe schools, Cruz Reynoso did, and Warren Burger did. And right here in my chambers I have a picture of the Supreme Court shrouded around a bunch of multiethnic schoolchildren. It's a painting that was in an ABA painting contest that a mother won. This was her representation of the Supreme Court protecting children. And Warren Burger's autograph is there. I used that picture on the cover of a magazine, but he did the cover article for me, writing about safe schools and promoting safe schools.

(01:40:02)

So anywhere I can run into anybody and get them to do something for some project or program I am working on, I do it. And so the Chief Justice of the United States, while sitting, did it.

ARTHUR G. SCOTLAND: There is a theme here, Nick, for as long as I have known you, and it is, Your success in everything that you do is a result of several things. One, you have a head full of ideas. But you are just not an idea person, you are a person that can implement those ideas. And it's a product of your ability to work with others, develop relationships, and work with others who have broad, diverse differences in political views, philosophical views, but somehow you are able to generate these friendships. And Warren Burger—Chief Justice Burger—is an example, where you just ran across him on the street and talking with him.

JUSTICE GEORGE NICHOLSON: Drafted him.

ARTHUR G. SCOTLAND: And drafted him, yeah.

JUSTICE GEORGE NICHOLSON: I wouldn't have said it that way to him, but I knew what I wanted to do. I didn't do it with an ulterior motive. When I began walking to the ice cream parlor, I didn't know where this was going to lead, but after spending several hours with him, the ideas began to flow, and you have to think of the ethics of it, what can you do?

But let me give you two complimentary thoughts. I wrote a bill. Jerry Chong is a lawyer here in town; he is a criminal defense lawyer and a civil lawyer. He had a client when I was on the municipal court sitting as a superior court judge disposing of felony cases.

He had a petty theft in a prior case, and he came to me, and he said, "I know you don't like pre-plea probation reports. I would like you to do one in this case. I think my client is illiterate and is signing the plea form because he can't read, and he's got prior petty thefts and felonies because of this." So I did it, and it turns out his guy is illiterate.

So I wrote a bill to create a literacy program for 18- to 25-year-old probationers, and I got everybody in the state—Judicial Council, the State Bar—everybody to endorse it. But the two authors were John Vasconcellos and John Doolittle. Those were the bookends, and that's the most liberal and the most conservative legislator in town.

And they stewarded the bill through, and I didn't lobby Duke, who was the Governor, George, because I didn't think—I thought he would find out it was my bill, and he vetoed it. It had money in it, $750,000. And so I went to him after he vetoed it, and he says, "Well, put it back in; I'll sign it." Well, when it got through Franchetti and the Department of Finance, it was a bill without money, and the proviso said, to the extent the Department of Education will provide you funds, you can fund it, but this is the law and it should happen in Sacramento and I had anti-recidivism, I had—you have benchmarks, you had to pass tests.

I had a university quality-controlling it, issuing reports, and I'd had to sign them, set, so it wouldn't be one of these programs that began and goes on forever fruitlessly. And so, the probation officer in Sacramento, Bob Keldgord, calls, and he says, "Nick, the Department of Ed won't give us the money."

This is 30 years ago almost, so I hope the statute of limitations has run. I called Bill Honig, and I told him the story of the bill, and I said, "I can't lobby you, but I thought you ought to know the facts." And within a week, the county probation department got the $750,000. And when I was nominated by George for the Court of Appeal, everybody

gets letters; I got liberals, I got conservatives, and two indicators of what we're talking about happened.

I got a call from a federal judge here in Sacramento who asked to see me before my Commission on Judicial Nominations hearing. And while all the letters were out and the investigation is going on. And this federal judge said, when I said, "What can I do for you?" he said, "I just wanted to meet the man that had Jerry Uelmen and Vasconcellos and Doolittle and so and so. I don't know how you get—Mosk—I don't know how you get these people to support you, but I just wanted to meet you." That's one.

Carol Miller, a great judge on Sacramento Superior Court, died at about this time, and you and I and everybody else went to her funeral. I got to the funeral late but before the service began, there was one seat left, next to Bob Puglia, and it's near the door, thankfully.

(01:45:00)

So he signs, "Come and sit next to me," and I go sit next to him. And before the service for Carol begins, Bob whispers in my ear, "Nick, you get one more letter from a liberal and I'm going to vote against you myself."

ARTHUR G. SCOTLAND: He was joking of course.

JUSTICE GEORGE NICHOLSON: He was joking of course because he voted for me, but the point is this was not a gimmick with me, and it was not a façade, and it was my view that you couldn't live without one another.

When I ran for AG, Scotty, I campaigned in black neighborhoods, Asian neighborhoods—black neighborhoods—and the party criticized me. And my own campaign staff says, "You don't go where you don't get votes, and you don't go where you don't get money."

After I lost the final election, I was on the State Central Committee for four years. I was an elector for President Reagan in '84, but more importantly than that, I fought with three different state Republican Party chairs over the issue of, Why do you insist on not going into Asian, black, and Hispanic neighborhoods and saying simply, whatever the office is (in my case): "I'm running for Attorney General. I suspect you're not going to vote for me, you're not going to contribute to my campaign. I wish you would, but I suspect you're not. But I am going to be your Attorney General because I care for your children just like I care for mine, and I'm going to protect your children just as vigorously as I protect my own, and I'm going to be back here after I'm elected"?

And that's what I tried to convince these party chairs and to, frankly—it's still a problem today with both parties. The Democrats break down into identity politics, and the Republicans are not inclusive in what they're doing, and both parties are harming the American public by playing politics as they have played, before I ran for Attorney General and ever since. This isn't a political statement, this is an empirical experiential statement that I completely disagree with and disavow and never lived in my entire life, because I reached out to everyone.

ARTHUR G. SCOTLAND: Well, in an example of your reaching out, you're going to have a retirement dinner here pretty soon, April 12, and sent out some invitations and we've received one e-mail back from someone who cannot attend because he is turning 80 years old on the very same day, and he's going to be having a party, and he wrote, "I admire Judge Nicholson so much. He has never lost sight of the most fundamental values of racial justice, and he deserves the highest commendations and personal joys for life and a career well and honorably lived." And that was Ira Glasser who was the executive director of the American Civil Liberties Union from 1978 to 2001, which is an example—I mean, you were viewed as a prosecutor, a conservative hard-charging prosecutor, but you've got the executive director of the ACLU as someone who you developed a wonderful productive relationship with.

JUSTICE GEORGE NICHOLSON: He is a great friend.

ARTHUR G. SCOTLAND: Another example, I have to just read this, is Presiding Justice Raye said, "George Nicholson is an extraordinary individual whose retirement will leave a huge void on our court. He has been a wonderful colleague whose opinions and incisive questions at argument have done much to shape the rules of law articulated by our court over the nearly 30 years that he has been a member. His influence has not been limited to his appellate opinions but extends to his involvement in a multitude of public and private initiatives to improve the legal system and to improve the lives of people generally. He has been a mentor to many, and an inspiration to all who have been fortunate enough to benefit from his amazing network of influential friends and his reservoir of creative ideas." And, I think that that pretty much characterizes you and your efforts.

In fact, there have been a number of things that have resulted from your ideas, and then your development of relationships are bringing people together for the common good, and interestingly enough you usually do it behind the scenes, and you don't want any credit for it, but all of us in the Sacramento legal community know that there are things that you generated in your mind and worked collaboratively with people.

The Unity Bar Dinner, for example, is a big thing here in Sacramento. It's 30 years old, I believe. Tell us a little bit about the—how the Unity Bar Dinner began.

JUSTICE GEORGE NICHOLSON: Well, I played a role in it, but I was a minor player. The key players were Jerry Chong, who was President of the Asian Bar, Sacramento; Luis Cespedes, who was president of the La Raza Lawyers, now the Cruz Reynoso Bar—that's the Hispanic Bar; and Renard Shepard, who was president who became a judge and who was president of the Wiley Manuel Bar. Wiley Manuel was the deputy attorney general who became—because of Rod Blonien persuading Jerry Brown—became a member of the California Supreme Court and died far too young, prematurely, from cancer.

But the Wiley Manuel Bar, the Asian Bar, and the now Cruz Reynoso Bar, the presidents got together and they dealt with this subject: Asian, black, and Hispanic lawyers and bar associations have been combating one another for years for the attention and ear of the Governor.

We are in the state capital; we can set the tone together, collaboratively. And Duke was the Governor and Marv Baxter was—who went on the Supreme Court—was the appointments secretary. And I talked with them about it, and this is what they wanted to do. They wanted to collaboratively work together and work with Marv and Governor Deukmejian to, in an orderly way, present potential candidates instead of competing with one another and having the Governor and the judicial appointments secretary dread the sight of the three of them or people like them always fighting for space and for words and voices and standing.

And among the things that we talked about was a unity—some kind of show of unity—a Unity Bar Dinner. And they liked the idea, and the very first one was held in 1987. You and I were there, and it was a dinner dance. There has never been a dinner dance since; it's always been a dinner. And last year was the 30th. And now it's just not those three, but SacLEGAL, the gay and lesbian bar; the Friedman Bar, which is a Jewish Bar; the Women Lawyers; and I'm afraid I'm skipping someone, but now it's those and soon the other faith-based bars will be associated with them because of something—well, finish the Unity Bar.

You and I and everybody on this court has played a role, a key role, in the Unity Bar Dinner. We have all been the master of ceremonies, we have all spoken, all of us, and—Tani, Elena Duarte, all of us. The Third District is really the key player in all of this. The Third District catalyzed the Unity Bar Dinner. The Third District has done something that no other appellate district has done.

We have conducted three Cal-Expo programs, at the California State Fair and Exposition. A million people come and go through Cal-Expo each year. We had a *Brown v. Board* 50th Anniversary Commemoration program, 3,000 square feet of display, a living program as well where the judges went over and did it.

In 2004 and 2005, we had a Centennial program, same 3,000 square feet of display in the biggest and most important building there (Building A, the California Building), and a period elapsed until 2013; it's really hard putting those programs on. We had a program in 2013 that had a conversation with Abraham Lincoln. We got the best Lincoln impersonator in the country. He came from Gettysburg. He died two years ago, but he was here in 2013. He flew out by himself. Vance Raye, Bill Murray, and I had dinner with him the night before. He comes in his stove pipe hat, his black suit, it was hotter than all get out the day of the conversation with Abe Lincoln in the big theater at Cal-Expo.

We have the most wonderful picture of Vance Raye, whose ancestors were freed by the Emancipation Proclamation, and Abraham Lincoln (I mean, the spitting image) facing each other with a great backdrop—I believe Sac State's Drama Department created the background for us. It's a great—it's a great setting. And the two of them—it's the most grand, inspiring picture you ever saw—but they had an hour-long conversation, and it's just, it's a wonderful conversation and we have got it recorded.

Then they engaged in a parade over to the Building A, where we had our new exhibit. It was a timeline of Civil Liberties, and for the first Civil Liberties timeline I ever have seen, it's 40, 50 feet long. It costs $60,000 in donated time and effort and graphics to create it, working with the California Supreme Court law library and Fran Jones and her staff. They did the legal research; e.Republic, a private vendor, did the graphics.

(01:55:03)

And we created this exhibit, and in the middle of it is Rickey and Robinson, Arthur Ashe, and other black groundbreaking athletes. But the point was, sports energized and inspired and enabled the ebb and flow of the civil rights movement. Earl Warren said that; his son told me his father said that to him (Earl Warren, Jr., who was a judge on Sac Municipal Court and I served with him.)

So I had that straight from the family that Earl Warren felt that the work that Brown—that Rickey and Robinson did enabled the U.S. Supreme Court to render the civil rights decisions it did, including *Brown v. Board,* during the early '50s when it did only because of what happened in 1947.

Martin Luther King told both Branch Rickey—and I've seen the correspondence—and Jackie that they were the people that put the civil rights motion—the civil rights movement in motion. And in fact, I believe it was Morehouse, Martin Luther King was still in college at Morehouse when this—when Rickey signed Robinson, and Rickey was the visionary because he felt once you create the role model in Major League Baseball of a black athlete excelling, that millions of white boys all over the country would suddenly have a black hero to believe in. I was one of them. Ira Glasser was one of them in

Brooklyn, and that's part of the reason we know and identify with one another and have communicated with one another.

He got to Ebbets Field and got to watch Branch Rickey and Jackie Robinson, but the point is what Rickey and Robinson did, they did knowing the hardship it was going to impose on Jackie Robinson. He died in his 50s of diabetes. He died when he was about to be operated on and was about to lose both legs.

Branch Rickey's own son, Branch Jr., died of diabetes at about the same age as Jackie. Jackie's older brother on the other hand, Mack, the Olympic Champion, lived into his 80s. And by anybody's reckoning that knows anything about the Rickeys and Robinsons, this awful, difficult time that Robinson endured with all of the harsh treatment he received when he first became a Major League ballplayer helped contribute to his decline, healthwise.

But the important thing to remember was the vision of Rickey. Jackie Robinson by his second year of playing for the Brooklyn Dodgers was the second most popular man in America, second only to Bing Crosby. And that speaks very compellingly and eloquently to the vision that these two men, a white lawyer and a black athlete, had when they concluded that, together, they were going to do this. And later, Earl Warren and Martin Luther King said, "You two people catalyzed our later work and we built on your shoulders. Sports is not a lightweight undertaking."

ARTHUR G. SCOTLAND: So, Nick, you are a very humble fellow. You don't want to take credit for things, but I have it on pretty good sources that the idea of the Unity Bar was yours and quickly embraced.

Another example, while on the State Fair program, you also got Thurgood Marshall, Jr., to participate another year, but that again was generated by your idea, your thought about how you can promote these goals and your ability to bring people together to make it happen.

Another example is the Martin Luther King, Jr., dinner here in Sacramento. Years ago, it was a very small, little event, and you got involved. What happened, Nick, after you got involved?

JUSTICE GEORGE NICHOLSON: In 2002, I attended the dinner, and it was 150 to 170 people, but there were probably six or eight tables that were empty and they had corporate names on them. And Dorothy and Jerry Enomoto were the founders. Jerry Enomoto was a Japanese man; Dorothy was a black lady. She had seen a black man lynched when she was a little girl. She once related that at a meeting I attended and

completely lost it when she remembered it. It was such a vivid experience for everybody involved.

But that black woman and that Japanese man conceived the Martin Luther King dinner, and when I went to that one, that early one—second or third one—in 2002, there were those small number—seven judges were there. I went to Dorothy and Jerry and I said, "I would like you to give me those tables next year, and I will go to the County Office of Education." I was working with the superintendent at that time. I worked with several superintendents.

(02:00:05)

And I said, "I will get together with the County Superintendent of Schools and we will get children of all ethnic groups to fill those tables." Well, they didn't answer me. And in a couple of weeks, they came back and said, "We want you to go on the board of the MLK dinner." And I said, "I will go on the board if you let me bring some people."

So I mentioned e.Republic; the president and CEO is a guy named Dennis McKenna. He and I have worked on charitable programs forever, 30 years probably. I said I would like Dennis to be on the board and I would like some other people, computer experts and marketing experts and so on, to go on the board with us.

And so between 2002 and 2003 we converted it from under 200 to more than 1,300. We got 70 judges instead of 7. We got 200 high school kids of all races and ethnic groups, all faiths.

I always gave away books and my California DA books, DA Association programs and National School Safety Center. That National School Safety Center is still going. Pepperdine is still operating it, 20 years or 30 years after I have gone or more.

But we ordered two books. John Lewis was one of the speakers in 2003, and Branch Rickey III, the grandson of the older Rickey, who is now a close, personal friend. I go to Cooperstown with him regularly and put on programs with Branch Jr., Sharon Robinson (Jackie's daughter). But Branch III, who is the president of the Pacific Coast League, spoke, and John Lewis spoke. They were both keynoters. And I wanted to get a book written by a professor at Sac State named Jules Tygiel. Jules also wrote. He wrote the greatest book ever: it's the legacy of Jackie Robinson. I can't remember the full name. But I called Jules.

John Lewis agreed to give us 1,300 copies of his book, so I called Jules and I said, "Can you get us a cut rate with your publisher, Oxford University Press." I asked Jules; he gave me a name to call at the Oxford University Press in New York. I called him; I said, "We are going to buy 1,300 copies. Can we get a mass purchase price on them?" And he checked his inventory and he had a dozen copies. He said, "We don't have any in our

warehouse anywhere. It's all we've got." It's a book about two inches thick; it's a big book.

Well, it—ideas don't come slow. I said, "How about doing a special run?" He said, "We don't do special runs." I said, "Well, why don't you ask?" And I said, "When you ask, ask if we can put a letter in from the Chief Justice, if you do a special run."

And so he called me back in a few hours and he said, "We will do a special run. How many do you want?" And I said, "1,300 copies." He said, "We need the Chief Justice's letter tomorrow."

So I call Ron George. He said, "Get me a draft; I will revise it as I need to." And I said, "I got to have it. I got to get it to New York tomorrow." He said, "It will be done." So we got it.

I've got copies of the books still. Ron's preface is in the book. They did a special run.

John Lewis' book got there early *on the day of the dinner*. It's a Saturday. We got the books from Oxford University Press about noon, *the day of the dinner*, and judges distributed these two books to all 1,300 chairs so that when people came, in they had their books. Everybody left with a load of stuff, and for a long time after that, I had people calling asking for copies, which we had some that were left.

ARTHUR G. SCOTLAND: These are just some examples of your big ideas and your ability to pull them off. Just one other quick one.

Baseball means a lot to you, but following the rules of the game and good sportsmanship is important. And we have a Minor League Triple-A team here, the River Cats, and you came up with an idea there. What was it, Nick?

JUSTICE GEORGE NICHOLSON: You know, Scotty, you say I came up with it. I worked with you and—

ARTHUR G. SCOTLAND: Nick, you came up with the idea, come on.

JUSTICE GEORGE NICHOLSON: We went to the River Cats, who I'd worked with before. I wasn't involved in the litigation that led up to this, but I knew the owner. His name was Art Savage; his executive vice president, Bob Hemond. They were both friends with Branch Rickey. I was friends with Branch Rickey. We had a lunch at the Il Fornaio with Puglia, Bob Hemond, myself, and someone and we talked over the idea of having a good sportsmanship award every year at Raley Field.

(02:04:58)

It embarrassed Puglia, but I said I'd like to do Bob Puglia awards. And the way this worked out, they did Bob Puglia awards every year and there would be up to 80 awards a year.

Baseball awards for the boys playing hardball, awards for the girls who played fast pitch softball, but there were about 80 of them. And after a while of giving these awards—and Puglia presented them as long as he lived at the field; he just loved doing this. He'd be down on the field with a mic and meeting with all of these kids. And to qualify for the award, you had to be a great baseball or a great softball player and you had to be a great student and a civic leader in your school.

And there are a lot of baseball players, Major League Baseball players, in town: Dusty Baker lives here and his father lives here. Dusty Baker's father was on the committee who helped select these winners each year. I think Dusty Baker helped from time to time. Dusty Baker has helped us from time to time with programs with the Center for Youth Citizenship.

But anyway, these awards were given and the kids started using them on their college application résumés, the Bob Puglia Sports, Baseball, and Civic Leadership Awards.

ARTHUR G. SCOTLAND: Nice! These are just some examples. We could go on and on, Nick, but we are going to run out of tape here talking about all the other grand ideas that you've had and all of the other amazing relationships that you've developed that have been able to bring these grand ideas to fruition. It's just remarkable.

But let's go back now to you as the judge. Of course, you touched upon, you were on the muni court—municipal court—you were on the superior court, and then you got appointed here to the Court of Appeal. Let's just reflect a little bit about your time here in the Court of Appeal. We did some research, and I think this is probably—there's more than this now, but over your time here, you authored over 3,460 opinions authored. You were probably on about 10,000 other opinions as a member of the panel.

You have 50 dissents and 20 concurring opinions. You always have been very eloquent in your opinions and in your spoken words as is reflected by this interview but I just wanted to touch upon something that Chief Justice Tani Cantil-Sakauye said. She said, "His warmth, his commitment to justice, and his erudition benefitted all who served with him."

You are a very erudite fellow, and just want to ask a little bit about—you've had, you had 50 dissents. Tell me about your thoughts about the impact of concurring and dissenting opinions and how you went about trying to get consensus in the court?

JUSTICE GEORGE NICHOLSON: Well, speaking of the concurring opinions, I did less than one a year; you do them rarely. I met Whitken in 1978; that's the year he published his book on appellate opinions. In his book, he says concurring and dissenting opinion should be used sparingly. And when you use them, have a purpose, have a point. You don't just do it to hear yourself or read yourself.

And I always had a purpose with my concurring and dissenting opinions. So I wrote fewer than one a year of concurring; I wrote fewer than two a year, dissenting. I can't give you a fraction but I think a substantial number of my dissents resulted in the Supreme Court taking the case.

And more often than not, if they took one of my dissents, they agreed with me. And I really have never kept track of stuff like that; you know we all could, if you want to go back.

But like you say, I don't spend a lot of time—you can't get anything done patting yourself on the back. I always take care of my PJ, I always take care of my CJ, the presiding judge and the Chief Justice. I always took care of the AG, I always took care of the Governor, I always took care of the board of directors.

I did work and brought ideas to the people with power to try to do good, and when you are in an intermediate appellate court, your dissenting and concurring opinions are a mechanism for bringing ideas to the people with the real power, the Supreme Court. And that's what I've done and everything I've done all my life and that's what I did with my concurring and dissenting opinions.

I don't want to be specific, but one case in particular dealt with religious liberty, and two of my dear, dear friends—I love them dearly, they are like brothers to me, they are both alive, they are both very old—but they wrote an opinion that I thought was poorly decided and went out of its way to mischaracterize faith's role in particular matter at hand.

(02:10:15)

And I wrote a dissent and I was very critical, and the Supreme Court took it and agreed with me. And I said I've never raised my voice and never sworn, and this particular opinion, I don't think was unprofessional but it was very strong.

But my two colleagues who are as close a friend as I have got in the world and they never have said a word about it. I have never said a word, and you and I have been on opposite sides once or twice. I've never said a word to you or anyone; I've never disagreed. I even had one case where a colleague wrote an opinion that was published; it was my opinion, this other judge dissented, and I was not going to respond, but the third colleague responded.

And my point in mentioning that is simply this: I don't think you have to answer everything and everybody. But when you do, there's no other way to describe it, particularly on an appellate court. You have to love and respect one another, and if somebody has to take a strong position, you have to understand them, what they were doing, why they were trying to do it, and not take an exception to it, and an example, please, to explain it:

I got a case once from Rick Sims, a real dear friend, and it was a terribly troubling case to me and I sat on it for about two weeks. It was obvious he had spent weeks preparing it, and I had to disagree, and it was—I really didn't know how to get a handle on how to disagree respectfully.

And Christmas came, and we're at a party, and he's at the hors d'oeuvres, and I walked over to get a punch or something, and he says, "Hey, Nick, what about my so-and-so case?" And I looked at him and I said, "Rick, I've been sitting on it for two weeks. I was hoping you wouldn't bring it up. I disagree with you, and I really—it's obvious you've put your heart and soul into this thing."

And he looks me dead in the eye and he says, "Nick, it's a case. Do the right thing." Rick always told us, you remember this, "Do the right thing." I talked about that at your retirement dinner; I talked about *Rick* at that retirement dinner. Rick always said, "Do the right thing."

We don't get mad at each other. We try to do the right thing, and it's always bothered me that we, on the appellate court and on the Supreme Court, because we all sit there on assignment from time to time, always try to do the right thing, always treat each other respectfully, with humility, with patience and generosity, and you look around and most of us don't say anything, but this one bothers me, and I am going to say it. I don't know why executives and legislators can't operate the way we do, civilly and decently and lovingly as servants of the people and not in their own self-interest.

Because I've always had the view that if I had to render an appellate opinion that voters were going to rear up and throw me out of office, it's just too bad. I swear, Scotty, I've never been afraid, and in fact one time, before an election in 1998, I was on a case that involved a mentally disordered sex offender that was going to get released because of our opinion, and I could've held it up before the election and Connie Callahan and I went around to all the publishers to talk about our work, and I was in the city where this opinion was going to hit.

And this publisher asked me the question, "What about so-and-so case?" And I said, "I can't mention that case, I can't discuss that case, but I would suggest to you an approach. When that opinion or any other controversial opinion comes out that troubles you, don't blame the DA, don't blame the defense attorney and don't blame the courts. Talk to everybody that you can legitimately talk to, other than the judges.

"In other words, do your due diligence, do your homework, find out what went on, form your opinion, write your editorial, and let the chips fall where they will." That's what I told him, and I thought after saying that, "We are filing this thing 10 days before the election." I thought, "Well, I—the die is cast."

(02:15:03)

It was an awful case, Scotty. So he does it all and before the election publishes an editorial ripping the DA for failing to timely file the notice to sustain the civil commitment, and that wasn't my goal at all; all my goal was is if you are going to attack us at least know the facts.

Well, he didn't, and I did what I had to do, and sometimes courts in the past have filed decisions the night before a holiday, Scotty, or even on a holiday like Veterans Day, which is not a normal holiday. I learned everything we should and shouldn't do, like I told you as a prosecutor, and I've never done any of that stuff. And I am not being holier than thou; it's a function of not being holier than thou or being judgmental, it's a function of humility.

You don't learn stuff to be better than the people who didn't quite live up to their duty. You try to live up to the duty that you share with them, retrospectively and prospectively, and not in a sense to flaunt it.

I'd like to tell you one last anecdote. When I was nominated for this court, it was this court, two of my colleagues on the superior court anonymously wrote letters critical of me because they said I thought I was friends with everybody and I was a glad-hander, and it really troubled me and I was asked about it—two judges criticizing you—and I said, "Well, I have to say this, no one has ever said that to me to my face." I really think every judge on the superior and municipal court is a friend of mine. Everybody on the clerk staff and everybody in the office is a friend of mine. And if they're not a friend of mine from their point of view they're a friend of mine from my point of view, and it all boils down to my father.

My father was a country farmer, he went to the seventh grade, and to the day he died, everybody loved him; he was a friend to everybody. He lost his sight, he lived up at Clear Lake, but the Highway Patrol ignored him driving from his house to the coffee shop at Lower Lake in a golf cart with a sliver of a vision to go on the public streets about three miles through the backcountry to get to the coffee shop every morning, and that's where he went and that's where he was loved and loved. And I still don't know which two judges wrote those two letters, but, like I say, I am not holier than thou and I am not a glad-hander.

When I shook hands with Warren Burger, I shook hands because I was truly in awe of having met the Chief Justice, having spent a day with him, and having had the gall to ask

him to try to help make schools safe for other people's kids as well as my own, and that isn't glad-handing.

ARTHUR G. SCOTLAND: Well, you made a connection, because he occasionally would send you autographed copies of opinions—

JUSTICE GEORGE NICHOLSON: Slip opinions that he thought were important, he would send me autographed copies from time to time. No letter, just a slip opinion with his autograph. But Mosk was very close. Mosk had friends who didn't like me and were unkind to me. Mosk—I have letters from Mosk that are the most glowing. Mosk and I were friends; his son and I were friends.

I did a lot for Mosk and he did a lot for me. I was at his 50th anniversary dinner in public service, which was a long time before he retired. I don't know if he retired or died, I've forgotten now, but he may have died in office, but he was not one to give up. He wanted to stay and do good, and he was brilliant. He was a great writer and a great thinker and a great lawyer and a great judge and a friend. And Vasconcellos was a good friend of mine. These people are friends; these aren't opportunities, these are friends who are not opportunities for me as an individual to feel important, but me as an individual to work with them to utilize their power and prestige to do some public end.

ARTHUR G. SCOTLAND: Nick, I just have to reflect back on the comments about your eloquence and I just thought of this event when we were at the California Judges Association where you were going to speak to the group and something happened—all your notes—tell us about that.

(02:20:09)

JUSTICE GEORGE NICHOLSON: Well, it wasn't CJA; it was CJER, it was Appellate Court Institute, it was in Palm Springs. We were at the best hotel in Palm Springs. I had a big black briefcase with a binder in it, with three separate CJER presentations I had to make; my glasses and my medication, I don't remember what it was, were in this bag.

So the bellman comes out, loads our suitcases and my briefcase on one of those gurneys, and I followed him into the lobby. And he says, "You don't need to stay here." I said, "I don't care if somebody steals my suitcases; I gotta have that briefcase."

Well, I probably shouldn't have said that, because when I got to my room, all the bags were there; the briefcase was gone. Brenda was with me. My glasses, my medication, the binder, all three of my presentations. I was always prepared, but I always had my crutch,

which was my presentation all ready, just like you; you've always got your presentation, too, but you rarely use it. I rarely use it.

So Brenda and I instead of going to dinner that night went to every garbage can within three blocks of the Hyatt looking in them because we figured that once somebody looked in the briefcase and saw what was there, they'd have dumped it in the garbage can, but we never found it.

So the next morning I had to begin my first of three presentations and I went through all three of them, and the truth is I got compliments that whole two or three days we were together down there, and to this day I have no idea why. I have no idea how I did that. I couldn't even read the program without my glasses at that time. I had cataract surgery now so I don't need glasses, but at that time I needed glasses.

ARTHUR G SCOTLAND: Well, I was there. Your presentations were amazing, so articulate and thorough. I don't know how you did it either, but I just had to note that, just how extraordinary they were.

JUSTICE GEORGE NICHOLSON: Well, it was a shock to me too, Scotty.

ARTHUR G SCOTLAND: You have talked about things, about qualities of judges and qualities of being a good judge, so I won't touch upon that. Let's just talk a little bit about judicial jurisprudence, your judicial philosophy. Do you have any thoughts in that regard that you would like to share?

JUSTICE GEORGE NICHOLSON: You know, let me digress one second. I had a discussion with Judy Haller, who runs this program. I have to mention my judicial assistant I have had 25 years; her name is Wendy Lebeck. She has been like one of my own kids. She is a brilliant judicial assistant. Jeff Hoag has been with me 28 years; he is a brilliant lawyer. And Doug Potts has been with me 18 years; he is a brilliant lawyer. He is a Harvard graduate. We have forgiven him for that.

But this staff has been with me so long, and I owe my staff to you and Bob Puglia. You told me when it was time to select Wendy that she was the best in the building, and I selected her, and because of you I have never had a regret. She is an incredible judicial assistant. She works all the time. She helps every other judicial assistant.

Jeff is a kindred spirit. We think alike, we work alike. Doug is the same. Doug has a gift that is beyond Jeff and me in the sense he was an acting city attorney in private practice and represented municipalities. He is one of the great authorities on CEQA, which no one wants to be a great authority on, only the appellate bench, but he's a great authority.

And all of us are authorities to some extent, because we have so many California Environmental Quality Act cases. I had an inordinate number, there are very few, but I have had an inordinate number of endangered species cases that Jeff, Doug, and I have worked on. And we have pretty much been at the heart of it. The Supreme Court has handled one of our cases and remanded it back and I prevailed in part on part of what I said.

But I couldn't have made it 28-and-a-half years on the Court of Appeal without Jeff, Doug, and Wendy. One of the things I have told them all, and we've always done this, is I am not the world's foremost authority on anything, we are in this together, and if ever you think I am wrong I want you to point it out to me and let's figure out together where I have gone wrong and how we can fix it. And, as a consequence, none of them have ever been afraid. It doesn't happen altogether that often, because we all work very hard, but they are just wonderful people.

(02:25:10)

As to the work, I've been blessed from the day I became a law clerk in the Alameda County DA's Office because of the people that ran that office: Coakley, Lowell, Jensen, Jack Meehan, Tom Orloff, Ed Meese, Earl Warren. They were all, I cannot describe—they were all sticklers for legal research, mastery of the trial practice elements, CALJIC, CALCRIM, the Evidence Code.

A man named Ed Heafey finally wrote a book for the California Continuing Education of the Bar called *California Trial Objections*; he is gone, but the book is still being written.

California Trial Objections, California Evidence Code, *Coping with Psychiatric and Psychological Testimony*, CALJIC, CALCRIM: you had to master these things.

Alameda County institutionalized an organization called BAPA, Bay Area Prosecutors Association, by which the Bay Area prosecutors got together periodically on weekends and taught one another tricks of the trade.

BAPA was an ancestor of the California DAs. So I really was involved from the Alameda County DA through BAPA, through CDAA, through the transformation of it into a great educational institution, and then working with George and Rod and all of you. George wanted to be—you know George, you remember, he never wanted to make a mistake in the law. And so those of us that were allowed to work with him had to do sound legal research. And so we were doing—

ARTHUR G. SCOTLAND: You are referring to George Deukmejian?

JUSTICE GEORGE NICHOLSON: Deukmejian. He never made a demand; he just expected it. None of us ever dared, ever had the heart, ever could go before him without knowing what we were required to do.

And you heard it catch ***[cats?]*** during your day as Cabinet Sescretary, so you always had to be prepared. You had to know more than every Cabinet member in the place.

But the point was you went to George, or wherever we were at a particular moment, prepared; what better preparation could you have for becoming a trial or appellate judge? You can't do every bit of legal research you face, but you have to be able to do it, and you have to know when to do it, and you have to be able to do it when you are alone.

And so everything I did, up to the time that George appointed me to the Municipal Court was boot camp for the judiciary, because everything I did was preliminary to doing it here.

And I got all of the unspoken essentials from people like George and Pete—Pete Wilson, George Deukmejian—my friend Katie ***02:28:14[Keddy?],*** Rod Blonien, Art Scotland, Steve Merksamer. Steve Merksamer is a great teacher and an inspiration.

These are people George surrounded himself with, all of whom mutually educated one another, all of whom were among themselves working with George in a kind of a peer pressure relationship, much like appellate court judges are.

So there was always a peer pressure in the DA's Office—the DAs Association—working with Duke, working with Pete, working on the trial court, the appellate court, where peer pressure said, Do your best in everything that you do.

And everybody that I worked with always did that, whether they were liberal or conservative, whether they were Democrat or Republican, whether they were Asian, black, Hispanic, white, man or woman, gay or lesbian, we have all done our best, and we all try to enrich and inspire one another to produce the best that we can for the people.

When I was a deputy DA, I never enjoyed anything more than going before a jury and saying, "Ready for The People." And I read John Roberts' testimony before the U.S. Senate Judiciary saying that when he was solicitor general for the United States he never enjoyed anything more than going before the U.S. Supreme Court and saying, "I am here; I represent my country."

How could you do better in your mind and heart, whether it's spoken or not, when you go out on the bench, on this court or when you sit on the Supreme Court, whether you are Tani as Chief Justice or one of us on assignment, and you think to yourself, "I am ready for the people, I am ready for my country, and I represent both; now tell me what I ought

to hear, Counsel, and let's try to make the right decision in this case." How could you do better?

(02:30:11)

ARTHUR G. SCOTLAND: So, Nick, I want you to take off your humble hat, and I am going to ask you a question that will cause you to reflect a bit and put you on the spot. How would you describe your contributions to society, legal history, and California law?

JUSTICE GEORGE NICHOLSON: When I was a prosecutor, I worked as hard as I could to be the best trial lawyer I could, but I also drained every drop of learning I could from my elders, and I handed it down to the younger ones, because there were times—one of the kids who will tell you he was one of my kids is Terry Bruiniers, First District, First Appellate District.

When I saw him at a meeting—we were dealing with technology—he actually said that. I was shocked that he would say that in public, that he was in effect one of my kids when he was a prosecutor and I was a senior prosecutor, but I tried to receive and give.

I always tried to do that as a prosecutor. I definitely did that as a—when I ran the DAs Association, I did that in DOJ, I did it when I worked for the Governor in Planning and Research, and I have done it here.

I took from Puglia and Cole Blease and Keith Sparks, Rick Sims, and you and Vance as our PJs. I take from everybody; I assimilate it, I absorb it, and I utilize it, and I try to pass it on, because we're supposed to be links to the past, present, and future, and we, to the extent we are teachers, are teaching the next generation of appellate judges when they come here.

I found out the other day, I am not going to say who it was, but now that I'm an assigned judge on this court—I haven't finished all my cases, but I retired a couple of months ago, but I am an assigned judge, so I am not the acting PJ anymore. I was second-most elder here, so I was acting PJ all the time.

So I go down to court a couple of weeks ago, and one of the two younger appellate judges says, "Well, you are PJ." And we look on the draft, and I was the author and the PJ, it says a PJ. I said, "Obviously, you are unfamiliar with the role of an assigned judge. I am the junior person, I have the junior seat at the bench, and *you* are the PJ."

And so we went out there, and we went through it, and at the end of it I told the PJ, "You did a perfect job." I mean, there is a little bit to doing it the first time; it's a little intimidating, I don't care who you are. And this particular judge said, "What do you think

I've been doing all these years you've been acting PJ for me?" She said, "I've been watching and wondering when this was going to happen to me and what I would do the first time I had to do it."

And that's the point of it all. She was ready to go. I didn't even know I was helping her. I was so happy to hear that and so humbled, frankly, because I didn't know that I was having that effect on that judge.

One other thing, I've left an effect on the law, too, because when I was a deputy DA, I was one of two DAs—deputies—that ordered the advance sheets. The office got a half a dozen sets of the advance sheets. The managers got 'em; they never read 'em. The trial lawyers didn't get 'em, and we had to go to the library to read 'em.

A judge named Joe Carson, who was my young mentor ahead of me and became Ronald Reagan's second-youngest judicial appointment, and I had subscribed to the advance sheets. So it was not uncommon for us to go down to a trial in progress that we were trying and have to tell the public defender and the judge of what a Court of Appeal or Supreme Court had done to the evidence that I was going to present today and could no longer present or couldn't present in the way that I wanted to. And I got tired of doing that.

So when George Deukmejian invited me to come and testify, and Bob Tait and Joe Taylor asked me to try to become executive director of this moribund, one-staff-member organization, I saw it as an opportunity to go to Sacramento and change the law.

(02:34:50)

And one of the first things I did here was to write a bill that is two lines long and it abolished Ballard motions. Ballard motions are premised on *Ballard v. Superior Court*, decided by the Supreme Court in 1966, which mandated at the outset and ultimately mandated that all rape victims and child abuse victims could be subject to, on motion of the defense, to mandatory psychiatric exams to see if they are credible witnesses, and it used to gall me as a prosecutor to have to go to court and subject my victims to that.

So I wrote this bill, and it languished in the hostile Legislature for two years. George became Attorney General, and I worked with him and worked with him on some articles that we got published his commentaries in every paper in the state. And this bill that had languished in what was called the Assembly Criminal Justice Committee got out and became law, and it's now Penal Code section 1112. That's one tiny example.

No one knows where it came from, there is no story in the Penal Code, and it'll never be known other than in this video. Proposition 8 dramatically changed substantive and procedural law, created rights for crime victims.

Crime victims called me at home when they first testified, the first time they got to testify at a parole proceeding. Some of them were drunk, some of them were sober, all of them were crying, saying, "I can't believe I got to speak out for my son for the first time." Some of them 10 or 15 years after their child was murdered.

These people also did radio and TV spots for George when he ran for Attorney General and Governor, and for me, and they weren't political. They were premised on personal relationships.

So I gave life and hope to parents of murdered children. I gave life and hope to rape victims and to child molest victims. I leveraged the power and prestige that I have, what it was, and I cloaked it so that I could transform it from something singular into something that was a multiplicity of ranges of power and authority and access and opportunity. And I think that if more of our political and legislative leaders would say, for example, "I am going to believe from this moment on that there will never be another child murdered in a public school or a private school in my country and I will spend some of my time every day making that happen," just as one example, because I did things like that. I would do something every day on whatever this or that project was, and in time I got the right people together and the right set of circumstances and it would become law.

And some of the people that fought—like Diane Watson was one of the people that lifted the bill that created Penal Code section 1112. There were probably 10 of them that wrote it and claimed they were the person that wrote it. I wrote it, I gave it to Alistair, he introduced it. The others that introduced it had the typos in their bills that we had in ours, so I knew where it came from. But, ultimately, all those people that lifted that single bill and I became friends. And, ultimately, Diane was the lead author and everybody else was a co-author, and they were happy to do it, most of all, Alistair, who carried the bill in the first instance. And he more than anyone was happy that the bill was passed, and he was happy just being a co-author signatory with Diane getting the credit—the primary credit.

ARTHUR G. SCOTLAND: Well, Nick, without question you have had an amazing influence on California Law, both through the legislative process. You've been very influential in the judicial process by writing dissents that have won favor with the California Supreme Court. You have been ubiquitous in our community. There are people that just think of you with such wonderful thoughts about all you have done to enhance our local community and the community in general. You should—and I say this very candidly and without any bias—you are just a remarkable person and one that have been someone that I have looked up to you for so long. How would you like this interview to end?

JUSTICE GEORGE NICHOLSON: I would—I've brought Jeff, Doug, and Wendy into it; I would like to bring my wife and children and grandchildren into it and say the life I have

lived for the last 55 years in the law and more than 30 on the bench is rooted in my entirely loving and loyal and supportive family, who have made countless sacrifices so that I could sacrifice for the public and who have remained steadfast in love and loyalty with me.

(02:40:12)

And I've pretty much done my work, and when I say "my work," my professional duties as a prosecutor and a teacher and a judge (I taught at Pepperdine for a while). I've balanced my duties professionally with my family and my faith, and the things I think and feel and the way I'd like to wrap this up sound—I, I—people don't talk this way anymore. I have said to you and other people in this court, "I love you, you are a friend, I would do anything for you, I would take any risk for you." And these are things that you say to your family but you don't say to one another. But I say them to my family, I say them to religious leaders that I work with, to public officials and to citizens, and I have said them here. I said them to Andrea Hoch; she came in this morning to talk to me about some work that's pending, and it's a genuine, heartfelt "family, faith, servant of the people and the law" sense that I have, and that's the way I have dealt with this.

There have been many days in my life that I did not want to get up and go on, and sometimes I would play music like "You'll Never Walk Alone," and sometimes I have prayed, sometimes I have talked to my mom and dad, sometimes I have talked to Brenda; I'm talking about alone. And I have been mystified why I get up many mornings and go and do things.

I'm really shy; I've never liked public speaking. I love it in a sense because when I ran for AG, I was always put at the end of the program because they knew people would stay for me, and it was always gratifying, but Brenda was always with me. And she would say, "Why do you do this; why don't you complain?" And I said, "Bren, how do you complain? They're honoring you, you're keeping the people here, you're helping everybody to be heard. You just do it."

Now, obviously, George running for Governor and Pete running for the Senate, could have held them better than I could, but nobody would make people like that stay, but they always made me stay, and the reason is—I am going to put it bluntly—I could make 'em cry, and the things I talked about when I ran for AG sometimes made me cry because I think too many of our attorneys general—and I exclude Duke from this entirely; he ran for Governor because he felt the duty and the burden of doing it.

But, too many attorneys general in California and elsewhere use the Attorney General's Office as a steppingstone. And when I ran for AG, I told everybody that I spoke to, "I want to be AG. I started as a prosecutor; I want to end as a prosecutor. If you elect me, I am going to run twice more, I am going to be AG for 12 years, and then I am leaving

politics. But the reason I want to be AG is to make your schools, parks, and playgrounds safe, and I want to make your lives better and your communities better."

And an Attorney General can do that if the Attorney General will stick to business. And too many of our attorneys general don't do that, and I have stuck to business. And the duty I have as a judge is different than a duty as a trial prosecutor or an appellate prosecutor or a political person. But every single role I've had, from prosecutor to a Supreme Court judge pro tem, I have looked at it from the point of view of how I served the people and how I served the public, given the ethical duties I have at the moment, and I've never stopped trying to do the best I can on the case I'm working on and as a role model and an exemplar for the people young enough to pay attention to me and to continue to learn from my presiding judges and the Chief Justices and my colleagues.

(02:44:59)

Cole Blease and I have been colleagues for almost 29 years, and I talk to him regularly, and he's as liberal as anybody and I'm as conservative as anybody, and yet we are blood brothers, and I love him dearly. And that's the way I felt about everybody on this court.

So I came into the world in the loving arms of my parents, and I feel like I am leaving the Court of Appeal and the judiciary from the loving arms of my colleagues and the staff, and it's certainly hard to withdraw my loving arms from all of them. And I feel that way about everybody on the Court of Appeal and the Supreme Court, and I told the Supreme Court judges that when I served with them in December on a case I got on a Friday and I had to argue on a Monday, but when we had our last conference together I told them what I thought of them, and it was that.

I talked to Jerry Brown last month. I talked to Jerry Brown in December. I asked for a conference with him, and I said, "I have a lot of friends who are mad at me because I am retiring while you are Governor and I, in effect, am giving you my seat." And I said, "I am leaving you my seat, if I am permitted to express it that way, because I trust you, and you know why I trust you? Because you appointed Jonathan Renner to our court, and I've worked with Jonathan now for years, and I see him as an honorable and ethical student-of-the-law judge who is committed as a family man and a man of faith and a man of the law to do the best he can on every single thing.

"So I figured that if you could appoint Jonathan Renner to our court, that you could appoint another one at least as good as Jonathan here, which would be extraordinary." So I told Jerry that because I was feeling rotten that so many of my friends were mad at me for "giving Jerry my seat." And then this morning, Scotty, I get an e-mail from the Judicial Council that one of our colleagues in Fresno died day before yesterday, Gene Gomes.

Now, Gene Gomes was appointed by Jerry Brown 37 years ago to the trial courts, he was appointed by Gray Davis to the Court of Appeal, he's been on our court as a colleague for 17 years. I was appointed by George Deukmejian, Republican; he was appointed by Democrats, but he was my friend. And once you come to the court, you don't talk politics; you just talk brotherhood, sisterhood, and loyalty and love and duty to the law. And that's all I've ever done with everybody here. And I guess that's the way I would like to be remembered: just a very common person who had a head by blessings of God and a heart and leveraged every ounce of good out of him that he could possibly squeeze having come from such an unremarkable background.

Total Duration: 168 Minutes

Style Sheet, Justice George Nicholson Interview

Alphabetical

65 Club, the
advance sheets
Alameda County District Attorney's Office
Allendale
American Academy of ~~Forensic~~ Psychiatry and the Law
American Academy of Forensic Sciences
American Civil Liberties Union (ACLU)
American Legion [Baseball]
amicus curiae
Anderson, Carl
Anderson, Jim
Appellate ~~Court~~ Justices Institute
Ashe, Arthur
Assembly Criminal Justice Committee
assemblyman
Attorney General
Babe Ruth [Baseball League]
backcountry
Ballard motions
Ballard v. Superior Court
bills
Bird, Rose
black
Blease, Cole
Blonien, Rod
board, the
Bradley, Mayor (Tom)
Bret Harte Junior High [Middle School]
Brosnahan, Jim
Brown, Jerry
Brown, Lance
Bruiniers, Terry
Burger, Chief Justice (Warren)
Bushrod Park
CA Continuing Education of the Bar
CA Environmental Quality Act (CEQA)
CA Peace Officers' Association
CA School Safety Center
CA Trial Objections
CALCRIM
CALJIC
Callahan, Connie
Cal State Hayward (now, California State University, East Bay)
Cardozo (Justice Benjamin, "book of wisdom" doctrine)
Carrington, Frank
Carson, Joe
Catholic Youth Organization
Center for Youth Citizenship
Century Plaza (Hyatt Regency)
Cespedes, Luis
Chaderjian, Chad
Chang, Henry
Chin, Ming
Chong, Jerry
Clark, Bill
Clarke, John Henrik
Clery's Law [Clery Act]
Coakley, J. Frank
co-author
Colley, Nate
Commission on Judicial Nominations
Commission on Judicial Performance Condit, Tom
Connie Mack Baseball
Cooper, John
Coping with Psychiatric and Psychological Testimony
County Office of Education [, Sacramento]
Cranston, Alan
Cruz Reynoso Bar [Association]; formerly, La Raza Lawyers
Democrat
deputy DA
Detroit Steel
Deukmejian, George ("Duke")
District Attorneys Association, California (DAs Association; no possessive apostrophe)
District Attorney's Office (DA's Office)
Doolittle, John
double-date (v)
Duarte, Elena
e.Republic
East Oakland
Ebbets Field
Election Day
Emancipation Proclamation
Enomoto, Jerry and Dorothy
Fernandes, Ernest G., Ernie
Flood, Curt
Franchetti, Mike
Frieman [, Leonard M.] Bar [Association]
glad-hander
Glasser, Ira
Goldzband, Mel
Gomes, Gene
Governor's Office
Grodin, Joe
Gwenn, Edmund
Haller, Judy
Heafey, Ed
Hemond, Bob
Hines, Jimmy
Hoag, Jeff
Hoch, Andrea
Holden, Nate

Honig, Bill
I could only think of, How do I…? (CMOS 13:43)
Jarvis-Gann [Amendment]
Jensen
Jones, Fran
Jones, James Earl
Kansas Law School (, University of)
Keldgord, Bob
Kennedy, Raoul
King, Martin Luther
Kline, Tony
La Raza Lawyers (see Cruz Reynoso Bar)
Laethem, Fern
Lake Merritt
Lebeck, Wendy
Library & Courts Building
Little League
low-key
Lowell
Lower Lake
Major League Baseball
Mandana
Marcoulis, Mike
Marsy's Law (see Victims' Bill of Rights)
Mays, Willie
McAlister, Alister
McClure, Jimmy
McClymonds
McKenna, Dennis
Meehan, Jack
Meese, Ed
Methuselah
Miller, Carol
Minor League, River Cats
Miracle on 34th Street
Morau, Frederick J.
Morehouse College
Mosk, Stanley
Murray, Tony
National Homicide Symposium
National School Safety Center
National Victims' Rights Week
newsman
Nielsen, Jim
Oakland City College (now Laney College)
Oakland Coliseum
Oakland High
Oakland Raiders
Oaks Park
Office of Juvenile Justice and Delinquency Prevention (OJJDP)
Orloff, Tom
Owens, Jesse
Pacific Coast League
Pasadena Junior College
Pepperdine University
Petris, Nick
Pinson, Vada
Planning and Research [, Governor's Office of]
POST (CA Commission on Peace Officer Standards and Training)
Potts, Doug
Powell, Art
Powles, George
Presley, Bob
Prosser
Puglia, Bob
public defender
Raye, Vance
Rayley Field
Renner, Jonathan
Republican /Party
Reynoso, Cruz
Rickey, Branch
Rickey III, Branch
Riles, Wilson
Roberts, John
Robinson, Jackie
Robinson, Mack
Robinson, Sharon
Russell, Bill
Sac City (College)
Sac State (College)
SacLEGALsenator (state)
Sacramento Seals
Savage, Art
Seals Stadium
Shelen, Carl
Shepard, Renard
Sims, Rick
Sparks, Keith
St. Paul's Episcopalian [Episcopal] Church
State Central Committee
Stein, Bill
steppingstone (one word)
Stirling, Dave
Tacoma Giants
Tait, Bob
Tani [Cantil-Sakauye]
Taylor, Joe
Thompson submachine gun
Trestle Glen
Tygiel, Jules
Uelmen, Jerry
Ullman, Michael
Unity Bar [Association of Sacramento] Dinner
U.S. Senate [Committee on the] Judiciary
Vasconcellos, John
Veterans Day
Victims' Bill of Rights (Prop. 8; see Marsy's Law)
[Crime] Victims' Rights Week
Warren, Earl

Watson, Diane
white
White, Clint
White, Howard
Wiley Manual Bar [Association]
Witkin
Women Lawyers [of Sacramento]
Youell Field
Young American (baseball league)
Younger, Evelle
Ziskin, Jay