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This afternoon's conversation with retired Associate Justice John G. Gabbert is one of the first of the recorded interviews of this project.

My name is Betty Richli, and I am an Associate Justice in Division Two of the Fourth District Court of Appeals, sitting in Riverside, California. It is my pleasure this afternoon to introduce you to Justice John Gabbert. Good afternoon, John.

John G. Gabbert: Good afternoon to you.

Betty Richli: Justice Gabbert, those of us in the legal community think of you as a Renaissance man. You've been a ham radio operator, a beer brewer, a bread baker, part owner of a backpacking supply store, a motorcycle rider, traveler, and author.

In addition to this list of diverse accomplishments, you have also had a very remarkable legal career. You became an attorney in 1934, a superior court judge in 1949, and an appellate court justice in 1970; and it is this career, spanning most of the 20th century, on which we would like to concentrate this afternoon. So I'm going to start the inquiry, Justice Gabbert.

John G. Gabbert: Okay.

Betty Richli: You were born in California in 1909 and you came to live here in Riverside when you were three years old, in 1912, and you've remained here all of your life. Where did you attend college and where did you go to law school?

John G. Gabbert: Well, I went two years to Riverside Junior College and graduated there in 1929, and then went to Occidental College in Los Angeles for my junior and senior years. Then I went to one year at Duke University, and then finished the law at Boalt Hall, Berkeley, and graduated in the class of 1934.

Betty Richli: My understanding is you had a scholarship to Duke and that you finished at Boalt because, I believe, your father wanted you to attend Berkeley. Is that correct?

John G. Gabbert: That's right. During the time I was in junior college and at Occi and two years after that, I was working up in Sequoia Park in the summertime, because these were rather tough times financially. The Great Depression was felt pretty strongly in this area and by my family, so I was glad to be able to get any kind of job I could.

I got a job as a spieler on a sightseeing bus, and permanently ruined my voice as a result. It didn't have microphones and public address systems in those days, or at least the kind that we could use on the bus.

So in the summertimes I was working up at Sequoia. Then after my first year at Duke, which I loved very much and liked very much, the attorney for the park's company came up to see the manager and spend a day or two. He had been my Boy Scout scoutmaster when I was a kid. I saw him sitting out on the lodge veranda one evening smoking a cigar, and I went up to him. He was Senator Leonard Defani from Riverside. I introduced myself to him, and he remembered me somewhat, I guess, and we got talking. He asked me what I was doing, and I said, well, I was going to law school.

So he asked me where and so forth. I told him Duke University, back in North Carolina. He said, "Well, where are you going to practice?" I said, "Well, I don't know; I hope to practice in Riverside." He said, "Whoa, you've just got to get away from North Carolina and come back to California; you should go to California, a law school in California." He was a great USC law booster. He said, "You've got to go to USC."

Well, that caused me to worry a little bit about it. I called my father on the telephone and asked him what he thought. Well, my dad was a great old Cal booster. He'd gone to Berkeley—not law school, but to the university—and those were the salad days of his life, and he loved Berkeley. He said, "Well, if you're going to come to California that sounds good to me." He said, "I think you should go to Berkeley."

(00:05:00)

So I wrote a letter to the law school of Berkeley and asked what I had to do to be considered—whether I could get in and so forth. They said, well, send us a copy of your transcript from Duke, and then you will also have to come and have an interview with the dean. So I got my transcript and sent it up there. So they said to come and see the dean on such and such a day; and that was at the end of the season.

So I went up to Berkeley and went to see the dean. The only question he asked me is, "Do you think you'll like it up here?" I said, "I'm sure I will." "Well, fine, that's all." Well, what a difference—think of it!—the difference between now and then, and getting into a top grade law school, or any law school, compared with those days. That was just incredible. Well, I finished my last two years at Berkeley.

[Interview begins again to correct lighting issues.]

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John G. Gabbert: Good afternoon.

Betty Richli: Justice Gabbert, you were born in California in 1909, and you came to live in Riverside when you were three years old. I believe that was in 1912, and you've remained here in this community ever since. Where did you attend college and where did you go to law school?

John G. Gabbert: Well, I attended college at—started out here in Riverside at Riverside Junior College then. Incidentally, in those days it was a school of about 260 students; today it has 34,000 students. I graduated there in 1929.

Then I went two years to Occidental College. Then first year of law school I went to Duke University, and then finished my second and third years at Boalt Hall, Berkeley.

Betty Richli: Now, I understand you had a scholarship to Duke Law School and were persuaded by your dad to attend Boalt. What's the story behind that?

John G. Gabbert: Well, I did have a scholarship. When I was at Occi I was a janitor in one of the halls, and I would work there in the early evening. I noticed that there was a sign on the bulletin board that there were law scholarships available at Duke University, and they had a little thing so that you could make an application. So I thought, well, I'd like to go to law school; I'll try that.

I hadn't made any final plans then. So I did, and got back to send them a resume and scholastic record and so on, which I did. Then I got a notice and I could go; they'd give me a scholarship.

I got a scholarship for tuition, and all it cost me for my room and board and everything was $40 a month. So I got my life there for very little, and it was a lifesaver in those days. Well,

pretty tough economic times. And I went there and I liked it, and I got my scholarship awarded for a second year.

But then I was working during the summers. I worked for several summers as a spieler on a sightseeing bus in Sequoia Park. That's where I permanently ruined my voice, trying to speak up over the grinding gears of that bus.

Anyway, one evening the attorney who represented the park's company was up seeing the manager for a few days on matters of the company. And he was Senator Leonard Defani from Riverside, and he had been my scoutmaster when I was a young scout.

(00:09:56)

So I went up, and he was sitting out on the veranda; I went up to him and introduced myself, and he remembered me, I guess. So he asked me what I was doing and one thing and another, and whether I was going to Duke Law School. He said, "Well, where do you expect to practice, or where do you want to practice?" I said, "Well, I hope to go back to Riverside." He said, "Well, you should come to a California school and finish up out here." He said, "You should come here." And "a lot of things you ought to know about California that you won't get back there," and so on and so on and so on.

Well, I then got in touch with my dad, because I valued his opinion—whether I should try to leave Duke and come out here. My dad came up to see me—drove up to Sequoia and took a couple of days to do it up and back. I told him what Leonard Defani told me. He said, "Well, I think that sounds pretty good to me." He said, "But you should go to Cal." Now, Leonard wanted me to go to USC because he was a USC law grad. My dad was an old Cal booster.

So finally I made an application to Berkeley, and all I had to do was submit a transcript and to go and have an interview with the dean, Dean McMurray. So I made an appointment and went up just before school was to start, went in to see him; and I figured that Duke didn't start as early as Cal did, and if I got turned down I could go back to Duke.

He said, "Well, do you think you'd like it up here?" I said, "Yeah, I sure would." He said, "Well, fine." That was all it was in those days—incredible.

Betty Richli: That is pretty amazing. Well, obviously, Justice Gabbert, all they needed was a short interview; they were right, and they accepted you.

John G. Gabbert: Well, I think everybody had a short interview in those days.

Betty Richli: What made you decide to enter the legal profession?

John G. Gabbert: Well, I think it was just sheer chance. When I was in high school—when I was a freshman in high school—I got dragooned into participating in inter-class debate. That was due to my father. I had a good friend who as a joke . . . as each class at the high school here had to elect officers, and the freshmen had their meeting and they didn't know what they had to do or anything. But some member of the faculty told us that we needed to have a president and a vice-president, a secretary and a treasurer, and have a debate manager. Why do you need a debate manager? Well, every class has to debate every other class in a public assembly, and then the winner is the champion.

Well, so, just as a joke they elected this friend of mine. So one Friday night I went to the movies with some other friends of mine, and this fellow—Perry Ellis was his name—came to my house, and my dad was there and knew him. He wanted to know if I was home, and my dad said, "No, I think he went to the movies." He said, "What are you here for, Perry?"

"Well," he said, "I'm trying to find some guy who would serve on the debate team." He said, "I can't find any; we've got to debate the sophomores in the assembly."

So my dad said, "Well, I'll have John do it with you." Ellis couldn't find anyone else, so the two of us were the debate team. Oh boy, I put up a big howl when my dad told me I had to do that. He said, "Listen, I've never asked you to do something that I didn't want you to do very seriously; I never made you do anything. But I'm making you do this."

Well, it was the best thing that ever happened. Perry and I didn't even know what a debate was. So my dad became our coach. He was a newspaper man, the editor of the local newspaper, the *Enterprise*.

So the subject was a resolve that there should be a Secretary of Education in the President's cabinet. He belonged to newspaper associations, and they had a service called the Editorial Research Reports. So he called them to get the material.

So he got the material on that subject. Then he made us go over that. Then he said, "You've got to write your speeches out, and I'm going to have you memorize them." I think they were eight-minute speeches or something, eight minutes; and four or five minutes each for rebuttal.

(00:15:03)

Well, anyway, to make a long story short, he practically had to do everything to get us into the thing. He took us down one weekend to the Hotel del Coronado in San Diego, and had us walking up and down the beach until we knew our speeches absolutely perfect.

We were just little parrots, but we just swamped the sophomores. I was so scared to death that my socks might fall down that I wore—in those days people wore garters. I wore two pairs of garters; I mean that. And I was just petrified and so was my partner, but we . . . my dad had ingrained us into this. In getting ready for it he said, "Now you've got to prepare for the rebuttal."

Well, what's rebuttal? We didn't even know what that was. He said, "Well, you've got to answer the arguments that the other side makes." So we said, "What are the arguments that the other side makes?" Well, he made us a list of the things we'd gotten out of the Editorial Research Report. So we had 8 or 10 points; so he divided them up. We wrote a short, 30-second rebuttal for each one of them, and then we divided them between us, and we each had to memorize all of those.

Betty Richli: So this gave you a great background, didn't it?

John G. Gabbert: We beat the heck out of them. Well, that was the only thing the freshmen did that whole year, I guess. All of the teachers are going to the class to congratulate us for this. It built your ego up, and I thought that was great.

Well, we went on, and we had to debate the juniors, who had beaten the seniors. So we went to my dad and said, "Hey, we've got to debate a question about branch banking; will you help us?" He said, "No, I showed you what you had to do; you do it." Which was another good thing he did for us.

So Perry and I had the idea, and we stumbled along and we won that one. So that was a big deal, and it got us all enthused and excited. So we got on the high school debate team as freshmen and we debated. So from then on the only thing I ever wanted to do in high school and college was debate, and that got me started.

Then the law part came. My father, who was in the newspaper, was sued for libel; and it was a big case.

Betty Richli: The man who sued your father was a member of the Klan, was he not?

John G. Gabbert: Yes, and he was also the mayor of Riverside. Now, to back up a little bit, Riverside had a large population of Chinese, and the old animosity and racial attitudes toward the Chinese was very prevalent in this community, unfortunately.

The Chinese were here for . . . first of all, they were very active in the earliest days in the citrus industry, in the packing and grove management and work. Then later they were in gardening, and they had rather large market gardens and so on. They had a section in the downtown area where they lived, or close in a few blocks. One day there was a lot of racial animosity toward them stirred up; and a group from the Klan, I believe now, went down and burned them out—burned them all out. Well, so, they were driven down into the river bottom area where they had another little Chinatown, which went on for years.

Well, my father took a strong view of that in the paper, and that was probably tempered by the fact that my father could speak Chinese. His major in college was English, but his minor was Chinese, and he and one other student were the only ones taking Chinese when he was at the University of California for four years.

They had a wonderful professor who was practically a teacher. Now, my dad could read and write in Mandarin—not too well, I'm sure. The local Chinese were all from Canton, but there was enough spillover so he could palaver with them. They thought he was God.

(00:19:55)

He took their side in fighting this animosity and the actions that were taken against them. I might say that my sister and I never had such presents as the Chinese brought to us every Christmas. We had more litchi nuts, she had more porcelain dolls, I had more little—

Betty Richli: The abacus and—

John G. Gabbert: Not boxes, you know, but secret ways of opening them and closing them and so forth.

Well, anyway, so that was what happened. Well, this was a big thing, and the local judges excused themselves, or recused themselves, and called out for help. Leon Yankwich, a judge from Los Angeles—was quite a specialist, apparently, in libel and slander and so forth—came out and they . . . Even the big courtroom in the courthouse was too small to take care of the crowds, and so they hired the Elks Club to take care of the crowds for this trial.

The trial lasted 20 minutes. My father's attorney had a legal point there, which he argued to Judge Yankwich, and Judge Yankwich dismissed the case. I don't know what the circumstances were.

So around the dinner table that night my father—who'd been through the wringer, of course, on this—was ecstatic over it, and my mother said, "But Ray, how much did it cost?" My dad said, "Well, I had to pay him $1,000 for today." Somehow or other it came out that the attorney had only appeared for 20 minutes. I thought, my god, $1,000 for 20 minutes—that sounds like a pretty good deal. And that's when I thought I might go into the law. *[laughing]*

Betty Richli: Oh, that's a great story; wonderful incentive. *[laughing]*

John G. Gabbert: Also, I thought that all a lawyer had to do was talk; so that's why I continued with my debate.

Betty Richli: Justice Gabbert, you graduated from Boalt in 1934 and you took a bar review class, and I think it's interesting to note that the teacher of your bar review class was none other than—

John G. Gabbert: Bernard Witkin.

Betty Richli: This was the second, third, fourth class he had taught bar review?

John G. Gabbert: It was one of the very first, and I wouldn't be surprised if it was maybe the third—second or third or fourth. Anyway, he didn't even have his *Summary of California Law* as we later know it as a bound book; it was free sheets of mimeograph paper. And it was held in San Francisco, and I would say that probably 25 were in the class.

Betty Richli: You passed the bar and became a member of the Riverside legal community in 1934.

John G. Gabbert: Yeah, thanks to Bernie.

Betty Richli: Thanks to Bernie. Now, when you joined the Riverside County Bar Association, about how many members were there?

John G. Gabbert: Well, I think that there were under 50, and that included the 4 new members who joined that year. There hadn't been any young lawyers come here for several years. I think the last had come up maybe five years before—Russell Wade, Harmon Brown maybe a year or two ahead of Russ.

But there were four of us. Mary McFarland was from Boalt, my class there. Then there was Don Adams and Christian Sarau, who had graduated the same year over at Hastings. Now, Mary's father was one of the earliest mayors, maybe the first mayor of Riverside. He was one of the old, old-time attorneys, and well known and respected. He probably had the major probate business in the county. Then Chris Sarau's father was a partner in the then-leading major civil commercial trial firm, Sarau & Thompson, and so Chris went with his dad.

Betty Richli: That became Thompson & Colegate at some point in time.

John G. Gabbert: Which later became Thompson & Colegate, yes. Then Don Adams . . . I knew Don, although he was several years older than I was, because his father was probably a leading doctor in Riverside at the time, and he was our family doctor. We knew them and knew the family, and had been there many times and visited with him, and they knew us.

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He and I both were faced with the problem of finding someplace to go. This was the bottom of the Depression, and even fellows who were the top-notch boys in our class couldn't find things to do.

One member of the class got a job with Pillsbury Madison & Sutro in San Francisco at the enormous salary then of $125 a month. Every one of us thought, my god, that's . . . the millennium has been reached. Many of the fellows couldn't find anything to do. Eventually all of them found places, but it took time, and they worked maybe two or three years sometimes in other things before they could get in the practice.

So Don and I finally came to a conclusion. Actually, I didn't go out and walk the streets, but I made inquiries here and there, and there were just no openings that I could discern. So Don and I thought, well, why don't we hang out a shingle and see what'll happen? And not much did. *[laughing]*

Betty Richli: You practiced then in private practice until about 1943; that was the height of the Second World War. And then what happened to you at that time?

John G. Gabbert: Well, Don and I worked together. Can I back up on this to get into it?

Betty Richli: Yes.

John G. Gabbert: We worked together for a year, and he had financial backing that I didn't have; and while we managed to pay our secretary and $35 rent for the law office, it was a situation that if I hadn't lived at home I wouldn't have made it. So during that year I tried, I guess—or was appointed on and tried—a number of the criminal defense cases when I was appointed by the court, when the criminal charge needed counsel and they didn't have a public defender. This was all pro bono; no pay whatsoever.

But the judges normally would appoint young lawyers to represent the fellows that were in need of counsel. But Chauncey McFarland and George Sarau knew the judges. They said, "I can't. I need Mary in the office; I need Chris in the

office." So the judges would appoint Don Adams and me on every criminal case when anyone needed an attorney.

Well, Don didn't want to do any court work; he wanted to do all office work. And he eventually developed into a very, very good probate attorney, and that was what he wanted to do. So I would take all his cases; I figured that that was where I could get some experience. It was a real catch-as-catch-can experience, and a wonderful experience for me. I don't know what I did for my clients, but I sure tried.

Well, I really made the DA work in a few cases, and so he offered me a job as a deputy, and that was my lifesaver. Then I was there for three years, and then went with Best & Best and eventually became a partner in that firm. That was in 1938.

Betty Richli: So you were with Best & Best, which subsequently . . . The firm that you refer to as Best & Best actually then became known as Best Best & Krieger; but at that time after you joined it, you became a partner, and it was Best, Best & Gabbert, wasn't it?

John G. Gabbert: That's right, and I had known Jim Krieger in high school. I took my last two years at a high school in South Pasadena, where my family moved for two years; I knew him there. He had gone to Columbia Law School. I didn't know him; after high school we separated as far as knowing each other. It was kind of being acquainted.

He then came out back to California and was with O'Melveny and Myers' office in Los Angeles, and doing well there. But he wanted to come to a smaller town. He married a young lady from Riverside.

Well, one day I was down at the justice court filing some papers or something, and her mother was acting as the clerk of the justice court. And it was in summertime and Lois, her daughter, was helping her down there doing some work. So she spoke to me and asked me if I knew anyplace where her husband Jim might be able to find a place to go in Riverside.

(00:30:09)

When I found out that he was Jim Krieger, I didn't know that it was the same guy. I said, "Well, have him come out, and we will have the firm interview him"—which he did, and we then proceeded in that fashion.

Betty Richli: And the rest, as we know, is history, so to speak.

John G. Gabbert: They now have 188 lawyers in the firm. *[laughing]*

Betty Richli: Now, it was while you were at Best, Best & Gabbert that you were you drafted into the Army?

John G. Gabbert: Well, essentially, I guess. I was working on, to me, the most important case I ever had—involving a lot of water rights in the Marino Valley. And I'd been working on it for some months. I had drawn the number one number for a father—I had two kids at that time—in the draft, so you're in . . . All fathers will be called; fathers won't be called.

One day *Time* magazine came out with a big question mark on the cover and showed some men and little kids and said, "Will fathers be next?" The board of directors of the company, knowing that this case was going to eventually—within the next few months—come probably to trial, asked me, "Now, what's your draft status about this?" So I said, "Well, I'll go and find out."

So I knew the clerk at the draft board and I went up to him and spoke to him and asked him. I told him the reason I was asking; I wanted to be sure of what my status was, and the people who were . . . and the officers of the water company wanted to know.

So he said, "Well, I'll tell you, John, the truth is you're going to be called in two weeks." And I said, "All right, Clyde, I'll make a deal with you if I can. If I enlist today, can you postpone my activation for a short time so that I can get to work on this thing and get somebody else to take this case, which is the main thing I'm concerned about?"

So we made a deal. Then I got my partner Gene Best, and the two of us then began a real search to find an attorney to take the case over. We got retired Justice John Preston of the California Supreme Court to take the case. That was a very interesting experience, working with him very intensively for a couple of weeks freely on that case.

Then I went down, and they sent me back to Fort Custer, Michigan, to go to the military police basic training, which I did. Then I was sent to the provo marshal general's investigator school and went to that, and then went to New Guinea and the Philippines as a special agent for the provo marshal.

Betty Richli: How long were you in the Philippines?

John G. Gabbert: Fourteen months. Well, I was in New Guinea and the Philippines for 14 months. I was waiting in New Guinea for several months before we could get into the Philippines.

Betty Richli: Were you in the Philippines when MacArthur returned?

John G. Gabbert: No, he returned at the time of the Battle of Leyte, but we were in there right afterward. We were in there when they were

fighting in Manila, and participated on the edges of that sort of thing for a while—got shot at a couple of times.

Then I got admitted to the . . . the Republic of the Philippines was created. They had their constitutional convention and everything right across the street from where we were staying in an old house in Manila, and we could look in the window while they were debating the constitutional convention of the Republic of the Philippines.

So their supreme court met at the Malacañang Palace, and another fellow and I . . . nearly all of us on the CID were attorneys, probably 75 percent were attorneys. Another fellow and I that worked together all the time, we were both attorneys, and we went down, got admitted to the Philippines Supreme Court.

So then we appeared a few times before the supreme court on matters which probably could have been taken care of in the justice court if they had found one for the provo marshal; and it was a great experience.

(00:34:59)

Betty Richli: Then you came back to Riverside and rejoined the firm?

John G. Gabbert: That's right, and then in 1949 I was appointed to the bench.

Betty Richli: During your time in the district attorney's office . . . and just briefly, I thought this was interesting in the reading that I did. You participated in a death penalty case; I believe the defendant's name was McNeil, and he was sentenced to death. How was that carried out?

John G. Gabbert: Oh, he was one of the last men hung in California.

Betty Richli: What had he done?

John G. Gabbert: He murdered his wife, Melvee McNeil; I will never forget that. He beat her to death with a washing machine wringer roller. He was a powerful, powerful man, and he was a blacksmith. He was also a deputy constable for Murrieta Justice Court. Among other things, he had a job as the bouncer at the dance hall in Temecula, where they had the Indian dances every Saturday night, and they usually involved a considerable amount of drinking and dancing and fighting. He was noted for being able to bang men's heads together and drag them out of the dance hall. Sometimes he was more enthusiastic than he should have been, and there was lot of unhappiness about that.

Two Indian young men came to the district attorney's office, and I interviewed them. They had been badly used by McNeil and wanted to see if something couldn't be done. Well, I talked

to the Indian agent, and trying to avoid a real contretemps here. And we got McNeil to resign as the bouncer and agree not to do anything ever anymore, to put his hands on any of the members of the Indian group. That satisfied these Indian boys and the leaders, and we thought that we had done something worthwhile—although I felt that he had been very high-handed with them. But we probably should have now, in retrospect, been more forceful toward McNeil. About a week or two after that was when he killed his wife.

Betty Richli: Now, you mentioned to me—I was very interested in this—you had taken up an interest in photography, and so you were called out to the scene; the district attorney at the time wanted the deputies to go to the murder scenes.

John G. Gabbert: Mr. Redwine, the district attorney, wanted to have somebody from his office every time that there was a call of a murder, to be there. He went himself if he was available, or any other deputy.

Well, when they got the news that Mrs. McNeil had been beaten up by her husband and killed we had two investigators in the office, and one of them was a good friend of mine. So he wanted to get one of the deputies to go out, and I was free. And so we went out, and we went out there shortly after the sheriffs arrived, and went in the house and so forth.

I was busy taking . . . I had a little 35-millimeter camera, a little French camera, and so I was shooting in available light stuff as far as I could, all around everywhere.

I had got a picture of the sink, and the butcher knife was on the ground. McNeil, then, at the trial for the—he didn't talk before the trial—at the trial he testified that he'd come home at noon for lunch. When he came in the back door, his wife berated him for some reason and made him mad, and they had an argument, and she was slicing bread to make sandwiches.

Betty Richli: With this butcher knife—

John G. Gabbert: With a butcher knife, and that she came at him with the butcher knife. And he just reached back here, and then . . . and just happened by sheer chance there was this washing machine wringer was lying there, and he picked that up and just beat the dickens out of her.

Okay. At the trial we found out what this defense was; we didn't know this at all. We didn't know about the claim about the slicing the bread. He'd just kept quiet.

(00:39:58)

John G. Gabbert: I had these pictures which I'd developed in my little darkroom at home. I said, "Earl, I picked this one up." On the counter in the kitchen was the loaf of bread, and one end of it was open and some slices were out, and on the side of the bread package it said "Sliced." Kind of blew his defense out of the water. *[laughing]*

I was just the second. The only thing that Earl was . . . I was the youngest guy in the office, and he was very kind to let guys . . . to help bring people along. He let me do a lot of inconsequential stuff, like getting in the maps and the locations and all that sort of stuff. So he let me identify the picture.

So I always felt in some way I was responsible for her death—not throwing him in the jail for beating the Indian boys up. I felt justice was not . . . we later found he'd served a term for murder in the state of Washington, which we didn't know till later.

Betty Richli: Before he became the constable in Murrieta.

John G. Gabbert: Yeah. He'd also served a federal term for forgery. So I think they got the right man.

Betty Richli: You had your Kodak moment, didn't you?

John G. Gabbert: And, very sadly, he had three wonderful children.

Betty Richli: Oh, that is tragic.

John G. Gabbert: And they testified in the case. I really got well acquainted with them. And very sadly the young boy, when the World War II came along, joined the Submarine Service and he and another Riverside boy were on one of the major submarines that was sunk off of Japan.

Betty Richli: Tragic, sad story. During the years that you were practicing law, and then your 24 years divided between the superior court bench and the appellate court bench, what do you think has been, in your opinion, the most significant change in the practice of law as you've seen it occur over the years?

John G. Gabbert: Well, I can't pontificate, because I've been on the sidelines for 32 years. Believe it—I've been retired for that long. All right, but I do keep in touch with friends and practicing lawyers that I know. My daughter has been—for many years was—the supervising court reporter for the county; she's now retired. But she works part-time now because they always seem to be needing an extra hand.

From everything I see, it's just the great increase in California in every respect: traffic, population, the courts are jammed.

When I started to practice there were two departments in the superior court. I made the third one; it was created.

Betty Richli: And that was in 1949?

John G. Gabbert: Yeah. Now they have 58 judges and 18 commissioners, and need 20 more. And you folks here, just every unit of the judiciary is just jammed with work. And I think that's the greatest change—the change being that in those days, when we first started practicing, you had time to put your feet up on the table and talk to your clients. Of course all young lawyers, I think, have extra time—but in those days you had extra, extra time, and even the older attorneys, it was a . . . The difference began to occur along about the '50s, when the time became so valuable and everything had to be done by the minute.

Betty Richli: The billable-hours concept.

John G. Gabbert: Billable hours diary all the time; before that you didn't do that. Well, I don't mean we didn't have to work; we were busy, and I certainly was busy when I was on the bench. But not with the pressure that I think exists today. I think that's the greatest change.

Betty Richli: Very insightful and very true. You had an opportunity, obviously when you practiced law, to really know your clients and be friends with your clients—get to know their families and spend time with them.

John G. Gabbert: You are right. I think so, and especially in a smaller town, I think. And Riverside then was a small town.

(00:45:02)

Betty Richli: You were appointed to the superior court in 1949 by then-Governor Warren, and in 1970 you were elevated, I believe, to the appellate court by then-Governor Ronald Reagan. Can you tell us a little bit about the process? When Earl Warren appointed you to the superior court bench were you seeking a judicial appointment? How did that happen?

John G. Gabbert: I hadn't the slightest idea of being a judge. I thought that my partner . . . when the third department was created, I thought that my partner might be a . . . he was a vice-president of the State Bar at the time, and I thought that Gene Best would be an ideal candidate, and I gave no thought to it at all.

Then one day—I was president of the bar association at the time—one day I got a . . . and we had office hours on Saturday till noon. Just about 11:30, I got a telephone call. Our secretary came in and said, "The Governor wants to talk to you." I couldn't think why he wanted to talk to me.

So he said, "Gabbert—"

Betty Richli: This was the Governor himself?

John G. Gabbert: Yeah. He said, "Your Uncle Harry Gabbert . . ." Or "Harry Gabbert was your uncle?" I said yeah. He said, "He was a good man." He said, "I knew him well in college." He said, "If you're half as good a man as he is, I'd like to have you serve as a superior court judge down in Riverside."

I said, "Well, Governor, this is very sudden. When do you have to know? I want to discuss it with my dad and with my partner here, and I don't want to make an immediate commitment here." He says, "Well, I will tell you, this is Saturday; don't you tell anybody except your dad and your partners, and I will call you on Monday."

So I talked to my partners—and I felt like a dog about that, but I thought at the time that this was what I would really like to do very much. My father thought it was good, but he said, "Listen." And that was good advice. He said, "If you become a judge, I don't want you ever to run for any other office. Now if you feel that you would be willing to do that, then you can . . . with my blessing you could be a judge."

Well, I really respected and loved my dad, and he was a man of experience and so forth, and he was right. So I said, "Well, I think I would."

So I went and told my two—well, three partners then, of course. But the major ones were two of the oldest ones: Raymond Best and Gene Best, father and son, and they were wonderful people. So when the Governor called back, I told him I would do it, and which I did.

So that was the way it happened. I later learned the background, because there was somebody who put in a word for me that I didn't even know had done it and later found out.

Betty Richli: Wow. That's an amazing story. Now, when you were appointed by Governor Reagan to the appellate court bench, was the process as easy for you?

John G. Gabbert: Well, no, not that easy. When I knew that there was going to be another opening over in the Fourth District—

Betty Richli: And that court at that time . . . we sit here at this division at Riverside now, but at that time the division sat in San Bernardino County.

John G. Gabbert: San Bernardino, yes. All right. I thought that there were going to be two openings in that, in the Fourth District over there then, and I knew that Bob Gardner from Orange County was a

shoo-in for one of them. So I thought just . . . I had served a couple of pro tems over there and enjoyed it, and so I thought, well, I'll put my name in, which I did.

(00:50:00)

Then after a certain period of time went by and so on, I had sent some letters of recommendation and so on; I guess everybody does. One of the Assemblymen came to me and said that the Governor would like to appoint me, but that I was too old. So I accepted that. Then about—

Betty Richli: You were at that time what, 60, in 19—?

John G. Gabbert: Yes, I was about 60.

Betty Richli: Having just turned 61, I don't think that's too old.

John G. Gabbert: Well, as a matter of fact, I think I was just about 61 too, because I only served four years on the court; that's why I wonder why you're interviewing me here. *[laughing]*

Anyway, so then there was another opening came along shortly after that, and the Governor appointed me; so that was how I served on the court. I served there four years, until 1974. At that time my dear wife wanted to do some family things and do some traveling and one thing or another, and I thought that I would do that.

I had a chance to go out to the university here, if I wanted to. So I thought well, I can do that, and then when we get done with what we want to do, I can go out there, perhaps, and work as an adjunct professor in poly sci.

But I didn't do that for 10 years, I guess, or 8 years, because we did some traveling and other things, and that was . . . I often think now that I made a great mistake. I should have stayed on it for the next . . . up until 70, but after that you then take a cutoff on salary and one thing or another. So I thought, well, there's no advantage.

Then I was also asked to serve pro tem by assignment. At that time, the Chief Justice, Justice Bird, had a very strong feeling that judges from other courts, retired appellate court judges, should go to the municipal courts. That was a good idea; that's all right.

So I said I would think about it. They said, well, we'll assign you to the municipal court in Corona. Well, the more I thought about it the more I felt, well, all I'll do is screw up down there; all they have is 50, 60 traffic cases a day.

Betty Richli: Yeah, I was going to say, it's traffic out there.

John G. Gabbert: I said, I think . . . it's not that I felt that I was better than serving in that court, but I just felt that for my experience, it was a long time away from any . . . I had been a police judge here, a sitting judge, before I went on the court, when I was in private practice, and I knew a little bit about traffic—but that was years ago. So I thought, well, I won't serve; and I did other things, and later taught for two or three years out at UCR, as you did.

Betty Richli: And enjoyed that, I'm sure.

John G. Gabbert: I wish I'd done that for years; it was the most enjoyable thing I ever did.

Betty Richli: It is; it is interesting. You sat with, as you already mentioned, Justice Gardner, who was the presiding judge of that division.

John G. Gabbert: When I was there.

Betty Richli: And also Marcus Kaufman, who later became an associate justice of the Supreme Court. Do you have any particular memories or impressions of each of them? I know Justice Gardner is so colorful and has such a reputation for his opinions. Your impressions?

John G. Gabbert: Well, Justice Gardner, he marched to his own drummer. He didn't come to the court with great frequency. In other words, maybe a day or two a week he would come to the court. He did mostly all of his work at home, or on the beach, or at the Santa Ana Law Library.

Betty Richli: He was a surfer, wasn't he?

John G. Gabbert: When he wasn't surfing he was writing opinions. He took all the criminal stuff. He had done lots of criminal work; he could handle it practically out of his head without a great deal of long, tough research. But he was able to do it, and he was a very capable guy.

(00:54:59)

Betty Richli: And he did a lot of it too, didn't he?

John G. Gabbert: He could write fast, and he wrote short, and he could grind out the opinions; so that was great, because all the rest of the stuff maybe we were spending too much time writing too-long opinions. But there was a big effort being made at that time by the reporter of decisions to get judges to cut down on the paper and to write shorter opinions, and Judge Gardner was able to do it, and doing wonderful work.

But he was . . . he kept to himself and presided perfectly in the conferences and on the bench, but there was not a lot of give and take or collegiality with him, because he was away so much of the time.

Now, Justice Kaufman, he was a workhorse and a brilliant guy, and a very, very able guy; but he was just such a workhorse that I think they worked him to death, almost, over there.

Justice Kerrigan was a very interesting guy and a very good lawyer and judge, and the amazing thing about Justice Kerrigan was, if you walked into his office, he sat there and there was one sheet of paper in front of him. As soon as he finished doing something with the one sheet of paper, he put it here, and locked it in the desk and pulled another one out. There was never anything more than one sheet of paper that he was working on, and that's what he was working on. He was an interesting fellow.

Unfortunately he died while I was on the court. I had known him because he was a superior court judge in San Bernardino for many years when I was here in Riverside County, so I knew him well. He was a very nice guy.

Then the most interesting fellow at the time, I think, was Captain Tamura.

Betty Richli: You refer to him as Captain.

John G. Gabbert: We always called him Captain.

Betty Richli: Why was that?

John G. Gabbert: Stephen Tamura, Japanese, and a very able guy and a wonderful personality and a great fellow to talk to. All of them . . . when all four of us worked together, there was no problem. The only difficulty was that we were the four there and then Gardner would come in. And we'd work with him, and there was no . . . But I think that there was a little animosity; maybe not animosity, but a little edginess, between Gardner and Kaufman.

Now, when Gardner would come in, often Tamura, who lived in Santa Ana, would ride with him, or they'd give each other a ride. So they were good friends because they had served together on the superior court in Orange County. But there was some, a little, tension between Gardner and Kerrigan.

Betty Richli: Kerrigan or Kaufman?

John G. Gabbert: Well, Kaufman and Kerrigan both. So there was a little tension there. But generally . . . and I don't mean to emphasize that at all. Really the atmosphere generally was very collegial, more

collegial than I experienced sometimes on our own superior court, and so it was fun.

But I found that I missed the give and take of being in the public square of the trial court. And I loved that more and missed that more, I think, than anything else—your contact with the bar and people and life. Whereas you were constricted by the written word that you had to keep looking at all the time in the Court of Appeal.

Betty Richli: Yeah, there may have been a sense of isolation more.

John G. Gabbert: I felt that, yes. Not so much that I was turned off, but I felt that I was happier where there were more people around.

(00:59:59)

Betty Richli: Yeah. You used the term "collegiality" just a number of times; we use it fairly frequently, particularly on the Court of Appeal. Do you believe that, as you recall the Court of Appeal, the sense of collegiality helped shape the decisional law to some extent?

John G. Gabbert: Oh, I think so. Because there was—at least I felt on the Court of Appeal—the feeling was that unless you had a pretty darned positive view of your righteous position, that you were willing to concede that perhaps the other guys might be right. And under the circumstances, if they were the majority, that you would generally go along.

I think we tried to see if we could combine our viewpoints and come out with fewer dissents. I don't think that in any cases where there was a strong feeling anyone hesitated to write a dissent, but I think that the dissents were few and far between. It wasn't just a deal; it was because we were trying to see if we could come to an agreement within reason, and maybe shape it a little bit differently, and all get together.

Betty Richli: Recognizing that it was guidance for the trial courts, and that you were in essence shaping the law to some extent. That answers the next question that I had, which was, Was it important to you to have unanimous opinions? And in a sense it was.

John G. Gabbert: Well, I think that the PJ wanted us, as far as we could, to show a unanimous point when we could do so without violence to our conscientious view of the law. But I think that there was an effort being made at that time to try and cut down on anything or just a dissent for some personal viewpoint or ideology or something of that sort that sometimes crept in.

Betty Richli: Yeah. What would you say was the judicial philosophy that you had developed by the time you got to the appellate court, and

do you think . . . So often I think our sense of that is shaped so much by the times—social factors, historical factors. You went through the Great Depression. You went through both world wars, when you were 9 or 10 during the First World War. I know in some of the reading I have done on you, you talk about how that really had a tremendous impact on you, maybe even more so than did the Second World War. So do you think all of these things . . . or how do you think these things may have affected your sense of where you were as a judge?

John G. Gabbert: Well, I think that at that time—and then it was impressed by the New Deal program that was carried out, and then World War II—that there was an upspringing of liberal viewpoints about civil rights and things of this sort. And that, I think, was pretty much the way I felt about my personal philosophy about the law, and the political governance of the world at that time.

Betty Richli: Well, your father . . . I get the impression, having been a newspaper man, his standing up for the minority community here, that that also shaped your viewpoints on many of these issues.

John G. Gabbert: Well, it did, yeah. My father was interesting. He was very strong on individual and civil rights, and absolutely devoid of any racial hatred, prejudices, or otherwise. But he was a very conservative guy on the economic side of life.

(01:04:47)

His father, my grandfather, was a big-time farmer up in Ventura County, very active in the Republican Party—but he was a Hiram Johnson progressive. My father was a Republican conservative, and they had it out and out. My grandfather served in the Legislature, and he was head of the board of supervisors for 30 years off and on in Ventura County. He was a liberal Republican, a Hiram Johnson progressive, and my dad was very conservative.

But they both agreed on civil rights; it's interesting that there was that peculiar deviation. Of course, I took my grandfather's position, which was kind of interesting. My dad and I didn't agree at all on some aspects of politics, but we agreed on so many other things, it didn't matter. He was a good father.

Betty Richli: When you served on the Court of Appeal . . . Now we have permanent legal staff here, and I don't recall. In the 1970s, did you have what were called, as the U.S. Supreme Court has, the elbow clerks—they serve one or two years—or did you have permanent staff?

John G. Gabbert: Well, I think the last year or maybe the last two years I was there, we had a chief researcher. Alex Yakudis was the . . . he was head of all the research. Then each of us had a research

assistant, clerk. And so I guess, then, the professional principal staff is of what, 10 years?

Betty Richli: Oh, yeah, there's very seldom . . . not a lot of turnover. So at that time you were sort of easing into that sense of having a permanent staff or starting to do that.

John G. Gabbert: Yeah. For two of those years Bob had me interview all prospective clerks. I went up to Stanford and Berkeley and USC and around, and I got lists and talked to fellows, and I had a list and submitted several names; and those they thought they wanted to get, that I approved, they brought them down, and nearly all of them were selected. I don't think any of them ever objected in my doing that, and I enjoyed doing it.

Betty Richli: So essentially the people you interviewed were hired and then worked for the other justices or with the other justices?

John G. Gabbert: Yeah. Now, whether that was true in every case, I can't remember now.

Betty Richli: Yeah, but in this division it was, at that time.

John G. Gabbert: But I brought down three or four, anyway.

Betty Richli: What were some of the qualities you looked for in those attorneys?

John G. Gabbert: Well, I wanted fellows that I thought would be open, could talk to everybody, and yet I wanted to have them be forceful enough to be able to speak up, and of course I was interested in their GPAs and so on. I suppose just the way they appealed to you, as to whether you thought they'd fit in, and I think most of them did. As a matter of fact, I still maintain contacts with some of them.

Betty Richli: Oh, that's terrific. Can we take a little break here?

Justice Gabbert, you served 20 years on the trial bench. Did your perspective of your trial bench colleagues change at all after you became an appellate court justice?

John G. Gabbert: You mean my view of what happened on the trial court?

Betty Richli: Yeah.

John G. Gabbert: Well, I think yes, I'm sure it did, because I think that I wondered if we had kept in the back of our minds enough, perhaps when we were on the trial bench, the oversight of the higher courts. I think you have a tendency on the trial court to forget sometimes and just go ahead.

Betty Richli: Well, you're in the trenches, making immediate decisions, yeah. What to you are the qualities of a good appellate court justice?

(01:09:54)

John G. Gabbert: Well, I think first of all you must not be ideologically stiff; you must be open-minded. I think that you should, to the very best of your ability, put out of your mind any preconceived ideas. It's impossible; do it, of course, really to when you get down to absolute bedrock. But you've got to do your best to be as close to neutral as you can as you review things—and not to be, because it's a certain category of case, prejudiced against one view or one area of that prejudice in the case or not. I think that's very, very important.

I think that one of the most important things is also to try and make up your mind after you review everything, but do it within the limits and not let things back up on you—and to decide the matter and then go ahead on other things. You have to do it; and sometimes it's awfully difficult, you know, and that's true in the trial courts too.

Betty Richli: I was just going to say, I recall, on the trial bench, and maybe even more so, you have less time to ruminate about things and you have to make instantaneous decisions.

John G. Gabbert: I think that you've got to develop a willingness to be patient with people and things, and not let things get to your plumbing and not become exasperated. Sometimes you have to be, perhaps a little bit; but I think whenever you do make errors you are more likely to make them when you get your temper up a little bit.

Old Judge Dehy, who was many, many, many years the judge up at Inyo County, he served down here by assignment for about seven years, both when I was practicing and when I was on the bench. I just thought he was a wonderful judge because of his attitude, his temperament.

When the Governor announced my appointment my father was unable to drive. And he had to go up near Sacramento on business, and so this was just the weekend before I was going to be sworn in or the week before. So he asked me if I'd drive him up, which I did. We had a very pleasant several days together.

Then on the way back he wanted to go by and do something in San Francisco. We stayed overnight in one of the downtown hotels. In the morning we went down for breakfast, and in the dining room there was Judge Dehy, sitting by himself at a table. I had known him very well. So I went over and I said, "Would you like to . . . may we sit down with you, Judge?" He said sure, so I introduced my father.

He had heard that I had been appointed, and so he said, "You know," he said, "I'm an old, old man." He said, "I want to make a suggestion to you, John." He said, "John, remember this. Every lawyer has a right to lose his own case; just be patient, be patient." Do you know he died two days after that?

Then I was sworn in. They didn't have a courtroom for me. The Judicial Council knew this, and so they assigned me to take care of the Inyo cases. Now, they didn't need anybody out there full-time, but every time they needed somebody for three or four days they would write ahead or phone ahead and ask me if I could come up now.

So actually I served about half my time in Inyo County before they got another judge. This other judge was a young man. He went on, was sworn in, served a short time, and died. So then I got assigned again to Inyo County. It was 27 months before I had a courtroom in Riverside. *[laughing]*

Betty Richli: I never knew that. And did you sit in Independence?

John G. Gabbert: In Independence. Well, I loved it. When I first went up there . . . and this is a story I've just got to tell you. There was one little dining room—eatery, greasy spoon, or whatever it was—in Independence, and everybody gathered there for meals, and everybody went over there during their breaks and so forth for coffee.

(01:15:00)

Of course, I was like the fly on the wall. I didn't know anybody, and I would just go over there and sit by myself and have breakfast or lunch or have a cup of coffee or something. There was only one topic of conversation for about a week, and that is, why was it that so and so wasn't elected as supervisor? Everybody loved him, he's the best guy that ever was, everybody thought he was just wonderful. Why did he get defeated?

Then after about a week they finally came up with a consensus. This is actually the fact. They agreed that he wasn't elected because he didn't wear a big hat. That was Inyo County and Independence, and I just loved it. *[laughing]*

They were wonderful people up there. Judge Dehy, he incidentally was born up there in the 1870s, and he had come with his family by—as I understand it—by covered wagon, and they homesteaded up in that area.

Betty Richli: Up in that valley—oh, that's interesting.

John G. Gabbert: He went to Hastings Law School, and he was a good judge, just because he had that wonderful temperament. I tried cases before, before I went on the court, but I thought he was just a wonderful judge then, and I always felt that. I thought that he gave me some good advice.

Betty Richli: You know, you must be prescient. My very next inquiry was going to be a question: Do you remember the best advice you received as a justice or a judge? So I think you answered that.

John G. Gabbert: Well, I think that was pretty high on the list. You bet. Another thing too was—this was before I was a judge. As I told you, we talked to a justice when I had him take over the water case—

Betty Richli: Preston.

John G. Gabbert: Preston. And he told me . . . in the few days off and on when he was there, he'd tell me stories. Once he told me that he was under . . . I had asked him how he enjoyed the work in the court or something, and he said, "You know, I was criticized a lot while I was on the court by my brethren. Because," he said, "I would get my assignments, and I would have them done, and then maybe I'd finish them up; and then maybe in the last week or so of the month I would have all my work done." And, he said, "I'd go out and play some golf." He said, "I received a lot of unfavorable comment from my brethren that I was out playing golf, and they were working."

'You know what?" he said. "You've got to make up your mind." He said, "I, fortunately or unfortunately—whatever it was—had the ability to make up my mind fast." He said, "I did that, and I was criticized for it."

But it appeared to me that it was a virtue to be able to make up your mind, whether it was fast or slow. You had to do it.

Betty Richli: Yeah, to be decisive and—

John G. Gabbert: Then I think the worst thing on the trial court was when you had a situation you had to determine yourself, and it was just so tough to make up your mind as to . . . whenever I got into any trouble like that I thought about Justice Preston and just said, "Well, it's got to be done." And do it one way or another, and that's what you have to do.

Betty Richli: Yeah, good advice it turned out to be. Have you seen a shift in attitudes of the public toward the legal profession over the years?

John G. Gabbert: Well, I've been doing some reading here in the last couple of weeks. I've read two books about Justice Field—Stephen J. Field—who came here in 1849, and was a lawyer and an alcalde judge and then a district judge and member of the Supreme

Court and Chief Justice. Then went to the U.S. Supreme Court and served 30 some years on that court—I guess maybe the second-longest term. Great judge, and a very interesting character.

It seems to me that the vituperation, if that's the word, against the court by almost everybody was against everything they did, it seems, over the years.

(01:19:58)

I think maybe actually the arguments against the courts today are much calmer than they were then. Read the editorials in the San Francisco papers about any actions of the Supreme Court that they didn't like; they were terribly vituperative against the members of the court.

Betty Richli: This was back in the late 1800s, not the 1900s?

John G. Gabbert: Yeah, and it continued. For example, he or the court were criticized almost any way they went on the decision on the land title cases, on the Chinese exclusionary cases, and the cases with respect to discriminatory fining of the Mexican miners or the Chinese or anything, or the Chinese laundries that went to the Supreme Court—all that sort. They just were terribly critical.

They were accused of being subject to accepting bribes and all sorts of things, just out and out outrageous claims. Maybe they weren't so outrageous, I don't know, but they were certainly outrageous as far as we're concerned today. I don't think that we're any worse today. I think it's just these aren't simple songs we sing; they went on then and they're going on now, but I don't think they're as bad.

Betty Richli: Yeah, sometimes, perhaps, maybe in light of the technological advances, we just hear it more frequently and sooner.

John G. Gabbert: I really believe that I've had kind of a change of viewpoint here just recently. I've been doing a lot of historical reading in California history, just legal history, and it's just amazing how the courts were vilified—almost every issue. Maybe they took their politics more seriously, and the courts were more political. You ran on a Democrat or a Republican or a Know Nothing or some other union ticket or something; and they were more political, I'm sure, and subject to all the arguments.

But the arguments against the Supreme Court in *Bush v. Gore* are nothing compared with what they were in the Supreme Court case on the commission . . . was reported on the Hayes-Tilden presidential electoral vote. So I don't think . . . they're not new; these aren't new, and they're probably no worse and no better than they were before.

Betty Richli: We hear so much, and I think rightfully so, that the judiciary is a third, independent branch of the government and we have to maintain the independence of the judiciary. So it seems to me this has been a common theme, and now you—

John G. Gabbert: It is a common theme, yeah.

Betty Richli: This is something that's not new.

John G. Gabbert: It's not something new that's never been heard before. As it was in the beginning, so today official sitting is and shall be reigned forevermore, as Kipling used to say.

Betty Richli: Justice Gabbert, during your legal and judicial careers this country has experienced enormous social and economic upheavals. We've had wars, depressions, changing cultural mores; huge, quantum leaps in technology. We have a huge population with enormous diversity. From the vantage point of someone older and wiser, what advice would you give to a new lawyer?

John G. Gabbert: Well, I would say, in the first place, if you go to practice law, practice it with civility. You've got to work hard; you've got to spend time and effort. You shouldn't try to get rich overnight, and you should practice in some area, location, where you want to live and remain and grow with the country. But I think the biggest thing, I think, that I would urge, is practice law with civility.

(01:24:51)

I'll tell you, I don't know, because I'm not around the courts now to do it, but in the old days it seems to me that there were an upper crust of lawyers who maintained that civil approach toward everybody, and it paid off; and I think that's one of the big things that a young lawyer should learn, is to be civil. I don't mean to be—

Betty Richli: Not compromising your clients in any way.

John G. Gabbert: Not compromising your clients, but you can do this in a civil manner. You say "very well' instead of shouting about it.

Betty Richli: How about a newly appointed judge?

John G. Gabbert: Advice?

Betty Richli: Yes.

John G. Gabbert: Well, I'm so far removed it's hard to say. I would say the same thing. Just in the first place, put aside any thoughts of other political activity. If it ever comes to that, that can be done, but

you shouldn't be thinking about a political life if you want to be a good judge, in my opinion. Now, I know that that is not the case always and probably shouldn't be, but it seems to me that you've got to set aside your political ambitions if you want to be a good judge. You've got to just say, this is what I want to do, and this is a worthy calling, I can do a lot for society, and in doing a good job here. If you don't want to commit yourself to that, well then go out and run for dogcatcher or whatever.

Betty Richli: What challenges do you believe the courts face in the future? And as you think about that question, do you think that these challenges may be any more difficult than the challenges that were faced in the judicial system in the past? You've touched a little bit on that, I think.

John G. Gabbert: Well, I think that they went through all these same things. When you think of the divisions caused by slavery, that overshadowed everything for 50 years in California. For example, Southern California was largely flooded with Southern sympathizers. Northern California were nearly all—now, this isn't exact, but the majority of the Anglos that came into Los Angeles pueblo were Southerners.

So when they went to the convention, they wanted California to come in as a slave state. The Northern people wanted California to come in as a free state. So that's the constitutional convention in Monterey; the Northerners prevailed by nine votes. Nine votes.

At that time, the North and South were evenly divided in number of states. So Congress dithered and didn't do anything; they didn't even set up a territorial government for California. California was in chaos for over a year and a half. The only thing that kept it from disintegrating entirely was the fact that General Riley was out here with a regiment of men up in San Francisco. They had a detail out here, and the Mormon battalion marched to San Diego. If they hadn't had the military here, the whole system would have disintegrated.

General Riley just on his own called for a constitutional convention, which they held, and they set up the basic . . . did a good job on the basic Constitution of California, to come in as a free state.

That forced the Compromise of 1850, whereby California was allowed to come in as a free state and the territories of Utah and New Mexico could come in, and then later determine by popular sovereignty or some other thing—they didn't say—whether they'd come in as slave states. Well, they were intended to that.

Then the Southern groups that lived in Southern California wanted to set up a slave state in Southern California. They had

thought that if they came into the slave state here, North could come in as a free state, and they both could come in as states. That was defeated, of course.

But the turmoil all over the country in that, we can't even imagine. I mean, we're not near the Civil War mentality, thank god.

(01:29:54)

I do say that we have seriously partisan-divided national government at the moment. I hope sanity may prevail somewhere along the line, but it's nowhere near what it was in those days, when every guy was carrying a pistol and a bowie knife, pretty much, for his neighbor.

Betty Richli: Yeah, perhaps we've lost our historical perspective, and we need to view it through that prism. Justice Gabbert, what did you enjoy most about your judicial career?

John G. Gabbert: The thing I really enjoyed doing the most was handling juvenile cases. I always felt that there was someplace I might do a little bit of good—not often, but once in a while. *[laughing]* I did, I think; a few times I did some good there. I just feel that there is a place where a judge can make a difference—not every case, by any manner or means, but in several of them.

For that reason I've set up a Juvenile Justice Foundation through the Riverside Community Foundation, to give some extra funds to juvenile judges when they need funds for special aid that they can give. They can't get money through normal channels, and maybe something that can really be helpful. It's just beginning to come to a point where they're getting enough money to do something with it. I think that there's a place where a judge can make a difference.

Now, you can make a difference, too, in a domestic relations court order. You have so many dysfunctional situations that you're overwhelmed; and of course the best thing you can do is to do a good job in deciding cases in the very best way you possibly can. But I think the place where you have the greatest, perhaps, opportunity—and maybe freedom—to do something that isn't always so hidebound, is in juvenile.

Betty Richli: Yeah, I would agree with you, I think that's very true. What qualities do you think you've possessed that have made you—and there is a consensus, you were a very successful judge—so given that as the premise, what qualities do you think you have that made you so successful?

John G. Gabbert: Oh, thank you for saying that. I tried to override my temper. I think that that's . . . in other words, try to not let it get under your hide. I used to . . . really in my own mind, Judge Dehy,

because I thought that he did such a wonderful job in that regard. When things were nasty, he just was as easy as ever. If you could only . . . I couldn't do it all the time, but I think I tried hard to be patient as he suggested. Incidentally, the spelling of Dehy is D-e-h-y.

Betty Richli: What impact did your judicial career have on your personal life and your family, and how you related to your community?

John G. Gabbert: Well, I enjoyed it very much, and I think that . . . The only thing that was when my kids were little, I was so darn busy trying to do the job that I didn't give them as much time as I wish I had now. But they all turned out okay, and we're all friends, and thank god they're taking care of me now.

Betty Richli: Do you believe that in terms of your relationship to the community that it provided you an additional forum to get things done, maybe, or to help get things accomplished? I know you were very active and off seeing the UCR campus—

John G. Gabbert: I was the president of the United School District and served on that. I was active in a number of organizations—the YMCA and things of that sort—and then spent a great deal of time working for the development and the placement of the university here. I worked on that always ever since, and served as a trustee and so forth. I've felt that that was a place where we really made a difference.

(01:35:04)

Betty Richli: For those who may be listening to this, when you talk about the campus, you're talking about the University of California Riverside campus. You were very much responsible—you and people that you influenced—in getting that here, located here.

John G. Gabbert: We were really lobbying for it from the very beginning, from day one—a great bunch of people who worked for no selfish motives at all, and worked hard to see the dream come true. It has exceeded our expectations because we thought we were going to get a small, very high-grade, liberal arts college, and that was about the best we could get as a branch of the university here—a special liberal arts, small, high-grade college. The Swarthmore of the West, or something of that sort.

What we got is so much better, because the *Washington Monthly* survey puts UC Riverside number 22 out of a list of over 400 four-year, national universities. We're in 22nd place. We're ahead of a number of famous institutions, and we're only 50 years old.

Betty Richli: The enrollment now, do you have any idea what it is?

John G. Gabbert: It's about 18,000, and they expect 25 shortly.

Betty Richli: It's a real success story. I know in 1998, the '97-'98, the Riverside Chamber of Commerce named you Citizen of the Year. And that was largely, I think, in response to your being so influential, and all of the work that you did in getting the campus here.

John G. Gabbert: Well, if they think so; I didn't do anything. *[laughing]*

Betty Richli: Any regrets about your judicial career? Anything you would have done differently?

John G. Gabbert: Well, yeah, I think as I said before, my only regret is I should have stayed on for another five years, till I was 70. I wish I had done that, but at the time it seemed to be the best thing for my family—my wife particularly. She really wanted to do some things and I wanted to do them too, so I let that make the decision. I think I made a mistake there; I could have done them and still stayed on.

Betty Richli: How would you like to be remembered in terms of your professional legal career and particularly your judicial career?

John G. Gabbert: Well, there was a guy, on his tombstone he said he'd done his damnedest. *[laughing]* Anyhow, I tried to be a good citizen, and I think that I've achieved to a small degree, but there are a lot of things I left undone.

Betty Richli: We appreciate, Justice Gabbert, your allowing us to memorialize some of the highlights of this remarkable 40-year legal career, and a life that has spanned the most important social, cultural, scientific, and historic events of the 20th century and starting into the 21st century.

You have been described—and I know this will bother you, but I have to say this—as a jewel in our legal community, and I think in our conversation this afternoon that this has become self-evident. Thank you so much for the privilege of this interview.

John G. Gabbert: Thank you for the opportunity, and thank our good operator here. I'm pleased that I've had the opportunity. An old guy gets loquacious, and that's what I've been. *[laughing]*

Betty Richli: No, it's been a real pleasure. Thank you.

Duration: 99 minutes
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