David Knight: You have to be able to get on audio level at the same time.

Dennis Perluss: All right, it's Dennis Perluss, P-E-R-L-U-S-S.

David Knight: And your title?

Dennis Perluss: I am the Presiding Justice of Division Seven of the Second Appellate District of the state Court of Appeal.

David Knight: Excellent. All right. I'll change my setting here.

And Justice Hufstedler, we are ready anytime you are to give us your name; and spell your name and your title when on the bench.

Shirley Hufstedler: Well, I'll tell you my title on the state court system. My name is Shirley Hufstedler. I was a justice of the California Court of Appeal, Second Appellate District, Division Five.

David Knight: Great. And how is your last name spelled, please?

Shirley Hufstedler: H-U-F as in Frank, S-T-E-D-L-E-R.

David Knight: Super. We are ready to go any time.

Dennis Perluss: All right. We're here. It's Tuesday afternoon, April 17, 2007, and this is part of the Appellate Court Legacy Project oral histories. The interview is of Shirley Hufstedler, who among other things was a justice of Division Five of the Second Appellate District. I was fortunate enough to be a law clerk for Judge Hufstedler when she was Judge Hufstedler on the Ninth Circuit and thereafter was her partner in the practice of law for a number of years.

Why don't we start at the beginning, if we can, and have you tell me a little bit about your childhood growing up, where you were and the like?

Shirley Hufstedler: Well, I was born in Denver, Colorado. My father and his partner owned one of the largest construction firms in Colorado; but when the Great Depression came around, there wasn't enough work for a major construction company to be doing. So he and his partner bid on major projects all across the West.

The net result was that I spent only one year, in the first grade, in the same state, let alone in the same school; we moved every year. So it gave me a good opportunity to see how other people were doing in other states. It always takes a period of adjustment, of course; but I found that I could adjust just fine and did.

It also gave me an opportunity to learn how other people live in other communities, and I discovered something wonderful: I

was never in anyplace at all which did not have a public library. So I got to stay in public libraries a lot, and of course I got to learn how to get along with all kinds of people, because it was necessary. I don't recommend it as a way of life, but I can say you do learn a lot.

Dennis Perluss: Where did you graduate from high school? What state were you in at that point?

Shirley Hufstedler: By that time I was in New Mexico, and I graduated from Albuquerque High School.

Dennis Perluss: And did you go straight to college thereafter?

Shirley Hufstedler: Yes, I did; I went to University of New Mexico, which was in the same community in which I lived, Albuquerque.

Dennis Perluss: And graduated from there, I take it?

Shirley Hufstedler: Yes, I graduated with a degree in business administration at the roaring old age of 19 years old.

Dennis Perluss: I suspect you didn't go straight to law school at that point.

Shirley Hufstedler: No, I went to work in a motion-picture studio for a pair of movie stars, Paulette Goddard and Burgess Meredith, who were married to each other at the time. I got acquainted with Burgess because he was doing a film with Ernie Pyle and Ernie Pyle was a close friend of mine, though I got acquainted with Burgess Meredith in New Mexico when he was there visiting with Ernie. And he offered me a job if I was going to come to the West Coast. And I had other job offers through other people that I knew; but the plain truth of it was, they were going to pay me a great deal more money for being an executive secretary than anybody else who was going to hire me. I wanted to save the money to go to law school, so that's what I did.

Dennis Perluss: When did you start to think that you might like to go to law school or become a lawyer?

Shirley Hufstedler: I was still an undergraduate. I took business-law courses and I did well at those and I thought they were entertaining, and the other options available to females at the time were underwhelming.

Dennis Perluss: Did you know lawyers? Did you have lawyers in your family or among your good friends?

Shirley Hufstedler: No. My father had a lawyer and I knew him very slightly, but I never knew any other lawyers.

Dennis Perluss: How long a period was there between when you graduated from the University of New Mexico and started law school?

Shirley Hufstedler: One year.

Dennis Perluss: And you went to which law school at that point?

Shirley Hufstedler: Stanford Law School.

[00:05:00]

Dennis Perluss: How big a class was your entry class?

Shirley Hufstedler: That was the largest class ever graduated from Stanford, because it was the first class that entered after the Second World War. Almost every student there was a veteran, many of whom were on their final military leave when they entered law school; and I can't give you the numbers, but it was something like 200. They ran double sessions.

Dennis Perluss: Yeah. So it was the fall of 1946?

Shirley Hufstedler: Correct. And of course, that class was older than most classes are that go to law school, because the average age was 26 years old.

Dennis Perluss: Approximately how many women were in the class?

Shirley Hufstedler: It wasn't approximate; there were exactly five of us in the first instance and three of them dropped out—not because they were academically disqualified, but they decided they didn't like it. So there were two of us who graduated from Stanford Law School in 1949.

Dennis Perluss: At that point in 1949 when you graduated, were there more women in the younger classes?

Shirley Hufstedler: No. There were about the same number. Going to law school was not really on the menu of hopes for many young women at that time.

Dennis Perluss: Were there difficulties that, at least in retrospect, you could attribute to being one of a very few number of women at the law school?

Shirley Hufstedler: Yes, because at that time no law firm would hire a female. There were some law firms that hired a few women during the Second World War because the men were at war. None of those, as far as I am aware of, were ever made a partner in any of the law firms that hired them, and no one would hire me. The situation hadn't changed a bit.

Two years later, when Sandra Day O'Connor graduated from Stanford with about the same academic and other record that I had, nobody would hire her, either. She developed her own practice, and I developed mine.

Dennis Perluss: Did you actually interview with any law firms, or would they not even—

Shirley Hufstedler: They wouldn't even invite me for an interview.

Dennis Perluss: I know the answer to this question; but for purposes of history, how did you meet Seth and what is the story?

Shirley Hufstedler: We were law-school classmates, and we were both officers of Volume I, Number 1, of the *Stanford Law Review,* and we also shared the same small office. Needless to say, we got acquainted, particularly because we found no way in which we could have any dating experience with each other until after midnight. So it was a rather unusual courtship. But we decided we got along just fine, and after we graduated from law school we got married in August of 1949.

Dennis Perluss: You were going to law school in Northern California. How did you end up practicing in Los Angeles?

Shirley Hufstedler: Well, I was interested in practicing in San Francisco, but I was not committed to it at all; but it just seemed to both of us there were far more opportunities for young lawyers in Los Angeles at that time than there were in San Francisco. So we moved to Los Angeles.

He, by the way, had no difficulty getting a job. He was first in the class, and he was male.

Dennis Perluss: What did you do to try to establish your own practice outside of the law-firm environment?

Shirley Hufstedler: Well, in the first place, I had the names of some of the Stanford law graduates. One of them was a man by the name of J. E. Simpson, an excellent lawyer; and I interviewed with him and he just gave me some legal memoranda to do, and very shortly thereafter I graduated to doing briefs for him. And then I established my own practice, primarily as a lawyer for other lawyers. I spent a great deal of time at the Los Angeles County Law Library because that's where all the books were.

And initially I also tried a lot of cases for other lawyers that they didn't want. So that gave me a good deal of courtroom experience, and I volunteered a half day a week at the Legal Aid Foundation. All those things helped me a lot. But primarily I was a ghostwriter of briefs for other lawyers for several years. That was until one of my former law professors had left teaching and went to the Attorney General's Office in California,

because California was then engaged in this enormous litigation with several states—including Arizona, Colorado, and with the United States—of the rights to the water in the Colorado River.

Well, of course, because that was a suit by states and the United States, the United States Supreme Court was both the trial court and, of course, the court of last resort.

[00:10:02]

So the United States Supreme Court did, of course, as it had done for many, many years: it referred the initial findings of fact and conclusions of law to a special master—so Simon Rifkind, who had been a federal district judge.

So we tried that case in Northern California. It took a moving van just to bring the record back and forth between Los Angeles and San Francisco. So initially I began writing memoranda, and then I turned to the writing of briefs, eventually a team of four people who wrote all the briefs for the United States Supreme Court. And at the time I began writing the briefs, I became special assistant to the Attorney General of California. At that time it was Edmund G. "Pat" Brown, and after he was appointed Governor he appointed me to the Los Angeles County Superior Court, in which I was 1 female at that time and 119 men.

Dennis Perluss: What year was that that you were appointed to the superior court?

Shirley Hufstedler: Let's see, it was 1949. Is that right?

Dennis Perluss: No, maybe . . . I'm thinking '49 was when you graduated from law school. So it should be around 1961, something like that?

Shirley Hufstedler: Well, the late '50s . . . you could be right, I think it was 1961.

Dennis Perluss: Right, something like that. The first Governor Brown was elected in 1959.

Shirley Hufstedler: That's right. So it would be '61.

Dennis Perluss: Something like that. Now, somewhere between graduating from law school and marrying Seth and being appointed to the superior court, you had a child.

Shirley Hufstedler: Yes, indeed. We had one son. His name is Steven Mark, and he became a medical doctor. He is an anesthesiologist.

Dennis Perluss: I know that today it's a struggle, certainly in a law-firm environment, for lawyers, particularly the women lawyers, to balance career and family. How did you go about doing that?

Shirley Hufstedler: Well, I folded up my office in downtown Los Angeles, a one-room office, and I bought a law library that was adequate for California work and I worked at home. I had an electric typewriter, and I did the work at home. Of course I came downtown to argue cases and to spend a lot of time in law libraries that had more facilities than I did. Then I also hired a babysitter; but I was in the home, so that if there was a burst of silence, I could found out what was going on. It worked all right. It was never simple, because youngsters get sick and babysitters have their own problems. So you just have to continue remembering that you'll be a juggler for many years, and of course I was.

Dennis Perluss: You served about how long on the L.A. Superior Court?

Shirley Hufstedler: I served five years, but one of those years was on the appellate department of the superior court.

Dennis Perluss: And throughout that time, were you the only woman, or did you get colleagues?

Shirley Hufstedler: I didn't get accompanied until about the very last year I was on the bench there, that particular bench.

Dennis Perluss: Again, anything in particular about that period that stands out in terms of wonderful experiences or difficulties because you were a woman or for any other reason?

Shirley Hufstedler: Well, actually, I really had a very good time on that court. After the first year, in which I was a general in the general trial department, the second year I was appointed to be presiding judge over all of the pretrial departments in the L.A. Superior Court. The next year, I was appointed to law and motion. I then spent two years in law and motion; but I also took all the overflow from writs and receivers. It was that time that I decided I would create tentative decisions for every case. Of course I had no law clerk, so I did it all myself.

Sometimes it was pretty difficult, because my neighbors thought the only reason my son had severe attacks of asthma was because I worked outside the home. And they would send their youngsters over—because I had a babysitter—with colds, and of course that would mean he would end up in the hospital. So I wrote many of those tentative decisions by hand, sitting in a hospital room with my son in an oxygen tank, thanks a lot to the neighbors.

Dennis Perluss: So until that point . . . and tentative decisions, of course, are very standard entitlements.

Shirley Hufstedler: They are now.

Dennis Perluss: But you were the first to have—

Shirley Hufstedler: As far as I am aware, I was the only person who did it. But it did have this one great advantage: it cut my time on the bench by more than half, and as a result I would finish my calendar early. So other judges would ask me to substitute for them if they wanted to do something else. So I would sit as presiding judge in other departments, including family law and other courts. So I got a chance to hear a great deal of things firsthand, which I think was a very good experience.

[00:15:20]

Dennis Perluss: Leaping way out of chronological order—and I'm just asking you what you think as a general matter on an appellate court, which you've of course experienced as judge and advocate—the bench that the judges don't give you a tentative decision, do you think it would improve the quality of the process if there was some sort of a tentative decision that the lawyers got prior to coming in for oral argument?

Shirley Hufstedler: Well, some of them had thought so. Otto Kaus eventually thought so, and a few other justices thought the same thing; but it was never anything that ever caught on with anybody, although I have heard that there has been a court or two that has tried it out. But you don't have to do it in every single case, of course; but it does point a direction for the oral argument, which sometimes saves a great deal of time both for the lawyer and the judges.

Dennis Perluss: At about in 1966, returning to the chronology, you were elevated to the state Court of Appeal.

Shirley Hufstedler: Yes.

Dennis Perluss: Again by Pat Brown.

Shirley Hufstedler: Pat Brown, yes.

Dennis Perluss: Who were your colleagues when you went to Division Five?

Shirley Hufstedler: Otto Kaus and Clarke Stephens.

Dennis Perluss: And Justice Kaus, I think, was the presiding justice?

Shirley Hufstedler: He was, indeed.

Dennis Perluss: Another person that I had the opportunity to be a partner with and learn from for a number of years; and I know we both miss him. He was wonderful.

Shirley Hufstedler: Well, we do. He was a superb lawyer, and he was also very funny. He was genuinely amusing.

Dennis Perluss: Do you recall any significant cases during your time on the state Court of Appeal?

Shirley Hufstedler: Well, I wrote a number that I thought made a difference to the clients and to people; but I don't remember there was one that just stands out in particular vividness.

Dennis Perluss: Not to make this unduly the theme, but you were a trailblazer for women in the profession, so I will come back to this type of question: were there other women on the Court of Appeal serving as justices, maybe?

Shirley Hufstedler: Yes, Mildred Lillie was a justice in a different division on the California Court of Appeal.

I said I didn't remember any of the cases that I wrote on the California Court of Appeal; but I remember one that broke a lot of ground, Diodes against Franzen—was because it was the first case in the United States that had ever been reported at that time which explained what the elements are of a successful cause of action for a case involving a breach of some kinds of security arrangements, primarily trade secrets.

Well, one of the problems was that almost all of the cases involving trade secrets had come through the federal courts, and because the federal courts at that time in almost all cases had simply a pleading that was conclusive without stating the necessary facts . . . But this opinion was picked up by all the textbooks at the time because it told you what you had to plead and prove in the state court; but it also taught lawyers what they needed to prove when they were in a federal court. So it was cited a great many times and still is.

Dennis Perluss: What kind of support staff did you have on the state Court of Appeal?

Shirley Hufstedler: Well, I had a law clerk. We didn't get the top of the young lawyer crop at that time; but we got able people, and some of them have gone on to do very well indeed. And I enjoyed them all.

Dennis Perluss: Today we have what we refer to as permanent law clerks or judicial attorneys.

Shirley Hufstedler: Yes.

Dennis Perluss: They're not permanent in the sense that they often move on; but the idea is that they'll be there for a number of years.

Shirley Hufstedler: Yes.

Dennis Perluss: When you were on the Court of Appeal, was it similar to the federal system? Were there recent graduates from law school for a one-year—

Shirley Hufstedler: Yes, that's exactly what it was, yes. And they went on to do other things in life; but that didn't mean we didn't have some able young people—we did, of course—and several of them have gone on the bench since then.

Dennis Perluss: Like my colleague, Fran Rothschild, among others.

Shirley Hufstedler: Yes, among others; a very good one.

[00:20:14]

Dennis Perluss: Was Bob Thompson on the Court of Appeal when you were there?

Shirley Hufstedler: Yes. He was in a different division, but we were very good friends and talked about a lot of things at the same time. We were on different divisions of the same court.

Dennis Perluss: You were then appointed to the federal bench, or at least you were nominated to the federal bench, to the Ninth Circuit Court of Appeals, by President Johnson.

Shirley Hufstedler: That's correct.

Dennis Perluss: How did that come about to the extent you know?

Shirley Hufstedler: I really don't quite know; but I had various kinds of friends in Washington who knew President Johnson. I never knew him at all, because of course in all those years on the bench I could have nothing to do with politics, and I didn't. So I never met the man until I walked in the Oval Office and met him for the first time. But I did have some friends in Washington who made nice comments about my work.

So he appointed me; and I think he wanted to have something to say about females in the legal profession, so he was making his own point, too, besides making an opportunity for me.

Dennis Perluss: Right. And your nomination was somewhat close to the end of his time in office.

Shirley Hufstedler: It was.

Dennis Perluss: Was there some issues with the confirmation because of that?

Shirley Hufstedler: Well, I don't know that there were any obvious ones; they were probably there. I was not very much aware of it at that time. They were just some concern about what a little female from California was going to do in a place like that. And there

weren't at that time any females on the federal appellate bench in the United States, so I would be the only one in the nation in that when I was confirmed. That was true for many years.

Dennis Perluss: All right. You started service on the Ninth Circuit in . . . I've sort of lost the years, but it would be about 1968, 1969.

Shirley Hufstedler: That's correct, uh-huh.

Dennis Perluss: What, if any, differences did you perceive between being on the . . . besides obviously that one involved federal law and the other involved state law, but between being on the intermediate appellate court in the state system and intermediate appellate court in the federal system?

Shirley Hufstedler: Well, among other things, of course, there were a great many more colleagues; and though we sat in panels of three, we sat with different people who were federal appeals judges in all kinds of places.

Also, of course, that court travels a great deal because the jurisdiction of the court runs from the whole tier of western states commencing with Alaska all the way through to Guam and the Trust Territories. So it was a lot of necessary traveling just to do the various places of sitting, and of course there were a lot more judges one dealt with.

To begin with, the then–Chief Judge, who was Dick Chambers, was horrified to find that there was going to be a female on the bench. He had no idea what in the world he was going to do with such a strange creature. I remember vividly that when I was appointed, I did what every judge does initially appointed—was to go wait upon the Chief Judge. Well, he was not in his chambers when I went to see him, so he had to come down and see me.

I have seen a more nervous man perhaps at his own wedding, but not much. He was very upset. He had no idea what he was going to do with such a strange critter. He announced my appointment to the Ninth Circuit conference by saying he was going to have to build a bathroom for a female, which is about the extent of his consideration of it all. In fact, he was so nervous that I had to fight down every tendency I had to go around on the other side of the bench and put my arm around his shoulder and say, "There, there, Dick, I'm not going to do the *[inaudible]*." But he finally got used to the idea, and we became good friends by the time I had sat there several years.

Dennis Perluss: On the Ninth Circuit I know there were many important cases that you handled; but is there one or two that even if they don't stand out, but are ones that you can comment on for us?

Shirley Hufstedler: Well, I think that the one I liked the best was a dissenting opinion I wrote in a case called *Lau v. Nichols*. I was dissenting from the court's refusal to take the case on bond. It was a case called, as I mentioned, *Lau v. Nichols,* and what it was about was that there were almost 2,000 youngsters who were Chinese who could not speak any English who were required to go to school, and there were about another 2,000 that had a modest amount of English training while going to school.

[00:25:13]

And I believed that the court's refusal to understand that there was a denial of equal protection when you force children to go to school and have them sit through classes in which they don't speak a word of the language being spoken . . . I remember I said that equal protection was not so feeble that it will not accept the idea of giving the healthy the same requirement as the one who is paraplegic to walk, because this is not right.

Fortunately, the U.S. Supreme Court took the case and reversed the Ninth Circuit, and by the time I became Secretary of Education we then had in place the so-called Lau Regulations, which was a reflection of that decision and about equal protection for youngsters whose initial language was not English. So I thought that was an achievement that I've always enjoyed a lot.

Dennis Perluss: I may be mis-recollecting, because we all get older; but I at least have some recollection that one of the first things I did as one of your law clerks was help cite-check that opinion, which had been fully drafted by the time I began.

Shirley Hufstedler: I think that's right.

Dennis Perluss: But it was right about that time. How long did you serve on the Ninth Circuit?

Shirley Hufstedler: Eleven years plus a little bit more.

Dennis Perluss: Now, I don't know that anybody would ever call you the great dissenter; but you did write a lot of dissenting opinions while you were there.

Shirley Hufstedler: I did.

Dennis Perluss: What was the role of a dissenting opinion in your view, if there were . . . I mean, among others, what was the primary purpose, would you say?

Shirley Hufstedler: Well, there were two things: one, to express "no" when the others said "yes" on an issue of law which I thought was an important one; and the second is to be a teaching instrument. Because I like to think that at least some of my colleagues were

taught, because sometimes the dissenting opinions became a majority opinion, and so it changed results. But if opinions don't teach, they probably don't have enough to say that matters.

Dennis Perluss: Jimmy Carter appointed you to be the first Secretary of Education.

Shirley Hufstedler: Yes, he did.

Dennis Perluss: How did that come about?

Shirley Hufstedler: Well, I had some ex–law clerks who were close to persons who were in President Carter's cabinet, and they talked up my appointment to that position a good deal—with the result that, although I never met the man again until I met him in the Oval Office, he was persuaded that I should be named. So he named me as the first Secretary of Education.

I had no idea what kind of a job that was going to be till I got it, and I found out in a big way. It seems to me that it was a very worthwhile thing to do, but I did admit that after working 18 to 20 hours a day, 7 days a week—I got home 1 weekend, 1 Easter weekend, and that's all—that it was not a job I could recommend for somebody who wasn't really, absolutely dedicated to trying to get it done.

Dennis Perluss: Not in retrospect, but as you were looking toward the possibility of it, what was it about serving as the first Secretary of Education that induced you to leave a lifetime appointment on the federal bench?

Shirley Hufstedler: Well, I think that if a President of the United States asks you to do something for the good of the nation you have to be awfully selfish to decide you'd just as soon keep your lifelong position doing something you know how to do. I had a tremendous amount to learn; I've never thought that was an error. I learned a great deal, of course. Not all of it is pleasant to know. For example, it's very difficult to understand that Washington primarily runs upon the perceptions of power as well as real power, and I thought that was rather a narrow view of what the job should be for the country. I didn't enjoy that part of it at all.

Dennis Perluss: When you completed that service, you returned to private practice. I suppose—

Shirley Hufstedler: And teaching, because I was given a position on the endowed chair at Stanford Law School. So I taught there for—well, it would be, oh, several months, and then I returned to private practice. But I did resume teaching as a visitor in a number of law schools in Harvard's and Columbia's, but also in Brandeis's schools.

[00:30:18]

Dennis Perluss: What did it feel like to be an advocate again, as opposed to the decision maker?

Shirley Hufstedler: Well, sometimes I found it was exhilarating, because I didn't have to pay quite as close attention to what my colleagues thought I ought to do and I could just go haul off and do it—with, of course, some degree of prayer that it was going to come out all right. But it's always very interesting to take on new issues and represent quite different human beings in the course of their life travails, and I thought that was very interesting. I still do.

Dennis Perluss: Any frustrations in being in a position where you . . . I didn't think about this question in advance, but where you're pretty sure you're right, and judging from the questions from the court—and we won't identify any particular courts—you're pretty sure they just don't understand, and you're not really in the same position to try to persuade as you were when you were a member of the bench?

Shirley Hufstedler: Well, it can be frustrating sometimes when the questions from the bench sometimes indicate that they just don't get it; and trying to give an appellate court a legal education on some points within the extremely limited time allowed for oral argument can be, to put it mildly, off-putting. It didn't happen a great deal, but it did happen quite a bit.

Dennis Perluss: Besides the practice and the teaching, you've been very involved in community, various types of community activities, really, all your life—I was going to say since being on the bench.

Shirley Hufstedler: Right.

Dennis Perluss: Once no longer on the bench, you had a greater opportunity because of fewer restrictions on what you could do. What were some of the more significant things that you've done in terms of community?

Shirley Hufstedler: Well, of course I was a trustee of a lot of different kinds of organizations, everything from Colonial Williamsburg and the Institute for Advanced Study at Princeton and California Institute of Technology. I did a lot of different sort of visiting opportunities with respect to universities and colleges, and of course I did a great many speeches on subjects that I thought were of great interest to the general public about education, about what needed to be done to help more youngsters have an opportunity to learn better and trying to find ways in which we could bring more parents into the schooling system. As long as almost all middle-income parents had youngsters in public school, it wasn't very difficult to see that the parents were going to be involved; but with respect to many of the

youngsters who were in areas which had very little value of property values to support the school system, oftentimes the parents were not involved, because they were trying too hard to make just a living. So it was very difficult to get the general support that was needed for people who were going to take a real interest in supporting the public-school systems. But I did a great deal of speaking on those subjects, and I joined a number of organizations that were dedicated to trying to get more help for the schools. I'm not sure we were terribly successful, but we didn't flunk the course; we got something out.

Dennis Perluss: We've covered quickly many years and many wonderful things that you've done. If this tape is viewed, as we hope it will be, and you're speaking to future generations of lawyers and judges, is there any particular lesson that you extract from your life and the varied experiences that you've had that you'd like to be able to articulate?

Shirley Hufstedler: Well, I would say that one of them is, you need some persistence, whether you're going to try to row a boat upstream or whether you're going to try to make some significant difference on the bench—because oftentimes you have to educate your colleagues as well as the people who are members of the general public, and you have to also educate those legislators who are responsible for providing the funding to keep up the quality of opportunities for service on the bench. It's necessary for people to learn that judges are not simply anointed from birth to do this. These jobs are hard jobs, and it's not everybody who is suited for it; but it has to be made attractive for people who are able to do it and to provide the kind of necessary service that is needed for the help that every court needs.

Court personnel do not come for free, and education is important for all of them, as it is for the judges themselves—so that having legislators understand what is necessary in order to have the courts independent and solid is a way in which one tries to figure out what the primer courses are to teach to new legislators about what the importance of the judiciary is and why independence is vitally important. And that's true whether you are in a lifetime appointment, as you are in the federal bench, or whether you're a person who is subject to reelection, especially in trial courts. Because oftentimes these days there are contested spots for election for the bench, and people have to understand what the necessary qualities of a jurist are in order to make a sensible decision about who should be supported. Sometimes that isn't too evident in the way campaigns are run, I must say; and it also puts judges in a very hard position when they have to try to raise money to support a candidacy for the bench, because people who support them should not expect to have everlasting agreement on the part of the persons who get elected. That's a lesson that seems

to be a little basic, but it's very difficult for a lot of people to learn. In other words, you cannot buy a judgeship, and if you could it wouldn't be worth having.

Dennis Perluss: Well, thank you very much.

Shirley Hufstedler: Well, you've been very patient.

Dennis Perluss: Thank you. Excellent.

Shirley Hufstedler: Well, it's amazing how much you can learn by listening, and that is to spend some time with colleagues who've been on the bench longer, because almost all of them are only too happy to teach you and instruct you. And you are going to learn a lot by listening. There are lots of people who are able to tell you things that will be very useful to you for your life on the bench.

And I remember how helpful it was to me that I used to have the experience of eating lunch with the judges when I was on the superior court—because we had a lunchroom, and it is remarkable how much you can find out by just talking to your colleagues at that time. They were always very helpful. And not everything they say is what you really want to know, and some of it you shouldn't bother with; but you would develop a pretty good sense very quickly about whose advice was worth listening to and whose advice was worth about a half a grain of salt. But a little bit of salt in the diet is perfectly okay, but nobody thinks they ought to overdo it.

Dennis Perluss: *[Laughing]* Great.

Duration: 38 minutes
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