David Knight: Spell your last name, and give me your title.

Walter Croskey: Walter Croskey, C-R-O-S-K-E-Y, Associate Justice of the California Court of Appeal.

David Knight: And Justice Curry, if you'll do the same thing.

Daniel Curry: Daniel Curry, C-U-R-R-Y, Associate Justice, retired, of the California Court of Appeal.

David Knight: All right. Justice Croskey, we are ready to go.

Walter Croskey: All right? Okay.

As part of the Centennial of the California Courts of Appeal, the Appellate Court Legacy Project is creating an oral history of the court and its justices. It is my pleasure today to be talking with Retired Justice Daniel Curry of the Court of Appeal, Second Appellate District, a former colleague who's now retired. My name is Walter Croskey, and I am currently an Associate Justice of that court.

Dan, looking at your biographical material, it says you were born in Phoenix, Arizona, about 70 years ago.

Daniel Curry: That's true.

Walter Croskey: Yeah. And did you grow up there?

Daniel Curry: I did until I was 12.

Walter Croskey: What was it like growing up in Arizona in that time?

Daniel Curry: Hot. Phoenix was about 60,000 in population. The town I lived in, Tempe, was about 2,500 in population, and it had the second campus of the college system of Arizona and they had about 2,500 undergraduates. That's all changed. The undergraduate population now at Arizona State University Tempe is somewhat over 70,000. *[laughing]* It's the largest undergraduate population in the country. My father had something to do with changing its name from Tempe Normal School to Arizona State Teacher's College. He was very proud of that.

Walter Croskey: What do you remember about growing up there in those 12 years before you left?

Daniel Curry: Well, it was a very rural environment. I went through Catholic schools; but after the third grade they opened a mission school in Tempe, and my parents decided to put me in there. And so I went as the only Anglo in that school for the first three years, and then several other kids moved in in my eighth-grade year. And so it was a very Hispanic-influenced area, and I think as a

result I learned how to live as a minority and how to appreciate the concerns of minority citizens, because I saw it firsthand.

Walter Croskey: I know I've known you for several years, and you've told me stories about some of your relatives and old-time law-enforcement people in Arizona. Can you tell us a little bit about that?

Daniel Curry: Well, it's amazing that we selected this time to do this, because I just returned from a family reunion in North New Brunswick, Canada, where I met 76 of my cousins that I'd never met before. The two that put it on, I had just met last February. That was a delightful event. I got to see the graves of my great-grandfather, my great-grandmother, my grandfather and grandmother, and the place where my father had been born; I'd never been there before. And part of the booty that I came home with were pictures of my two grand-uncles, who were responsible for moving many of my relatives, including my father, out to Arizona when it was the Wild West in 1910, one of whom looks exactly like those depictions of Wyatt Earp in the movies. He was a rootin', tootin', John Wayne–type guy, you know. *[laughing]*

Walter Croskey: Did you ever get to know him yourself?

Daniel Curry: As a baby, you know, I sort of meandered around with him, maybe until I was maybe four or so; he died. But he left me his Winchester 73, a huge gun, and his 16-gauge shot gun, each of whom had a number of notches on the handle.

Walter Croskey: (Laughing.) Did you ever get a chance to fire either of those weapons?

Daniel Curry: No, they were disabled; I am sure they were. And even in college, it was an effort just to lift the Winchester 73; it was like carrying around a cannon. But I had them for a long time.

Walter Croskey: Did you have any close friends that you remember in those first 12 years in Arizona?

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Daniel Curry: Oh, yeah, yeah. Not many have I stayed in contact with. But in the eighth grade the red-haired, pigtailed girl moved into the seventh grade, and she and her husband were just guests of my wife and I after a number of years. We've corresponded over the years and remained friends. But the changes in Phoenix for them are much greater than the changes we've witnessed here in Los Angeles.

Walter Croskey: In what way?

Daniel Curry: Just the explosion of the population in a place that had almost had no infrastructure. Today, they still only have one public

university in an area of several million people. The road system, almost everything, just drastically exploded in size, and along with it they became as smog-ridden as Los Angeles with the automobile and stirring up of things. They were the beneficiaries of winning a longstanding piece of litigation. I understand it's the most luminous piece of litigation in the history of the United States, California against Arizona over the Colorado River. And as a result they have a lot of water. Their agriculture is booming, their economy is booming, and despite the fact that it's almost uninhabitable six months out of the year, in my view.

Walter Croskey: Well, I guess it was about 1949 that you left there?

Daniel Curry: Yes.

Walter Croskey: Where did you go then?

Daniel Curry: Actually, in the summer of '50 we came here and we moved to Baldwin Park on the east side of Los Angeles County for a couple of years, and my parents traded some of their property for a magnolia farm—not magnolia, what was it? I'll think of it. But a flower farm that they . . . I want to say carnations, and that's not right, either; so you can see the effects of age. But we lived there for a few years until they sold that. Then we moved to the west side.

Walter Croskey: And did you go to school out there in the San Gabriel Valley?

Daniel Curry: One year I went to St. Joseph's High School in Pomona. But my mother and the nun who taught me for four years in Arizona had in mind for me to go to Loyola High School, and then I eventually got there in my junior year; so I had my junior and senior year at Loyola High School in Los Angeles.

Walter Croskey: Okay.

Daniel Curry: Then I continued on at Loyola University in Westchester and, strangely enough, went to Loyola Law School.

Walter Croskey: What was the reason that your parents wanted you to go to Loyola?

Daniel Curry: Well, they were convinced that the Jesuit education was great for young men, and I really feel I got a great education.

Walter Croskey: Okay. What did you major in in undergraduate?

Daniel Curry: Political science and basketball.

Walter Croskey: And why did you go into law, and when did you make that decision?

Daniel Curry: Well, my parents were very active in our church, and the church bought some property in Tempe that had some liens on it that were somewhat of a surprise, and so my parents hired a lawyer in Phoenix to take a look at it. He rapidly handled the concerns and in the process saw that I was interested in his library and in his office, and so we talked a while about being a lawyer and I got a very positive view of what it was to be a lawyer. He emphasized how easy it was *[laughing]* and how remunerative it was, and so I fell into that.

Walter Croskey: Are you suggesting that you got this idea as early as age 12?

Daniel Curry: Yeah. I might have been 11, in the eighth grade; so, yeah. Yeah.

Walter Croskey: Okay. How did you happen to decide that it was Loyola Law School? Just because you'd gone to the undergraduate school?

Daniel Curry: Well, I was all set to go to Hastings; but I was going in the Air Force—I was commissioned in the Air Force—and so I thought I'd go into the Air Force for three years, apply to law school. And I was going to apply to both Loyola and Hastings; I was very comfortable at Loyola, but I thought living in San Francisco for three years wouldn't be all that bad, either.

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And at the last minute, the Air Force decided to change their mind and upped the active-duty requirement for flying from three years to effectively six years. And so I scrambled around and got admitted into both Hastings and Loyola; but at the time, economics were a factor and I could live at home at Loyola. I paid my way through college and law school. I worked at an institution known as the *Los Angeles Times* starting the last year of my high school, and so Loyola it was. And so I went there, and I was very pleased.

Walter Croskey: Let me digress a little bit about your experience at the *Times*. You started working there while you were in high school.

Daniel Curry: Right.

Walter Croskey: What did you do for them?

Daniel Curry: I was in the circulation department, and I worked on what was called the circulation service board. And before computers it was essential to have somebody who could memorize where the dealers were. There were maybe 200 dealers. I went to work first for the *Mirror,* which was the then-afternoon paper of the *Times*, the Times Mirror Company, and then I shifted over to the *Times*.

And so you had to memorize the area of town so that you could effectively get the complaint or the start or the stop of the paper, the subscription, out to the dealer rapidly. There were

books that you could consult to do this, but we all sort of prided ourselves and we knew that Van Ness and Florence, for example, was Dealership 154 and the phone number was such-and-such, and we could get it out to him.

And in the summertime some of us were asked to work for a circulation promotion and basically think of new ways to increase the circulation numbers of both the *Mirror* and the *L.A. Times,* and that was sort of fun.

And then I think in the summer of my junior year, between my junior year and senior year in college, I had to go to ROTC summer camp, and I only had about six weeks I could work because summer camp took up so much time. And Otis Chandler asked me to work for him for those six weeks, and I got to know him a little bit better.

Walter Croskey: Who was he at that time?

Daniel Curry: Well, he was the heir apparent to everything of the Chandler family and a neat man. He had just graduated from Stanford and he'd just gotten out of the Air Force and had been Air Force ROTC like I was. And he was going through each of the chairs in the company—circulation, editorial, advertising, production—and that summer he was in circulation.

And he was a great athlete. He had put the shot for Stanford, and I think he was an alternate to the U.S. Olympic Team as a shot-putter.

Walter Croskey: Did you get to know him well, then, during that period?

Daniel Curry: Yeah, we worked on a daily basis. And he was fun; after work we'd have a beer, you know. And he was a neat man. I miss him. He passed away a few years ago.

Walter Croskey: And how long did you work for the *Times* at that time? When you went to college, I mean, did you quit working or did you continue?

Daniel Curry: No, I worked part-time through college. I was . . . it really started to pay well, and I probably worked 20 or 30 hours a week and through college and law school; and I worked right until the moment I went into the Air Force in February. I graduated from law school in June, and in those days you took the bar in August and didn't get the results until Christmastime. We were sworn in in January, I went in the Air Force in February.

Walter Croskey: Now, what year was that?

Daniel Curry: I graduated from law school in 1960.

Walter Croskey: Did you take the bar before you took the . . . went into the Air Force?

Daniel Curry: Yes, and was sworn in. If I didn't pass the bar, I didn't have enough money to take it again. I was going to go to flying school. But I passed the bar. I was already admitted into JAG, my grades were good enough; and so that happened, and I went into Air Force JAG in February of 1960.

Walter Croskey: And how long were you in the Air Force?

Daniel Curry: Three years.

Walter Croskey: And tell us a little bit about that experience—what you remember about it, the fun part, the important part, and—

Daniel Curry: It was a lot of fun, because I was assigned to a fighter-bomber unit, and fighter pilots were a whole lot more fun than bomber pilots.

Walter Croskey: Why is that?

Daniel Curry: Well, they're just wild and crazy guys and they, like salesmen, have a real need for lawyers. *[laughing]* They could get themselves into trouble that no one else could imagine. And so I was available to go down, get them out of jail or whatever.

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Walter Croskey: Now, I know you spent time doing things with the Air Force other than that.

Daniel Curry: Well, one of the other assignments that I got was very interesting. There was a reinforced squadron of Luftwaffe being trained on our base in Arizona—back to Arizona. And I just fell into becoming their lawyer, too. And that was very, very interesting; and I got many invitations to Germany that I couldn't afford to follow up on when I got out of the Air Force. My family was increasing a child a year, and so I had to get to work.

Walter Croskey: What happened? I know I've known you for a long time, and from time to time you'd tell us stories about what happened when the October Missile Crisis took place in 1962?

Daniel Curry: I arrived at work just fat, dumb, and happy, and there was a twix, a military telegram, in my boss's hand, and he said, "I want you to read this." And it was from Headquarters Tactical Air Command saying that we don't have enough base defense officers; we want each staff judge advocate to assign one of the officers as a base defense officer. And my boss said, "I've selected you."

And I reacted a little bit negatively, or a lot negatively, because I was the only married officer; by that time I had two and another child on the way. And he said, "Lookit, you've been throughout ROTC training, you have expert badges in marksmanship, and you've done all sorts of extras that the others haven't done." I had had by that time 40 hours backseat time in an F-100F and 100-and-some hours in the backseat of a gunnery T-33, so I understood the mission of my unit. And I knew fighter pilots; I knew what they were going to go through, and I was going to be comfortable with them even in a tent in Florida.

But fortunately before much of that got going, Mr. Khrushchev turned his ships around, and so I didn't have to enter the warrior class; but I did learn how to fire an AR-15, which is a magnificent weapon, as it turned out. *[laughing]*

Walter Croskey: When did you get out of the Air Force?

Daniel Curry: In February of '64.

Walter Croskey: Now, you mentioned that you were married and by that time had two or three children.

Daniel Curry: Three.

Walter Croskey: When did you get married?

Daniel Curry: I got married in the beginning of my third year in law school, September 5th, '59, and the beginning of my wife's third year in undergraduate; she was a junior at Mount St. Mary's College.

Walter Croskey: And your wife's name is?

Daniel Curry: Joy.

Walter Croskey: Joy. And you now have how many children?

Daniel Curry: We have 6 and effectively 13 grandchildren. We had 10, and then we acquired 3 by marriage just a few years ago; and so our house is pretty full during the holidays.

Walter Croskey: Must be a big chore at Christmastime to pack everybody in.

Daniel Curry: No, because now they're adults and they can participate in the work. *[laughing]*

Walter Croskey: Okay. *[laughing]* Well, you got out of the Air Force in '64.

Daniel Curry: Uh-huh.

Walter Croskey: And what did you do then?

Daniel Curry: I went to work in a law firm in El Monte, Wolford, Johnson, Pike & Covell.

Walter Croskey: Doing what?

Daniel Curry: It was . . . I was hired as a commercial litigator. But their practice—although they represented many of the local businesses, including the dairies that were just in the process of relocating out to Chino or further east because of the progress of the San Bernardino Freeway—it was a family practice, and there was a lot of plaintiff's work; there was a lot of divorce or family-issue type of cases and including personal bankruptcies. But I tried to develop a commercial practice, and I could see it was going to be more difficult and longer-range than I expected, and I did not literally have the stomach for domestic-relations law.

And so after about a year and a half of that I moved downtown to a business law firm, Demetriou & Del Guercio.

Walter Croskey: When you went out from the Air Force, did you just look around to try and find employment, or did you have a particular in with that particular firm, or how did that employment come about?

Daniel Curry: Well, I had an in with that firm. The managing partner, George Pike, was a great guy, and I had had an automobile accident and he represented me in that, and he became a really good friend.

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I had had an offer from Lillick, Geary, McHose, Roethke & Myers, and I don't think I'll ever forget it, that Admiral Roethke, who was managing partner, got right down to talking about kicking the tires and he said that my starting pay would be $550 a month. I was making $750 a month as a captain in the Air Force, and when I mentioned that, he looked at me rather sternly and said, "Son, we don't expect you to have to live on that." And so I thought, "This man's a little impractical." And George Pike offered me $1,000 a month, and so I went to the smaller firm and did it.

He and I remained friends throughout the rest of his life. And one of my really favorite memories of my swearing-in party the *L.A. Times* threw for me is a picture of George hugging me when I got enrobed. And he died shortly after that.

Walter Croskey: After you . . . I guess it would be in the latter part of '65, then, you went and transferred to another firm?

Daniel Curry: Yeah, to Demetriou, Del Guercio.

Walter Croskey: And where were they located?

Daniel Curry: They were located in the Mobil Oil Building on 6th and Flower.

Walter Croskey: And what kind of practice did they have?

Daniel Curry: They had a really . . . they had pure business practice. Chris Demetriou was one of the few real tax specialists in town at that time. And he represented Walt Disney personally and I think we did some work for the Walt Disney Company and Lockheed and McCullough Oil. And I was hired as a backup litigator to Dick Del Guercio. It was a small firm, four lawyers, and I became the fifth, and Dick did a lot of eminent-domain work.

But the Saturday I showed up—my first day at work was a Saturday—I showed up, and one of Chris's favorite clients was a man by the name of Ralph Spriggs, who had been the sole distributor of Coors beer in Los Angeles County at one time, and his area had been shrunk over the years by Coors. And on that Saturday morning he had breakfast with Mr. Spriggs, who that Friday afternoon before was told that he was terminated as a distributor for Coors without much of an explanation.

And so Chris was fighting-mad, and that case became my career for the better part of two years. I filed the first antitrust case against Coors. And there wasn't much law on the issue of post-sale control of the terms of sale of a product such as beer or whatever. After we survived five . . . our fifth amended complaint survived demurrer. The *Arnold, Schwinn* case came down almost identical, but I didn't have the benefit of that in the law and motion.

The case lasted 23 years, and when I came back to Los Angeles in October of '87, the first phone call I got was from Chris and he said, "We're having a celebration. We'd like you to join us for dinner; we'll show you the check." And that case had gone up to the California Supreme Court twice, went to the U.S. Supreme Court twice. And it was a big check and the amount of it was confidential. But it was a big check. *[laughing]*

Walter Croskey: Well, what was it like litigating in Los Angeles back in 1965 and '66?

Daniel Curry: The judges were pretty formidable, I thought; but a few of them really stand out in my mind. Judge Gitelson, for one, who had a good part of the pretrial of not only the demurrers, but some of the . . . we sought for temporary restraining orders and things of this nature. And he was in law and motion and he spent most of his days reading stuff that I had just written, so . . . and I thought he was brilliant.

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And one of the TROs that we sought was to be permitted to sell these thousands of cases of Coors beer, which they had gotten a restraining order from us selling our product. And I'll never forget that hearing, because during the hearing Judge Gitelson

said, like, "Well, you know, this morning in the *L.A. Times* . . ." I said, "This is perishable product. If we don't sell it, it's going to be useless. My client has millions of dollars wrapped up in this product; he ought to at least be able to empty his warehouse."

And Gitelson loved a little joke and to tweak me a little bit, and he said, "You know, this morning in the *Los Angeles Times*, there was a story about raising a Spanish galleon in the Caribbean that had been sunk for over 200 years, and the crew brought up this jug of something. They opened it up and they tasted it, and they said it was beer and it was still good." And he said, "It doesn't sound to me like beer is perishable."

And I thought about it, and I thought, "You know, that doesn't really prove it's not perishable, Your Honor; it just proves that some beer drinkers will drink anything, you know." And so he lifted the TRO. *[laughing]* That was fun.

Walter Croskey: Well, in 1967 you left the Del Guercio firm.

Daniel Curry: Yes.

Walter Croskey: And you went where?

Daniel Curry: Went to Technicolor. They were looking for a hotshot in antitrust. I never took a course in antitrust; it was just the Coors case. But they had similar problems to the issues that we had dealt with—manufacturer and distributor—because they were selling cameras and home motion-picture equipment, and they were facing a threat in litigation in that area.

Walter Croskey: Had they been a client of the firm you were working for?

Daniel Curry: No.

Walter Croskey: How did you happen to get together with them?

Daniel Curry: Tom Flattery, who was the corporate counsel. And he was looking around town and not . . . I can't say all avenues pointed to me, but a couple of them did; and so it was an amazing . . . I never even considered, you know, going inside as a lawyer; I always thought I was going to be a litigator. And over that period of time that I was inside I always did retain an interest in litigation, because I thought that's where I could manage costs and expenses best.

Walter Croskey: How do you compare the two types of practice—of being in-house counsel and doing what you were doing and managing the corporation's litigation and other problems and being out there going to court yourself every day?

Daniel Curry: Well, my sense of it is that a litigator has a file, or 200 files, and that the litigator sees those through. When you are at least a senior person in a corporate law department, you think you know what you're going to do when you're on your way to work; but it's very much like the emergency room in a hospital. You have something to do, and all of a sudden you get a phone call from a senior officer, somebody in the field: "The FBI is here. They want to take all of our files and folders out of our office in East Podunk, New Jersey, or Nebraska"—we never went as far as New Jersey, Amfac—and "what do we do?"

So you ask him to put the FBI agent on, and you say, "Sir, do you have a search warrant?" And meanwhile you're whipping up your secretary to call a lawyer in town to get over there, wherever—and we had lawyers all over the country—and to deal with this and don't let them move anything until we have at least an idea of what it is they're taking out and a copy of it, because they could close down the business if they took out all your accounts receivable.

Walter Croskey: It sounds like you kind of enjoyed having that position in the corporate field.

Daniel Curry: At first; after a while, it gets old. *[laughing]*

Walter Croskey: Well, you stayed with Technicolor about three years, two or three.

Daniel Curry: Three years. And there was a proxy fight for Technicolor and management lost it, and so I started putting out the feelers for . . . to go somewhere else. As it turned out, the new owners wanted me to stay on; but there was just too much blood on the walls. I just, you know, I couldn't step over the body of, you know, Tom Flattery, who I really highly respect and like still as a good friend, to take his job—I just couldn't do that.

And some friends in law firms that I dealt with recommended me to this firm Amfac, which had a brand-new management team in Hawaii and eventually became the largest company in Hawaii. And they were looking around for a lawyer who was young enough to withstand the rigors of travel, because they had a great many businesses on the West Coast, as well as in Hawaii. And that was a really dream job. It was very—

Walter Croskey: And you went out there, you moved your family to Honolulu?

Daniel Curry: Yeah.

Walter Croskey: Okay. And that was, what, about 1970?

Daniel Curry: It was 1970; I was 33. That would have been a job that I would have been delighted to get in Los Angeles when I was 53. And

so I was on the ground floor. This company had $400 million in revenues and just a really dynamic team of wonderful people.

Walter Croskey: By then how many children did you have?

Daniel Curry: Five and three-quarters. *[laughing]* Our baby was born in Hawaii.

Walter Croskey: All right. And you stayed with that company for 17 years.

Daniel Curry: Yes.

Walter Croskey: Tell us a little bit about what you did there that you remember.

Daniel Curry: Well, Amfac grew. When I left, it had almost $4 billion in revenues, and that's quite a growth from $400 million; say, a growth maybe of 10 times, a profitability probably of 20 times. It was the developer of Kaanapali Beach on Maui, the developer of, joint developer of, Silverado Inn and Country Club in Napa Valley, Canyon Sands in Palm Springs. It owned the largest retail store in Hawaii, Liberty House. It was massively involved in distribution. And that's where I had to fit, because I had already been doing some acquisitions when I was at Technicolor; and the distribution case of Coors, the distribution cases of Technicolor fitted me to deal with those kinds of issues.

So besides being the corporate secretary at the outset, I was really the general counsel of the distribution group, which became more than half the company; and then by the time I was 35 I was made general counsel of the whole company.

Walter Croskey: Did you have line responsibilities as well as legal?

Daniel Curry: Towards the end; and I'd had some at Technicolor, usually the result of a catastrophic health problem for somebody. And so if you're their lawyer, you have an idea of what they would do under certain circumstances, some of the issues and problems that they were facing. And I had taken over three divisions at Technicolor when the executive vice-president of operations had a heart attack until he returned to work, and I enjoyed that. And towards the end at Technicolor, I took over mainland real-estate operations. They were trying to wind those down. Most of their problems were legal anyway. And they had properties in Arizona; they had a San Bruno Mountain project that they had started out as a joint venture with McKesson, Foremost-McKesson, right outside the San Francisco Airport. And we were trying to get out of that—we did—and some other things.

But mainly I was a lawyer, and because we had such a lot of desirable land and were a little cash-poor, we were always a takeover target; so I dealt in attempting to make a hostile

takeover difficult for somebody. And in that regard, along with my friend Mario Roberti, who you've met, and others in Hawaii, we redrafted those statutes in Hawaii; and that was a lot of fun to do.

Walter Croskey: And you probably had the influence to get some of those things passed.

Daniel Curry: Well, it was funny, because the State Bar had been trying to get some of these reforms. Some of the statutes of Hawaii were pretty archaic. They required every member of the board of directors to be a permanent resident of Hawaii, for example. All the meetings had to be in Hawaii. Well, for a New York stock-exchange company, that really tied your hands, because often you wanted to have the board meet in the places where you had large operations and to meet the management of those large operations. So that change was put through, and others; telephone meetings were permitted.

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And we started tracking mostly the reforms that came through the Delaware Code, but not completely; California provided us with some help to give corporate directors the right to rely upon advice received from experts, even though that advice may be wrong, from both accounting, legal, financial experts—and not to be, in effect, pure fiduciaries acting at their peril, things like that.

Walter Croskey: Okay. In '87, you left Amfac.

Daniel Curry: Uh-huh.

Walter Croskey: How did that happen?

Daniel Curry: Well, I have to choose my words carefully because they're being recorded, but I didn't care much for the replacement of a man that I had followed for 17 years. I didn't have much respect for him, and I felt that he should pick his own lawyer.

And so I went out on the marketplace and just about . . . I was about ready to accept a job in San Francisco when I got a phone call out of the blue from a headhunter that started out, "How would you like to be the general counsel of the Times Mirror Company?"

Walter Croskey: How did you react to that?

Daniel Curry: I said, "Well, are you aware that I worked my way through college and law school there?" There was silence on the other end. The next question is, "Do you know Otis Chandler?" I said, "Why don't you ask Otis?"

Walter Croskey: And did they? *[laughing]*

Daniel Curry: They did, and I met the CEO. I couldn't get down to L.A.; the CEO of the company flew up to San Francisco and we had dinner, and I went through their process and met all the members of the management team. I met many members of the board of directors. Two weeks later, I was in L.A.

Walter Croskey: I take it they offered you a job.

Daniel Curry: They did. My first day was the day of the Whittier Narrows earthquake, which substantially damaged corporate headquarters at the *Times*. Fortunately, I was in the building. It was 7:15, so that sort of impressed somebody, you know, and met most of my lawyers out in the park where the old State Building was where the emergency evacuation called for everybody to meet before they went home. And that was an exciting start.

Walter Croskey: Were there many people other than Otis Chandler that were still there with the *Times* that you knew from your previous employment?

Daniel Curry: Not many; there were a couple. One man who was soon to retire as the circulation director of the *Times* I knew. And when I got out of the Air Force, the job that he took as assistant circulation director was offered to me and I said I wanted to practice law; but the then-inside lawyer did not want to expand his office, so I went out to practice law in El Monte and so forth. But he remembered me, because when I turned that job down, he got the job and then he became circulation director, which was a very responsible position at the *L.A. Times*; he was vice-president of the company.

Walter Croskey: And how was your experience at the *Times* different than your other corporate experiences?

Daniel Curry: The *Times* was organized remarkably like Amfac. I was in many businesses. We in Los Angeles seemed to think that the *Los Angeles Times* is all of Times Mirror; but, in fact, it was about a third of Times Mirror. There are six newspapers on the East Coast. Matthew Bender was owned by the *Times* at the time. It was maybe the ninth largest cable-TV company. They had six television stations, and it was a myriad of other publishing fields.

Jeppesen Sanderson has about 90 percent of the market for aircraft navigation materials, including discs like you put into your navigation system in your car; they have been using those in airplanes for a long time. They are all generated by Jeppesen Sanderson. All the charts all over the world, they do. And all these little loose-ring folders that you see pilots carrying aboard an airplane, those are all printed by Jeppesen Sanderson.

They had the medical equivalent of Matthew Bender in Mosby-Year Book. They published something like 19 major magazines: *Field & Stream, Sail*, some of the better-known magazines.

So it was pretty widespread, and it was organized in about the same number of operating groups that Amfac had. And the operating-group chairman had the same direct responsibilities for that and acted pretty autonomously, subject to economic and financial controls, legal controls, from the courtroom.

Walter Croskey: What do you remember doing mainly as their lawyer? What were some of your big challenges, some of your big problems?

Daniel Curry: Well, I got a phone call from the chairman, Bob Erburu, when I was in the office after the Whittier Narrows earthquake. He was in Paris and he said that 'We've just reached an agreement to buy $250 million worth of magazines, and the man who is leading that charge, the family is very disturbed by the earthquake and wants to return to Los Angeles to deal with that crisis. Can you take his place?" And I said, "Sure." And he said, "When can you be in New York?" I said, "I'll be there tomorrow morning."

And so my first three weeks at the Times Mirror, I lived in a New York hotel on my own credit cards. And we did that acquisition, a couple of the lawyers that worked for me that I'd never met before and . . . But I had done maybe 200 acquisitions in Amfac over 17 years, very comfortable doing it. And so that was one of them.

When the chairman of Times Mirror starting making plans to retire, I had gone through that at Amfac and pretty much had concluded that the new CEO should be able to pick his own lawyer. My baby was just graduating from undergraduate, and I always wanted to be a judge. In fact, I got the call on the federal side about a year after I was in place at Times Mirror, saying, "How about the Central District of California?" And I said, "I have a commitment here. I mean, I can't leave them after just a year." And so the same people that were in Pete Wilson's camp at the time kept my name, I guess, in their book, and so all the stars started to line up in a row. David was graduating from college, Bob was going to retire, and I was turning 55; so they told me my biological clock was ticking.

Walter Croskey: So now you're 55 years old; you were about five years with the *L.A. Times* . . .

Daniel Curry: Yeah.

Walter Croskey: . . . and you got a chance to go on and become a judge.

Daniel Curry: And I think I served a reasonable amount of time at the *Times*, and I think they did, too. We parted friends; we're still on good terms, and—

Walter Croskey: And so you were appointed by Pete Wilson.

Daniel Curry: Pete Wilson, in my view the greatest Governor in the history of California. *[laughing]*

Walter Croskey: *[Laughing]* What was your first assignment?

Daniel Curry: Criminal Courts Building.

Walter Croskey: All right. What did you do there and how long did you stay?

Daniel Curry: As a trial judge, a direct calendar judge—and in one of the biographical sketches that I was provided to prepare for this, it said I was there six months—my memory is, I was there nine.

And so I walked in there, and Lance Ito and Jim Bascue and Fred Lower said, "What do you know about criminal law?" And I said, "Well, in the Air Force I tried 300 contested criminal and quasi-criminal cases, most of whom would be classifiable as felonies. I don't know the Penal Code, but I know the concepts." And so Fred Lower put together—really along with others, Bascue, Jackie Connor—put together a three-day training session. And I was paired with others, including Mike Tynan. If I had a question, I could go—they'd come off the bench—ask them the question. And it was the most collegial experience that I'd had since I left the Air Force.

Walter Croskey: What was your impression of trying criminal cases as the judge, as an experience? What was new about it, what was different than you might have expected?

Daniel Curry: Well, it had been 30 years. But I always used to . . . when we tried a case that an airman who was accused of a crime, you know, several of his friends would be in the audience; there would be several of the victim's supporters in the audience. And the first time that I tried a murder case, to have no one there was a strange sensation—you know, just the prosecutor, his witnesses or her witnesses, and the defense and the jury; but there was nobody sitting out there who cared about either the victim or the defendant. That was strange.

But I did try first five first-degree murder trials in that period of time. I can still remember walking into Lance Ito's chambers—he was the assistant supervising judge of criminal—and this thing popped up on my calendar and I said, "Do you think I'm ready for it?" And Lance said, "How many assault cases have you tried?" I said I probably had tried 15 or 20 by that time. And he said, "It's just an assault case with one fewer witness." And it just hit me: Why not? He said, "Don't do anything in

chambers, do everything on the record." And that was it; so we went through it, tried it, and it worked.

Walter Croskey: How long did you stay in the Criminal Courts Building?

Daniel Curry: Nine . . . I think nine months, and they needed a place to put Paul Gutman, who had been appointed about that time, and they were in short supply of corporate lawyers or civil lawyers. They asked me to go to CCW, which was out in Lafayette Park, and to try long-cause matters. But I think by that time Bob Mallano was PJ, and so he started sending me some business cases where the trial court thought that it would bog them down in fast track. And so I had I think mostly commercial business litigation and cases that were bouncing on the five-year mark that were in districts where there was no fast track yet. So that was . . . I was there about six months.

Walter Croskey: And were those mainly jury trials or bench trials?

Daniel Curry: Yeah, all jury, all jury trial. I had a few bench trials in the Criminal Courts Building. My first trial was a business case; it was . . . These two characters were selling blue-sky securities. They went through old people's homes and just wiped each of these people out, $300,000 or $400,000 of their life savings, selling worthless stock. And it was a retrial; it had been a hung jury. And so we tried it. It didn't take very long because, as you know, it's a vicarious liability crime: if you start selling stock that's worthless, what you intended isn't really terribly relevant. If you know it's worthless, that's all it takes, you know.

Walter Croskey: Well, you spent about six to nine months, nine months in criminal and about another six months or so out at CCW.

Daniel Curry: CCW, and then I went—

Walter Croskey: How did you compare the two? Which was more interesting for you to try?

Daniel Curry: Oh, criminal was; CCW was really quiet. And if a case was sent to you, often a five-year case had not seen a settlement judge; and if you settled that case they couldn't send you another one that day, and so you were left cooling your heels. So I asked Judge Mallano if I could stack some cases, because about every third case that I saw wasn't ready for trial; every third case was ripe for settlement. And the third case was ready for trial so that you settled one; sent one out to put together trial briefs, their motions in limine; and then you tried the third case. And that speeded it up a little bit, but it still was just deadly quiet. You could fire a cannon off in those hallways and not hit anything.

(00:50:32)

So then I went into fast track in January of '94, and then there was action.

Walter Croskey: And was that down in what is now the Moss courthouse?

Daniel Curry: Yes.

Walter Croskey: And how long did you stay there? Was that—

Daniel Curry: Yeah, I was there four years.

Walter Croskey: How did you like that?

Daniel Curry: It was pretty good.

Walter Croskey: That's where you had your own calendar.

Daniel Curry: I had my own calendar. I remember I inherited 1,100 cases in the inventory, and when I went to Santa Monica to law and motion, I think I had it down to about very low 300s, high 200s.

Walter Croskey: All right. How long were you there at the Moss courthouse before you went to Santa Monica?

Daniel Curry: Four years.

Walter Croskey: And how did you get it down, those cases down, so quick, so far?

Daniel Curry: You turned every status conference into a settlement conference that you could. And then if you got particularly too caught up in it, then you tried the case with your buddy court—sent that case to the buddy court for trial. But many of these cases were being overlitigated. Some of these cases were not worth what it was obviously costing them to bring numerous motions, demurrers, and this sort of thing. And so it was a real lesson in human nature, in dealing with human nature.

Walter Croskey: You went to Santa Monica, and what was your assignment there?

Daniel Curry: Law and motion; civil law and motion.

Walter Croskey: And why did you go out there? Is that something you desired to do, was it closer to your home, or were you just tired of driving down to Los Angeles?

Daniel Curry: A lot of that. I thought it was going to be an easier commute. I had been out for the Court of Appeal for a couple of years, and I thought, very little chance of that. And I thought Santa Monica would be a nice break from fast track, because fast track was pretty intense in those days—I guess it is, yeah. And I thought, well, if it wasn't what I thought it was, I could always come back downtown after a couple of years of law and motion.

And I was there just a year, and Stan Weisberg filled another vacancy. And the practice of Santa Monica was, a civil judge took over law and motion; and just about the time that occurred, I got a phone call from John Davies.

Walter Croskey: Well, that just didn't happen; you had to apply for that, I'll bet.

Daniel Curry: I did.

Walter Croskey: And when did you do that?

Daniel Curry: When a certain mentor suggested that it was about time. And so I had applied and it was out, like, two years, and there were . . . Just after my application all the vacancies were filled, and there weren't any vacancies. So it just, I thought, wasn't to be.

Walter Croskey: Have you ever had an opportunity to serve on the Court of Appeal on a pro-tem status?

Daniel Curry: No. I was under the impression that anybody who was an active candidate was not supposed to do that, and that impression may or may not have been accurate. But, no, I had not.

Walter Croskey: What I was wanting to get at was, why did you decide to apply for the Court of Appeal? Other than it being suggested by somebody else, is it something you thought you'd like to do?

Daniel Curry: Oh, yeah, you know, because in fast track you did your own law and motion, and certainly in the direct calendar court in crim you did your own law and motion. And then law and motion in Santa Monica was pretty intense, and the nature and the size of the cases in Santa Monica were about the equivalent of the downtown cases; that may not be true in some of the other districts, but you had some major cases. And so it took legal scholarship. Although it didn't require a lot of writing, it required a lot of reading. There were maybe 40-some matters a day four days a week that were on calendar, and there were some really novel issues that came up during that period of time.

And so I really liked the law. I really liked the sensation of picking up a problem that had maybe 100 issues, 10 of which were mind-boggling, and working your way through it. You didn't have the time that we have here, and so that contributes to mistakes. Sometimes those mistakes were not substantive; but you never looked back, you didn't have time to look back because there were 40 more staring you in the face for tomorrow.

(00:56:08)

Walter Croskey: Looking back just on your trial-court experience, do you remember any particular case or cases that stand out as things that you'll remember and like to share with us?

Daniel Curry: One was up until that time, I believe, the largest civil case filed in United States history anywhere. Texaco had filed suit against about 122 insurers to get reimbursement for its exposure for toxic tort cleanup at 2,700 sites throughout the United States. And 122 insurers were involved, because many of them insured companies that Texaco had acquired, smaller oil companies that were purchased over the last 40 or 50 years.

And Owen Kwong had the case just before me and mentioned something about the fact that this case probably shouldn't be in fast track because it was so immense. The first status conference was held in an auditorium, and there were about 300 lawyers present. And they had liaison counsel—some of the best lawyers I've ever seen in my life were there—and they started out by telling me that discovery had already produced a billion pages of documents and that they had joined together, the defense and the plaintiffs, to hire computer experts who designed a program just to deal with discovery, the identification of it and how it was going to be handled.

They had hired some other experts vis-à-vis the science involved in the cleanup and whatever. And when I told them my misgivings was that I shared one research attorney—then Fred Lower, who was my buddy core—I didn't have the resources to look at the pending 40-some cases, motions dealing with choice of law; and that I expected that there were probably an equal number of motions for summary judgment lurking in the background. So they conferred, and they came up with and they funded a position, a research-attorney position just dedicated to that case. And so they had a neutral paying agent who paid these people, the computer people, the accounting or the scientific people. And so they made arrangements through the presiding judge's office that we could hire . . . the research attorney would not be an employee of the court, but would be paid by this neutral paying agent.

So I had an intern or extern, an unpaid extern, a very bright woman who was going to Southwestern, and she was interested in the job. And we just put in filing cabinets in my chambers, and that was her domain. And she kept things straight, and we did eventually go through 40-some motions for summary judgment, 40-some choices of law, and whatever else.

(00:59:57)

Walter Croskey: Was this something that you handled when you were at CCW, or was that out at Santa Monica?

(Change of tape; discussion was held off the record.)

Walter Croskey: Was this something that occurred when you were at CCW, or was it after you were out at Santa Monica?

Daniel Curry: No, I was at the Moss. This is when I was in fast track, and so held onto the case in fast track, and it was this case that demonstrated to me the resources that are available to the Los Angeles Superior Court. Owen Kwong had some familiarity with the case and volunteered to do settlement conferences. He was in Compton at the time, and then Enrique Romero volunteered. And just about that time, Fred Lower was going to go out to CCW maybe six months hence.

There were initially 16 models of cases—for example, the refinery cases would be one, the storage cases, the leaking-tank cases, the sump cases—and those were narrowed down to 9 models, each of which the estimate was would take 18 months to 2 years to try.

And as we worked our way through these motions, it became clear that one of the models was starting to appear ready for trial; and Fred, who had taught a lot of insurance law at Loyola Law School, was somebody that I thought was a natural to take on the first trial of the cases. And we estimated two years would probably be too short because of the number of witnesses, the documents, and that sort of thing. And if anybody was up to the task, it was Fred.

So we had this three-ring circus starting to fold: the settlement conferences, the pretrial motions, and how the decisions were affecting that; and we had an open core. The biggest part of the puzzle was Lloyd's. I mean, they had a big, big percentage of exposure on several different levels, and they wanted to propose to take the judges to London; it would be cheaper than to bring 80 of their numbers to Los Angeles to participate in the settlement conferences. So with the blessing of the presiding judge, Enrique and Owen went to London for a few weeks. By god, they settled—not it all, but they settled a huge number of those cases.

And that's what I mean about the resources of the L.A. Superior Court. Here you have this man second only to the interrogator here today in insurance-law knowledge ready to try the first case, and I felt like I was a member of a team all over again, you know.

And so eventually all of these cases got settled. Not one of them . . . they did tee it up for trial, but the last domino fell over at CCW in Fred Lower's court.

Walter Croskey: You spent about six years, then, on the trial court.

Daniel Curry: Yeah.

Walter Croskey: And did you, looking back on that now, draw or can you draw any conclusions about what that court does well, what you think they could do to improve the administration of cases there? In your experience as a trial judge, what would you change?

Daniel Curry: Well, under certain of the presiding judges, there was something sort of loosely referred to as a meritocracy. If somebody was really willing to work, that person could be put, and was qualified to be put, into a demanding slot.

Following consolidation of the municipal court and the superior court, my impression is that seniority has reigned and that it's discouraging to people who really wanted to be superior court judges to think that they're going to be doing effectively municipal court work for a number of years before they get their chance at the big time.

(01:05:01)

And I don't know what they could do. I felt consolidation was not as good an idea as the idea of incenting people on the municipal court by taking advantage of a statute that had been in place that basically allowed the board of supervisors of any county, when there was a vacancy in a municipal court, to make that vacancy a superior court slot—and then have some sort of way that you filled those slots only with qualified municipal court judges so that you had a method of incenting those judges on the municipal court who really wanted to work full time and to take on more and more responsibility to give them hope that they could move ahead.

I don’t know how it could be done now. I think the Los Angeles Superior Court has been my only experience, and I think it’s been very fortunate to have the very able men to date who have stepped up and assumed the role, which is not an easy one; and certainly there are qualified women, too, who ought to be given the chance.

Walter Croskey: Well, in 1998 Governor Wilson appointed you to the Court of Appeal?

Daniel Curry: Yeah. Nobody was more surprised than I at the time.

Walter Croskey: Did that just come out of the blue?

Daniel Curry: It did, actually. I—

Walter Croskey: Who called you?

Daniel Curry: John Davies.

Walter Croskey: That was the appointments secretary?

Daniel Curry: Yeah. I had interviewed him two years before and met the Governor, but it was not on direct terms with the Governor. But from time to time Mr. Davies would call me about my thoughts about people for slots in the superior court or slots in the Court of Appeal elsewhere; and I think that we understood each other and we had a good rapport. But I had just read about Liz Baron's expected retirement, was sort of surprised by it, and talked to certain people I thought were in the know; and each of them felt that Division Four probably could not replace a woman with a man and that it would probably be somebody younger than I and hoped that, you know, I understood.

After the second of those phone calls, I had just gotten home, went into the kitchen; the phone rang, and it was John Davies saying, "Well, how would you like to go on the Court of Appeal?"

Walter Croskey: What did you tell him?

Daniel Curry: I said, "Can I call you back? Because I have a lot of friends who could be really, seriously teasing me right now." And he said, "Dan, you know you always told me that I looked like Willie Nelson." And I said, "Okay, I believe you," because he does look like Willie Nelson. *[laughing]*

Walter Croskey: *[Laughing]* And you thought that somebody was putting you on.

Daniel Curry: Well, I thought it was a possibility, because I hadn't had any glimmer of any, you know—

Walter Croskey: I take it, then, you were enthused about that opportunity.

Daniel Curry: Oh, yeah, especially Division Four; no, you know, no slight intended to Division Three, which I think is great also.

Walter Croskey: Well, tell me about who were the justices on the court when you joined in 1998.

Daniel Curry: Well, Chuck Vogel was the PJ, and I had met Chuck when I was out in El Monte and we were in the Pomona Valley Bar together; and believe it or not, we were both in sort of an unofficial young-lawyers group that met on Wednesdays for lunch, and there were maybe 20 of us. So I had known him for a while. We weren't social friends, but I had known him and was familiar with his work; and then Norm Epstein, who I had met on many occasions; and Gary Hastings, who I did not know. But I think they were all giants, and it was just a pleasure and a privilege to be with them.

Walter Croskey: Well, tell us a little bit about your experience on the Court of Appeal—what you enjoyed, what you didn't enjoy, how you went about the decisionmaking process.

Daniel Curry: There wasn't much not to enjoy except when they'd fiddle with the air-conditioning system for political reasons in our chambers and on the bench. I don't mind it too cold, it's just when it's too hot . . . but otherwise it was different. And I hadn't focused on how different the dynamic is when you have to convince at least one other person to follow you through sometimes a torturous path of reasoning in order to get to what you think is the right application of the law.

The three people that I worked with above all else were outstanding lawyers, and they knew what the law was, and none of us was dedicated to making any social statement. I think we wanted not to try to make new American law unless there was no law there, and on one or two occasions we found that to be the case. One case involved, it was a . . . I believe Chuck Vogel was the lead on it. But we all prepared cases as if they were our own, and many times somebody will cite a case, and I'll say, "That's my case." Well, you better tell Norm Epstein that, because he's the author. But we all made suggestions. We were all very much involved in the brief, and maybe not as much in the record as the draftsman would be; but certainly in the case of a summary judgment, you would go in to see the declarations were filed, sometimes moving papers in the opposition, that sort of thing.

But in this one case I remember very well, a lawyer had inadvertently sent the other side a privileged document, along with a massive amount of other details. The other side did not tell him that they had received it and participated in using it in prepping a witness, and it became evident to the first side that that somehow had occurred and when they found it out, brought a motion for sanctions. And we felt to a man that the ABA standard speaking directly to that issue where the state Rules of Professional Conduct didn't as clearly address it was a standard that should be followed—and that is, that you should immediately notify the other side and send the document back without copying it. And that created a bit of a buzz; it went on up to the Supreme Court, who agreed with us.

But those kinds of things were the exception—that we weren't there to make social policy; that's the Legislature's job. But if they didn't do it right, we were there to say it exceeded their constitutional authority.

Walter Croskey: Did you or have you developed a, what I'll call a judicial philosophy, that you think you've consistently applied? Or maybe it's changed during your judicial career and is part of the decisionmaking process that you participated in?

Daniel Curry: You know, I can't describe it with a buzzword. You know, like in many of the hot-button issues or items, buzzwords are used that have some meaning to those who use them; but it's more

complicated than that. I think that the state, the country, is deserving of laws that are understood by the people who are governed by them and that they should be clear and distinct, and they should be not subject to the vagaries of interpretation on the basis of what color shirt the judge is wearing at the time that the decision is being made. I think in business, for example, as a former business lawyer the thing that you treasure is to be able to tell your client what the law is—and if you can't do that, there's something wrong with either the Legislature and/or the courts.

One thing comes to mind that during the 1972, when wage-price controls were put in during the Nixon Administration, my company was a lead target for violating regulations that had not yet been written and fined $72,000. That just made me wretch. We were complying with the policy of what had been put out with by this time. The $72,000 was not a huge number, but our stock price dropped tremendously and was affected for maybe a year or two after that by that silliness. It was unfair.

The decision in *Blakely* comes to mind also, when Sandra Day O'Connor criticized the majority opinion on the basis that they didn't appreciate what they were doing; they didn't appreciate the practical effect that was going to have on the sentencing schemes of states like Arizona and eventually California. And I think that judges who are making decisions should have some real-life experience. The author of that *Blakely* opinion was a law professor, and it has had widespread . . . as you know, *Apprendi, Blakely* all had widespread effect on the law, maybe unintended.

Walter Croskey: Certainty, then, is certainly an . . .

Daniel Curry: Yeah.

Walter Croskey: . . . important thing for the law to provide. What happens when that may in a particular case conflict with what appears to be the just result? What is a judge to do?

Daniel Curry: We had a case where the Fourth District had held that in the event where an employee left the employ of an employer, the same standard did not apply to that employee that would have applied to the employer in dealing with confidential information and that sort. And it seemed to me that it wasn't a focus on what the just result was; the focus was on an inadequate standard that should have been applied equally. And the wrongness of that opinion was in that they were violating due process by treating one side of the equation differently than the other because of deep pockets. And I can't remember the name of the case, but it was an instance where two young lawyers broke off from an immigration law firm and sabotaged some of the computer records in the old firm and solicited many of the clients of the old firm by making use of those confidential

records of the old firm. The *GAF* case is the case I'm referring to in Orange County, said that while if the conduct had been just the reverse, the employees would have had a right against the employer, but not in this case. And it just seemed to me that it wasn't justice, but the first case was just wrong; and there were, believe it or not, Ninth Circuit cases that agreed with us. So we chose to divert from that.

We had a couple of other cases where we disagreed with other districts, but you know when you do that that the Supreme Court is no doubt going to take your case up and review it as well.

Walter Croskey: Well, I suspect that may have happened more than once to opinions that you wrote. How did you feel about that?

Daniel Curry: Well, when they agreed with me, it was fine. *[laughing]* But I—

Walter Croskey: They don't always take cases to affirm them, though.

Daniel Curry: No, no, no, especially in our division. It's an interesting . . . they took fewer, but they reversed more frequently. *[laughing]* But I had the one, the one experience in the . . . it was a *Jarvis*-type case, but it was entitled *White v. Davis,* where they took an opinion that I signed as the author. But believe me, both Hastings and Epstein made tremendous contributions to that opinion; it certainly was not my opinion alone. And I'm not a constitutional scholar of the California Constitution; Norm Epstein is, and Hastings also pitched in.

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This case went up, and it dealt with whether or not the State could continue to pay its bills by warrant when there was no budget signed, sealed, and delivered; and they published that case and gave me credit for it. And Norm Epstein says he doesn't know of any other instance where they adopted my opinion and gave me credit for it. But it wasn't just my opinion, and if there was ever a case that should have been a *per curiam* opinion, that was it; but my colleagues declined to do it that way. But I think that some of the other aspects of *per curiam* should be looked at, because there was more than one case where each of us made a substantial contribution and only one person signed it; well, we signed it, but it wasn't as if we were the author.

Walter Croskey: How long were you on the Court of Appeal?

Daniel Curry: Just a few months short of eight years.

Walter Croskey: So you were on the Court of Appeal even longer than you were a trial judge.

Daniel Curry: Yes.

Walter Croskey: How do you compare the two?

Daniel Curry: It's like apples and oranges, I think.

Walter Croskey: Which do you like better?

Daniel Curry: It's like apples and oranges; I like both. I think that the trial court's more exciting, especially when you have a potentially violent criminal defendant screaming at you who needs to be chained or restrained significantly with two or three of his gang members sitting there watching the proceedings.

Waiting for a verdict in a very close case and having it read is, I think, very, very exciting. The intellectual stimulus here is just light-years more, and there are cases when you'd open them up and you'd think, "Oh, what will I do with this?" And some of them were very, very close issues. And you try to close everything out of your mind—not what your colleagues are going to do, not what the research attorney is saying. And my preference would have been to every time read the case first and then give it over to a research attorney, but sometimes the pressure of time meant that we were reading it at the same time.

And often . . . you know, I was really blessed with three great research attorneys, and often when they had a completely different take than mine, it was an interesting dynamic, too, because you have to sacrifice your ego to listen to this great mind tell you, "Don't go there, it's going to be error." And so you have to wind your way not only through the way you want to go, but through the way he or she wants to go. And sometimes you strike a little compromise; but oftentimes they have found something that you've overlooked. And it's, I think, a real tribute to this court that we have such dedicated professionals.

Walter Croskey: Did you ever think about how 50 years ago the judges who sat on this court handled their work without any research attorneys, having experienced the blessings that you and I have seen of having either two or three to help us with our work?

Daniel Curry: I have. And, you know, I've been there sometimes in the trial court where you can't call your research attorney for every cute little question of law, because they're stretched too thin, split between two very active, fast-track judges. And so I cracked the books there quite a bit, too.

And now they're going back to the support that you get in the superior court. One of my next-door neighbors was Al Buckner, who was very knowledgeable in insurance matters. And you'd get two briefs that would be diametrically opposed about what

this case says, and you read it and oftentimes the case says some of each, but never exactly what either of the sides are saying, and you don't know what the significance of that is without reading 25 more cases. Well, Al and I'd have a sandwich together asking the question, and Al had this magic little computer that would spit out paper and often lead you much more quickly to the case that really controlled—not that he decided my case, but he gave me a cite that was a lot more helpful than the cases that I got from either lawyer. That didn't always happen, but that's one of the resources that people don't give the L.A. Superior Court enough credit for sometimes.

(01:26:21)

The numbers game is played often here and there, but without any appreciation sometimes of the fact that one jumbo case just counts as one case—and when that could be as much work as 30 cases or 20 cases. And many of the jurisdictions don't regularly get that big a case. I won't speculate on those jurisdictions *[laughing],* but I don't know how those judges 50 years ago could have dealt with a jumbo without somebody wading through piles and piles of paper. I remember one case—I think it was that *Jarvis* case—that Gary Gleb, who was the research attorney who was on that, literally his office was full of the record of that case. I mean, he could barely get to his desk and out. It was amazing.

Walter Croskey: What's your overall impression of how this court—and the Second District is where you worked, of course, as I—how this court operates and what it could do better or how you'd change it if you could? Or do you think it's doing it just about right?

Daniel Curry: That's a touchy question.

Walter Croskey: Well, I don't want it to be a touchy question. I'm trying to get a feel for how your impression is we're doing and what you, maybe what you'd change if you could.

Daniel Curry: Well, I think one of the strengths of the Fourth Division was that all four of us were in every day and that somebody might have been a lark and somebody might have been an owl; but during the substance of the day we were together, usually even at lunch, for at least five hours or so. Somebody might have stayed a little later, or somebody might have gotten in a little earlier and left. But if you were struggling with something they had written, you could walk in and say not on the phone, not in e-mail—I think those are devastating ways to confer—but you could go in and say, "Do you have a minute? I have a couple of questions on this case." And you can handle it a whole lot better than a tersely worded e-mail that might be misread somehow.

Walter Croskey: Is that just another way, maybe another way, of saying that collegiality is critical to the operation of the appellate court?

Daniel Curry: I think so. You know, we dissented as often as anybody; but there was no personal invective, no . . . I mean, we always started out with "I respectfully dissent, and I see this a different way than the majority," not that "It's unconceivable to me how somebody could be so stupid as to . . .," you know.

Walter Croskey: *[Laughing]* Well, that's kind of a function of one of the first things you said about the Court of Appeal, was how it differed from the trial court. And when you got up here, you couldn't just make your own decision; now you had to get at least one other person to agree with you.

Daniel Curry: Yeah.

Walter Croskey: And collegiality is an important part of that, in your view?

Daniel Curry: Yeah. You don't have to be best friends, but I think you have to be respectful of the other person.

Walter Croskey: Well, after 8 years on this court and 14 as a judge, you decided to retire. Why did you do that?

(01:29:57)

Daniel Curry: Well, a lot of reasons. I was 69. There's a whole lot of the world I haven't seen. We were confronting the responsibility for my wife's mother, who was starting to run out of retirement funds to support her; that added . . . it's not a burden, it's a privilege. But there are things to be done, things to see yet.

I just had a great, great experience. I just came back from a family reunion, and I alluded to it before. But all my life I wondered where my dad grew up, and he talked about the hardships they endured—the winters were just brutal in Northern Canada, Northeastern Canada in the Maritimes—and I knew I have a couple hundred cousins. It's a massive family, and so we had the chance, the excuse, to go to this reunion and meet people and to see something. And if the reunion wasn't all that interesting, we didn't have to stay for the full four days, but we did. And there's all these people that look like me—some may regard it as a blessing and some may not—and who have kids who look like my kids who have never met. And it was just a lot of fun, and it was moving. The house that my grandfather and father were born in was just torn down about two years ago; I wish I had done it two years ago. And there are other things I'd like to do before they're torn down, you know, and while I still have the ability to climb over a fence or something.

Walter Croskey: Well, how are you enjoying retirement?

Daniel Curry: Pretty well. I knew ahead of time that I can't play more golf than maybe twice a week, if that. I mean, I like it; but I don't

want to dedicate my life to it. The family is pretty much on their own; but we're getting more grandchild time, which is a lot of fun, especially with the older ones. You know, now I have a granddaughter who's graduating from college this year, another one who's a freshman at UC Santa Barbara. And their younger brother was 16 and their parents went off to ski and I was asked to babysit—well, we called it that; I bunked in with Owen—and I had so much fun for those four nights with the 16-year-old and his curiosity and his foibles. And the first night he blows in from school and he says, "Well, what are we going to have for dinner tonight?" I said, "They're called reservations." *[laughing]*

Walter Croskey: *[Laughing]*

Daniel Curry: "So if you get dressed, we'll go on out. Where do you want to go?" So he had a place in mind. He came down 10 seconds later, really looking like a dispossessed, displaced person, you know. And I said, "Ah, we're going to have to spruce up a little bit for this place." *[laughing]* And so after about three tries he looked . . . "Okay, let's go," and so . . . *[laughing]* But it was, it was fun; it was something that I never could have gotten away with if his parents were in the house.

Walter Croskey: I know because I've known you so long, and one of your hobbies other than golf is railroading.

Daniel Curry: Yes.

Walter Croskey: Tell us a little bit about that and what you do with it.

Daniel Curry: Well, I haven't done much. The first thing that happens to you —I'll be your counselor when you retire, if you do—the first thing you do is, there are a couple of light bulbs that are in out-of-the-way places, and so you get a ladder and you go up there and you find out it's a special light bulb and that's why it hasn't been changed. So you spend a lot of hardware-store time getting switches and light bulbs and that sort of thing, and that eats into the railroad time.

But it isn't growing right now; and especially in the summertime, it's in the garage, it gets a little warm. So it's a winter, bad-weather—

Walter Croskey: You've got a remarkably large set of a layout and railroad model trains, and you like to run 'em?

(01:34:55)

Daniel Curry: Yeah, yeah, I do. I modeled the diesel era of the Southern Pacific and of the Mexican railroads that focus on the west coast of Mexico: the Ferrocarril Chihuahua al Pacifico, the Ferrocarril Pacifico, Sonora Baja California. And Joy and I rode the passenger train when I was in the Air Force from Nogales,

Arizona, down to Mazatlan, and so I took some pictures and that sort of thing. And the livery, the road colors of the Mexican trains, are happier than the parole gray of the Southern Pacific; and so that, probably as a child, I'd go for the bright colors.

Walter Croskey: Do you paint some of your own trains?

Daniel Curry: Yeah, especially the Mexican trains; there are not many of them available. They're starting to show up now. And I think there is this element of I want to be the only kid on the block with something that looks like that, you know, and that's sort of fun.

Walter Croskey: What do your grandchildren think of that? Do you ever get a chance to show it to them, and do they enjoy working with you on it?

Daniel Curry: Yeah. Some of them really enjoy it, and some of them look at me like I'm really from another planet. They're very blasé about it, and they look at it and they give you that look, "I'm worrying about you, Grandfather," you know. But they're tolerant, like their grandmother is, of this.

Walter Croskey: I know that you think a lot of and have visited a number of times the country of Ireland.

Daniel Curry: Uh-huh.

Walter Croskey: What has your relationship, official and otherwise, been with that country?

Daniel Curry: Well, in February 1992, the government of Ireland asked me to be their Honorary Consul for Los Angeles, and I enthusiastically accepted.

In September of 1992 when I got appointed to the bench, an old friend was the county counsel of Los Angeles, DeWitt Clinton. And De knew of this sideline of mine, and he advised me that I had to resign it. And some would say they couldn't guarantee your safety. Because that was really near and dear to me . . . and resign it I did, because he was right that an agent of a foreign government, even if a volunteer, shouldn't be on the bench, despite the fact that there is an Honorary Consul of Ireland in Denver who's a federal judge.

But in the meantime, we made a lot of friends in Ireland, including a man who I met at the time he was attorney general in 1992. He went on to become a justice of the European Court of Justice and sat for the better part of 10 years and is now chief justice of Ireland, and a good, close friend and a dedicated jurist.

Others who are in the foreign service have gone through the chairs, and one is now the ambassador of Ireland to Belgium.

Walter Croskey: How many times have you been there?

Daniel Curry: Oh, five, maybe.

Walter Croskey: It's a beautiful country. Do you enjoy it?

Daniel Curry: Oh, yeah. The people are wonderful, even though the weather is bad. But if you pick the time carefully—I don't want to get into this warming of the earth, but I've been there and actually got sunburned, yeah—and especially on the west coast of Ireland, it is breathtaking in places.

Walter Croskey: Well, is there something that I haven't asked you that you would like to record for posterity as a part of our discussion?

Daniel Curry: No. I think you've covered it.

The book that was provided to me by the Judicial Council, is it, or the AOC . . .

Walter Croskey: AOC.

Daniel Curry: . . . is really neat and one of those things that I would recommend that somebody in retirement from this court get at the time of retirement, because at the time that you're active, you're not saving mementos, your published opinions—at least I didn't—and I was lucky just to be able to find them at the time that I retired. Because of curiosity more than anything else, to find that I had 90-some published opinions . . . there would have been more, but several of the cases were taken by the Supreme Court, so there's probably over 100 that were published. And to have a synopsis like that is very good.

(01:40:02)

And I didn't keep the judicial profiles of the *Daily Journal* and that sort of thing. They have it there, and whoever put that together, I'm very grateful for that.

Walter Croskey: Okay. Thank you very much, Dan.

Daniel Curry: Thank you. I'd like to be in on your interview someday. *[laughing]*

Walter Croskey: *[Laughing]* Are we okay?

David Knight: We're done.

Duration: 100 minutes
August 10, 2007