Walter Croskey: All right. Walter Croskey, Court of Appeal, Associate Justice, Second District, Division Three.

David Knight: All right, Justice Masterson?

William Masterson: William Masterson, Associate Justice, California Court of Appeal, Division One, retired.

David Knight: And it's all ready to go.

Walter Croskey: All right. It is my pleasure today to be here talking with my old friend Bill Masterson, a Retired Justice of the California Court of Appeal, who over a number of years sat in Division One. My name is Walter Croskey, and I am currently an Associate Justice of that same court.

Now, this is all part of the California Courts of Appeal Centennial, the Appellate Court Legacy Project, and we are creating an oral history of our court and all of its justices. Welcome, Bill.

William Masterson: Well, I'm absolutely delighted to be here.

Walter Croskey: Good.

William Masterson: The service on the court is really the pinnacle of my career. And I have to say I know that this project—as well as the wonderful dinner that we had, I think it was last year—celebrating the 100th anniversary of the Court of Appeal is the brainchild of Chief Justice Ron George, and it's just another great step taken by that very, very talented man. So I just wanted to put that down there.

Walter Croskey: Well, okay, we made a note of it. Let me begin to get some information about you now. I understand that you were born in New York on June 25, 1931.

William Masterson: Correct.

Walter Croskey: Were you raised in New York?

William Masterson: Till I was 12.

Walter Croskey: What was your life like as you grew up in New York?

William Masterson: It was during the '30s. I could never figure out whether we were upper lower class or lower middle class. I never solved that problem. Where I grew up, where I was born, it was basically an Irish Catholic ghetto. I would say 95 percent of the people on the block where I lived were Irish. Roughly half of the adults were immigrants just from Ireland and the other half were like my parents, first generation; so all four of my grandparents were born in Ireland. And you know, I mean, it was the Depression, and I remember it vividly. No extra money.

Walter Croskey: What did your dad or your mom do? If they worked, what was their occupation?

William Masterson: Well, my mother didn't work; she stayed home. And my father had a number of jobs. He had worked for a while for a bank; and then through a set of unfortunate circumstances he determined that he should leave New York. And we came to California the first time, 1937, just for a short period of time, eight months.

And then we went back to New York. And after that he sold insurance until we left in April of 1943, right in the middle of the Second World War, and then moved out to Hollywood, where the rest of the growing up was.

Walter Croskey: Do you have any particular vivid memories of what it was like then in your first 12 years when you were in New York—anything stick out that you remember or think about sometimes?

William Masterson: It was not an easy time to grow up. It was a difficult place. Our fortunes were no different from those of many others. There really were no supermarkets. There was a neighborhood grocery store.

The good memories I have are spending time with my two older brothers and playing stickball on the streets, where our sporting equipment was limited to a broom handle and a slightly used tennis ball. *[laughing]* That's it.

I can't look back and say, god, just how wonderful it was, we went to camp and things like that. That was not on our economic plate.

Walter Croskey: When you came out to California, you were about 12, 13 years old?

William Masterson: Twelve years old.

Walter Croskey: All right. Whereabouts did you and your family settle?

William Masterson: Right in the heart of Hollywood.

Walter Croskey: And the schools you went to were?

William Masterson: I was born Roman Irish Catholic, black belt Roman Catholic, and I had gone to a Catholic grade school in Queens. And then when we came out to Hollywood, I went to Blessed Sacrament High School, which is right in the heart of Hollywood.

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Life was better out here at that time. During the Second World War, Los Angeles was very favorably affected by the economics of the war. Employment was much better than it would have been where I had grown up in Queens, and so fortunes improved.

Walter Croskey: At that school, were there any subjects that you excelled in or that you particularly enjoyed?

William Masterson: I've always been able to talk. *[laughing]* Probably my best subjects were English and history. They involve words. That's always been my strong suit.

Walter Croskey: Did there come a time when in going to high school you decided you wanted to go to college?

William Masterson: No question. There was never a question in my mind but that I was going to college.

Walter Croskey: Was that something that you generated, or was that inspired by your parents?

William Masterson: I generated it.

Walter Croskey: You wanted to see that you could do something and needed to go to college, as far as you were concerned, in order to do it?

William Masterson: Well, it was a little more complicated than that, Walter. When I was 15 and a half, my oldest brother was killed in an accident. He had been drafted right at the end of the Second World War and spent 13 months and came back out and was killed in an accident riding on the back of a motorcycle.

The thin fabric that held the family together dissolved in light of that catastrophe. My parents were divorced. Basically, my father got help and disappeared for pretty much parts unknown when I was 15. I had one surviving brother who was 17. But really, a bizarre circumstance.

I sort of emerged as almost the head of the family, if you will, and so I started working full time at that time. I was in Loyola High School, a local Jesuit high school here. I had won a scholarship. They had an entrance exam, and I don't know, I think hundreds took it, but I came in and won one of the nine scholarships.

So getting back to your original question about college, I was in a place that was very, very difficult for me. I was pretty young at the time, and I knew the only way I was ever going to get to a better place would be if I got an education. No one was going to die and leave me money, and I wasn't good-looking enough to get into the movies or anything like that, so education was the key.

Walter Croskey: I noticed you mentioned Loyola High School. Had you transferred from Blessed Sacrament High School?

William Masterson: Blessed Sacrament was a grade school. See, I was in the sixth grade, I think, when I came out here.

Walter Croskey: So you went to Loyola High School after Blessed Sacrament?

William Masterson: That's correct.

Walter Croskey: You went to UCLA. How did you decide to go there?

William Masterson: The decision was made for me. In those days, the citizens of California in effect were making bets on people that if they made what was for all intents and purposes a free education available, that all of us who were the beneficiaries of that mood would pay it back in increased taxes and everything.

I couldn't think about going to anywhere other than the University of California system at that time. They were on the semester system, and I remember my freshman year it was $39 a semester. That was it. Later, it went up my sophomore through senior years at UCLA to $41 a semester; but that was it. So what I did was, the $39 was a little less than a week's pay at the job I had . . . and are you sure you want to hear all of this? *[laughing]*

Walter Croskey: Oh, sure. In fact, I was interested, did you work while you were in college?

William Masterson: Oh god, yeah.

Walter Croskey: What kind of jobs did you have?

William Masterson: I'll finish just the college thing and then I'll go back to when I started work. In college, I'd pay the fees, and then I would sign up for my classes and I'd figure out the classes I went to where I didn't have to buy the books.

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When I had to buy books, I went down to a college bookstore and bought the used books that had underlining and notes written. I never had a new textbook in college; they were all used. But you don't complain about it. You play the hand you're dealt.

Walter Croskey: But you did work? What kind of jobs did you hold?

William Masterson: I started working at 16 or 17 and I got a job as a truck loader and a truck driver for an outfit that had a string of restaurants in the Southern California area; and my mother had gotten a job there.

And what I would do would be from high school I would hitchhike—I didn't have a car or anything—I would hitchhike there and get there at 3:00, 3:30 or so, and then my job was to assemble loads for the trucks that would come in at night to make deliveries out to the restaurants for the next day. And I would work until 10:00 or 11:00 at night and go home, go to bed, and get up the next morning and go to school; do the same thing over again, six days a week. It was full-time work.

Walter Croskey: And what was your major at UCLA? What did you—

William Masterson: History. It ended up being history.

Walter Croskey: How did you do?

William Masterson: I was a very good student and I had some recognition. In my first year, I had saved money. I left the job that I had at the grocery or restaurant outfit. . . . And sometimes some of these things are difficult to talk about. I haven't talked about this in years, really, but I will. I guess it's all part of oral history.

So anyway, I had left because I was thinking, gee whiz, if I can just really take care of that first year, I'll be in good shape and then I'll get some other type of work. And I didn't have a car or anything, but I had a friend who had a car, so I used to ride with him. We would meet in the parking lot out at UCLA, and he . . . I can remember sitting on the bumper of the car for hours, and he finally showed up, and I said, "What were you doing?" And he said he was going out for the water polo team and I said, "Well, what am I supposed to do? You know, you're supposed to be my ride."

He says, "Why you don't try to get on the water polo team?" I was a pretty good swimmer, so I did, and I got on the water polo team and got a letter. And the reason I reference that is you asked if I was a good student.

In my junior year I was walking through the halls and I saw that they were having interviews for a Rhodes scholarship. I had some idea as to what a Rhodes scholarship was and who Rhodes scholars were. I knew that they wanted some sort of athletic endeavor, and I also knew that you had to be a good student and you had to demonstrate some need. And I was a very good student, I had a UCLA letter, and goddamn, did I need, need. *[laughing]*

So I put my name in. And the interesting thing was that most people who applied for the Rhodes scholarship did so when they were seniors—because if you were a junior, if you didn't have a degree from an American university, Oxford required that you take an entrance exam in Latin.

I had gone to a Jesuit high school, so I had had four years of Latin and two years of classical Greek, so I qualified for this. But I didn't think that I was going to get selected as one of the two UCLA candidates for the Rhodes scholarship; and to my delight I was selected.

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What they took into account, I think, was under the Rhodes's will, what he wanted to see in candidates was a demonstration of manly virtues—of duty, responsibility, things like that. And I was supporting my mother at that time while I was going to school, while I was working full time, and I think that's what kind of tipped it over so I was a competitor.

This goes back to what I said. I had some recognition of what I did. It was a very difficult time. I needed all the pats on the back that I could get, and this was a big one. And I didn't go anywhere when I was a

junior, and when I was a senior I was selected again, and I was very hopeful.

Remember I told you before that I was in one spot and I wanted to get to another spot? And I thought this Rhodes scholarship was going to be it, and I did get it. It's one of those things.

Walter Croskey: You graduated from UCLA in, what, about 1953?

William Masterson: June of '53.

Walter Croskey: What did you do then? I think you're going to tell me you went into the service.

William Masterson: Close. *[laughing]* What had happened was my older brother, he had gotten drafted in December of 1950. The doggone war started on June 25, 1950.

Walter Croskey: The Korean War.

William Masterson: The Korean War, which was the day that I turned 19 and became eligible for the draft. I thought this was a deliberate act by the North Koreans, which I never forgave them for. *[laughing]* My brother, who was two years older, was drafted, plus he wasn't in school, and he really wasn't doing much and everybody else is going over to Korea.

He goes over to Germany and makes sergeant first class, sees Europe, has a great time. I was supporting my mother during this time and I was a full-time student, so I had a double deferment on the thing. When he was released from the service in late 1952, they reclassified me 1A because they assumed that he was going to take over the responsibility for my mother, which I have to tell you was an unwarranted assumption on their part.

Be that as it may, I petitioned, saying, "Look, I'm still a student. You give me four or five months more, I'll have my degree, please." They did that. When I graduated . . . and all this time, I had gone back to work to truck loading and truck driving; I ran out of money in my freshman year in college and I had to go back to work, and I got my old job back. I was always a good worker, and so I had this all the way up through graduation from college, and then I was just waiting for the draft board. I knew I was going to get caught, because they were still shooting in Korea.

And a fellow who had been my boss at this outfit who was the factory manager always liked me and appreciated what it was I was trying to do. He had gone with another company and he needed somebody to wear a coat and tie as an assistant supervisor in their restaurant outfit. And he came by one night when I was working and offered me the job and I thought, hot dog, I get to wear a coat and tie and I don't have to work with my hands anymore. So I did that. The draft board picked me up on November 16, 1953; I got drafted and went up to Fort Ord.

Walter Croskey: You went in the Army?

William Masterson: Oh, yeah.

Walter Croskey: I looked in your bio and it said you made corporal. So you must have stayed more than two months.

William Masterson: High rank. I spent 21 months and 19 days. Who was counting? *[laughing]*

Walter Croskey: Anything about that experience that you found was important or significant, or were you just glad it was over?

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William Masterson: I really had sort of an old-fashioned idea about it. I figured it was my responsibility and I'd do what I was told. And I went through basic training and then they sent me to leadership school. They offered me officer candidate school, but that would have required an extra year of service, so I turned that down.

After I got out of leadership school—it was called an Infantry MOS, Military Occupational Specialty—and they sent me up. . . . Fort Ord was a basic training base, 6th Infantry Division, three infantry regiments. I was assigned to Love Company, 63rd Infantry, as the Army equivalent of a drill instructor. And so what I learned to do there was to yell at people, march them, get them out of bed at ridiculously early hours, and generally do those things that drill instructors do. And I think I was fair; I hope that I was fair, but obviously rough, because that was part of it—and if you weren't, the officer would get on your case.

In some respects it was almost fun, because it was sort of a heady experience for somebody 22 or 23 years old. There are 300 people there and you yell out, "left face" and everybody does this, and then you do a right face. *[laughing]* It was funny, and plus firing the guns was fun, too.

Walter Croskey: In September of 1955 did you start in law school, and it was in UCLA?

William Masterson: Yes, at UCLA. Before I became a drill instructor I had been in a replacement company, and there were some lawyers there, people who had gone through law school—one of them had been in practice for a year. And they talked bullishly about law school and said it was a good experience.

You see, up to this time what I wanted to do when I finished with a degree in history was I wanted to do graduate work; that was my plan. But the more I heard these fellows talking about law school, I thought, maybe that's something I ought to try. And so I took the LSATs. And I took a weekend pass and came down and took the law school aptitude test—did very well on it, applied to UCLA, which was still $41 a semester. And so I showed up. I got out of Fort Ord and checked into law school five days later with a ridiculously short haircut, the remnants of my $200

mustering-out pay, three civilian shirts, one pair of civilian pants—that was net worth.

Walter Croskey: Was it a motive to go to law school—something that you had not acquired while you were in the service—just talking to these people?

William Masterson: Precisely.

Walter Croskey: You had not thought about doing that before?

William Masterson: I really hadn't. It's one of these flukes in life where without you realizing it you just go on a different direction. It's happened to me a number of times.

Walter Croskey: Did you enjoy law school?

William Masterson: I loved it.

Walter Croskey: Did you do well there?

William Masterson: I did very well.

Walter Croskey: What did you like most about it?

William Masterson: I have always looked upon myself as a technician in the law, and that's what I like the best about it. I never felt guilty when I was able to prevail on a case because the statute of limitations had arrived, etc. and so forth; that was what I liked best about the law.

I know there are others that like the sweep of the law and the social change, things like that; but it was the technical aspects at which I was the best. I did very, very well in things like evidence. I had no thought of doing trial work, absolutely not.

What I wanted to do—again, indulging the interest for the technical—was I remember being absolutely fascinated by a Case A course in creditors rights in the operation of the then–Bankruptcy Code, and I was totally fascinated by that. And what I'm leading up to is I just really wanted to be an office lawyer and handle chattel security and mortgages and things like that.

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Walter Croskey: When you went to law school you apparently did well enough to make *Law Review*?

William Masterson: Oh, yeah, and Coif.

Walter Croskey: Which is a great honor. When you were on *Law Review*, what did you do there that you particularly liked?

William Masterson: Well, really not much. *[laughing]*

Walter Croskey: You were on the editorial board?

William Masterson: I was on the editorial board. I wrote a couple of case notes and I think I had an unpublished comment that to this date has not been published. *[laughing]* I'm having a hard time remembering what it was about. I was still working when I went to law school too.

Walter Croskey: How many hours a week were you working in addition to going to law school?

William Masterson: I had the GI Bill, so my first year I would work nights. I parked cars at a restaurant on the Sunset Strip. Honest to god, Walter, I'm not making this up. But there was a fellow who was a senior in law school and there was a restaurant on the Sunset Strip called Bit of Sweden; it was one of these Swedish smorgasbord things. They had a small parking lot and he wanted to have some time off during the week; and it ended up that I was doing it like four or five nights a week. And it was all tips from people, but at that time, in that place, tips were pretty good. And he took a cut; I forget what his percentage was. But I had that job during the week.

And then on weekends I worked for a private detective on surveillance, sometimes following people in divorce cases to see when the lights went out after they had gone into the hotel or what have you. But then my second and third years, I had a break.

I was getting married and I went into the student loan office to make a loan to get a couple hundred dollars so I could get married. And the fellow who was the loan counselor was a senior in law school and I knew him very casually and he was going to be leaving, and he said, "Would you like to have this job?" And I said, "God, yes."

So in my second and third years I actually was never the loan counselor, because I talked to an assistant dean when I showed up and he said, "We want you to be a staff administrative assistant in the office," which actually paid more money than the loan counselor. So I leaped at the chance. I did that during my second and third years and did it actually all during the summer. I used to continue to do that—so that income plus the GI Bill, I did okay.

Walter Croskey: During law school did you get any sense of anything you particularly wanted to do with your law skills that you were going to have and your degree and the practice that you would like to get into?

William Masterson: What I indicated, and that was I thought I wanted to do office work and work with corporations on secured transactions; chattel security; what is now, at that time was, a negotiable instruments law; and general laws regarding security interest in property; what is now the Commercial Code, etc. and so forth. It was that sort of thing; creditors rights. And one of the reasons I was hoping to get hired by the firm which hired me was that they really were in Los Angeles, very, very high in those very areas; and that was really what I wanted.

Walter Croskey: In your senior year did you give some thought to firms that you wanted to go to work for and make applications to them or interview with them?

William Masterson: Yes, at that time there wasn't what has now been almost de rigueur for the last 25, 30 years of summer clerking; at least if there was summer clerking, nobody talked to me about it.

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Now people, they start thinking about firms in their second year; and most of us—at this time it would be like in March, April of your senior year—that's when you started sending your resume out. And at that time it was the rare time that the law firms would come to the law school interview. You would be literally knocking on doors looking for work.

I had an offer; the Department of Justice came and I had an offer. I ended up with an offer from them in the U.S. Attorney's Antitrust Division, but it would have meant moving to Washington, DC, and I just had no interest in doing something like that. So I just sent my resume out to anybody that would look at it. Some of them talked to me, a lot of them didn't.

Walter Croskey: The firm that ultimately gave you a job was one of those that you interviewed with?

William Masterson: Yes, Sheppard Mullin, Sheppard Mullin Richter & Hampton.

Walter Croskey: What did they have you do when you started working with them?

William Masterson: General research memos. And through a curious thing, I formed an attachment with James Carroll Sheppard, who was the senior partner. Let's put that in all caps. They don't make them like him anymore. And he and I were pals because he and I were the only Democrats in Sheppard Mullin.

He was the kind of Democrat who was always heading up Democrats for Wilkie, Eisenhower, etc., and so forth and so on; I mean, he was really a closet Republican. He was a true maverick, and he and I got along famously.

Walter Croskey: You were with that firm 20 years?

William Masterson: Yeah, just about.

Walter Croskey: If I remember correctly, that was back in the times when you went with a firm and became a partner and you stayed with them.

William Masterson: And it was almost a scandal if you left.

Walter Croskey: During that 20 years, tell us about the practice that you engaged in, what you did; you became a partner. And just tell us about that.

William Masterson: Let me give you the edited version. What it was, as I say, I had this desire to be an office lawyer, and I had no thought of a courtroom. And I started doing research memos and there was a very large case where Sheppard Mullin came into it. And so I was grinding out all of these memoranda on this aspect of—

It wasn't even a case at that time, but it eventually turned into litigation. And because I had this background, I would start going to the depositions, and then I started taking depositions; and after a while I can remember saying to somebody, "You mean they pay you to do this? God, this is fun!" I just really had had no desire to do litigation—I had no exposure to it—but when I put my foot in that water, I just dived in all the way and loved it, absolutely loved it, and found that I had pretty good success in doing it.

Walter Croskey: You found yourself almost by accident, I guess, in the trial practice?

William Masterson: Once again, one of these flukes.

Walter Croskey: You liked it. What about some of the cases that you had during that 20-year period? Do you remember any of them particularly?

William Masterson: Oh, god, yeah. I had a six-and-a-half-month jury trial representing a company against a fellow who had been one of the original organizers and then who claimed he had been cheated out of stock. I defended the *Los Angeles Times* and Paul Conrad, their editorial cartoonist, in a libel suit that was brought by the then-president of the Union Oil; that was a three-week jury trial.

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I actually tried, very early on, two dog-bite cases in municipal court, because Sheppard Mullin was doing a certain amount of insurance defense at the time; and pretty much in Sheppard Mullin somebody said, "Okay, we've got to go to trial, give it to him."

So they'd give it to me, because I never turned anything down if it meant that I could go to court, because I liked it so much. It became my playpen, was what it was. I had other cases, but they tend to blur, and plus I think I talked too long. *[laughing]* I'll tell you about one of them. Dr. Noguchi, the coroner to the stars; you remember that fellow?

Walter Croskey: Yeah.

William Masterson: I was hired by the board of supervisors to effect his ouster as chief medical examiner–coroner, and that thing took together . . . And it's one of the great, no-holds-barred cases I have ever handled on the thing.

We had a three-week trial before a hearing officer and then proceedings before the superior court, because his ouster by the civil service commission was challenged by him. Norman Epstein was on the superior court and rejected the challenge. He went through the Court of Appeal.

We won there, and then finally the California Supreme Court denied hearing and it was over. It was a great case.

Walter Croskey: During that 20 years that you were with Sheppard, do you remember any of the judges that were then in the superior court that you particularly liked?

William Masterson: Yes, Philbrick McCoy was in the discovery department, and a lot of people didn't care for him, but I got along with him absolutely famously. And the reason I got along with him was that I was always prepared on things, and I worked very hard at what I did; and also I didn't want to be a damn fool. And I've always respected rules, and judges have rules and California has rules. Even though some of them I thought didn't make much sense, I decided that I would abide by them. And so Judge McCoy was one. I just have very fond memories of him.

And then there were a number of others. These people in my mind were giants, they really were; and they were sort of crusty, and so you had to sometimes have a thick skin, but also a memory that they're doing what they have to do because they've got a lot of things to process.

The interesting thing was there was a certain sameness to the judges. They would all reflect this mildly impatient attitude towards you, also which is very different from today. They were all male whites. And I'm not saying that it's better—today we have a mix, some diversity in the bench. But it was a good time to practice, it really was; a good time for me.

Walter Croskey: In 1979, you decided to change firms. How did that come about?

William Masterson: I had been looking at what later became known as the phenomenon of the national all law firm, and I could see that with increased communication, ease of travel . . . We had had jet planes for a long time, but still things were still sort of isolated between the East Coast, Northwest, Southern California; and as Los Angeles, particularly Southern California, became more important in the financial sphere.

There were some firms from the Midwest and the East that were opening up offices, most of the time for a particular specialty—whether it was labor law, for example, or some other particular specialty.

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But I just figured it would just . . . in almost no time there was going to be more, as I said, the so-called national firm with different offices; and I thought that would be an exciting thing to do. And plus there was something else. The best way I can describe it is in my family . . . my mother died when I was 42 years old, and up until the day she died she called me Billy. I have to tell you, apart from my mother, since the time I was about 16, no one called me Billy. *[laughing]* You grow up in a place, and the people not only who are above you but are on the same level will always think of you in terms of who you were on the day when you first showed up for work.

Now, your skill, your business-getting ability, your ability to generate revenue may be far greater than theirs, but they never think of you as to what you are today. They will remember you there.

So that was another circumstance. And there were some things . . . I don't mean to say anything adverse about Sheppard Mullins—a wonderful firm. It was then; it still is. But there were some structural things at the firm that I didn't care for. I thought maybe I ought to make a move, and that's what I did.

Walter Croskey: How did you happen to select Rogers & Wells?

William Masterson: I had a friend who was senior partner there. He and I had represented the same client, Litton Industries, and indeed for a two-year period in the '60s I had been at Litton as corporate counsel, in charge of all their litigation. And I had basically taken leave from Sheppard Mullins, but I had handled a couple of large cases for them and they liked me.

So I was supervising all of these lawyers. I was only 35 years old, but I was running all of Litton's litigation nationwide. And this lawyer was one of the people, so I knew him from that experience; and indeed, when I went to Litton, I wasn't sure whether I was ever going back to private practice. But after I was there for about a year, the siren song of the courtroom caught me again.

I had an obligation to Litton to finish the task, and that was organizing all of their cases so they would at least know what they had. They really did not know when I went there. I had set up a reporting system, and had engaged good counsel for Litton in all of their different locations.

So anyway, back to your question about Rogers & Wells. I called this fellow up and I said, "Have you ever thought about opening a Los Angeles office? I'm thinking I might want to move." So one thing led to another and I opened their office for them.

Walter Croskey: Were you perhaps the instigator or at least the catalyst for their decision to come out here?

William Masterson: I'm sure that I was. I'm sure that I was, because they had two major clients; Rogers & Wells had two major clients in Los Angeles at that time. One was a major entertainment client and the other was also another very, very large operation. So there was logic to their opening an office.

Walter Croskey: How many people did you start it out with?

William Masterson: Myself and two lawyers. *[laughing]* In less than three years I had 35 lawyers in the operation. And we had broken into the black after 75 days and were very, very profitable for the entire time that we were there.

Walter Croskey: Do you have any special memories about the four years you spent with Rogers & Wells?

William Masterson: The biggest memory I have is disappointment, because it became evident to me after a while that while there were some that thought the idea of a Los Angeles office was great and they really wanted to work with it and share clients, that this was not the majority view.

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There were people who liked the idea of an office better than the actual having of the office. I finally had to realize that this is just not going to work. I didn't want to just be a profit-making endeavor sending money back East, but unable to take what for me was the next logical step in terms of expansion of the operation—the addition of more specialties, larger offices.

We really had the potential to become a major powerhouse to challenge existing law firms in Los Angeles, but I knew that it just would not happen. And again, I don't want to be critical of Rogers & Wells, but that is just my memory of it.

Walter Croskey: Did their involvement in Los Angeles end in some way?

William Masterson: Well, eventually it did. It ended a couple of years later.

Walter Croskey: In 1983, I think it was, you went to a new firm? *[Voice Overlap]* How did you happen to select them?

William Masterson: I didn't select them. What happened was that I think Skadden first made a pass at me in either '81 or '82. I waved off the first pass because I was still hoping that the Rogers & Wells thing was going to improve; but when the second pass came, at that point I said, 'Well, I would be happy to talk to you."

So I started talking to them, and the more I saw of them, the more I liked. And plus, by this time, Walter, I was a lot smarter on this thing than I was when I went with Rogers & Wells; and so there were things that I wanted that if they weren't going to give it to me, I wasn't going to go with them.

One of the principal ones was, are you going to send people from New York or Chicago or wherever you've got other offices out to Los Angeles? And they said, "Well, that's our plan," and they said, "How do you feel about that?" I said, "I've got to tell you, if you're not going to do that, then let's finish our nice dinner and never see one another again."

There were things like that. I wanted them to—not really put your money where your mouth is, but something like that. I wanted to have a tangible demonstration that they were really serious about having an office. And sure, I was still taking a risk and making a bet, but it paid off wonderfully in terms of that relationship I had with them.

Walter Croskey: You spent four years with that firm?

William Masterson: Five.

Walter Croskey: Five years. During that time were you still focusing on litigation, or were you more focused on growing their practice in all kinds of specialties?

William Masterson: No, by this time one of the reasons I wanted to leave Sheppard Mullins was I really thought I knew something about management of a law firm. And I think I proved it with Rogers & Wells, given the tremendous success that we had. If it had just been a local law firm, this would have been an absolute bonanza. But what it is, it's the old story: God, give me what I need, not what I ask for.

I soon found that being the senior partner running the office in a law firm is really not what it's cracked up to be. You've got to solve everyone's problems and spend a lot of time listening to complaints instead of practicing law, doing what you really want to do. There are certain benefits to it, obviously—the money is great.

So anyway, when I went with Skadden, basically what they said was that they would really look to me to be in a leadership role, but how would I feel if they . . . And I agreed to have someone else, and I said, "That's fine with me."

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Just tell me when; I don't have to be managing partner. They sent some absolutely outstanding people out to the Los Angeles office, and it was just an unparalleled success. I could do it so well. I just went to their new-partners dinner a couple of months ago. I'm now one of the graybeards at Skadden, one of the "founding fathers" of the Los Angeles office. *[laughing]*

Walter Croskey: You feel proud of that, I'm sure.

William Masterson: I am. It's just terrific.

Walter Croskey: But were you able to spend much time in active litigation while you were with them?

William Masterson: God, yeah.

Walter Croskey: Anything about that you remember that—

William Masterson: Yes. It wasn't an upgrade of the level of my practice; it was just that there was just so much more of the kind of things that you just love to get your teeth into. For example, during the Texaco acquisition of Getty Oil . . . this was takeover litigation, so there was a lot of feints and jabs, and it's almost like the start of a war: we'll send two tank divisions through here, and then we'll have three paratroop regiments in Delaware and everything. And it was really terrific stuff.

But in the meantime I had almost an individual boutique practice where I used to try a lot of cases on referral from other lawyers. I would never take them right on the eve of trial; but if it was something that someone

was in and they said, "This is taking too much time, would you be willing to take it over?" I would be happy to do it, thinking that it would go to trial—because that's really what I liked the best, the actual trials. I had some good ones right up until the end, until I went on the bench.

Walter Croskey: The end came in about 1987?

William Masterson: Yes, sir, December 31, '87.

Walter Croskey: That's when you went on the court?

William Masterson: Yes.

Walter Croskey: When did you first start thinking about doing that?

William Masterson: I'll tell you exactly when. The last jury trial I had in Orange County was in the spring of 1985, and it was a three-week trial, Gibson Dunn on the other side; it was a plaintiff's case, commercial business litigation involving a busted loan deal, a lot of money involved. And it was three weeks living in a hotel near Disneyland, trying in the Santa Ana Superior Court.

It was the typical 18-hour days where you try the case all day, you go back to the hotel, you're on the phone putting out fires in other cases; and then you go out to dinner with the client and with the witnesses for the next day and all you do is you talk business during dinner, so you end up with indigestion. Then you get back to the hotel, the daily transcript from that day is there, and you've got to read that to see what holes are left. And then you have to go over your notes for the examination of witnesses for the next day.

Then you get into bed and it's about 1:00, and the room is spinning because you've just been revving your motor for 18 hours. And you finally get to sleep and you get about maybe four or five hours sleep; you get up and do the same thing again.

After three weeks we had a wonderful result; professionally, you couldn't ask for any more. And the other side was an insurance company that was in the lending business. They paid up, so the client was overwhelmed. And I can remember the following week . . . at that time, I was living out in the San Gabriel Valley, and my wife was off somewhere and I was sitting out in the backyard by the pool.

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By this time, I had my children educated, four children; and I remember the question came into my mind, "Why am I continuing to do this?," because those trials take a lot out of you, both physically and emotionally. Then I started thinking about doing something else. And I didn't want to just do nothing, although that would have been feasible from an economic standpoint.

And then I got the idea of, what about the bench? And I had never really thought about that. I knew people in law school who were in law school because they wanted to be judges; I wasn't one of them. If I was out at a cocktail party or a dinner party or something and somebody knew what I did for a living, I got asked the question more than once. They would say, "Have you ever thought about becoming a judge?" And I would say, "Why would I want to do a silly thing like that?"

I would say, "It's too confining" and "No, I just would have no interest in that." And I think it's not that with age comes wisdom; but certainly you get a different view of things. And by the time we're talking about, I was in my mid 50s. When I was in my late 40s, I participated in a program put on by the L.A. County Bar; it was their pilot program on giving information to voters about candidates for judicial office. Do you remember that?

I did that twice, and then I was asked a third time to do it, and I said I didn't want to do it anymore. And Dan Fogel was the chair, and he said "Why, why not? We really need you as a representative of trial lawyers." And I said, "I'm not comfortable judging people," because I really wasn't. It was just uncomfortable passing judgment on somebody. That was in my late 40s.

By the time I got into my mid 50s I think I had lost that inhibition, obviously. So I then started talking to people about going on the bench, and I think you were either the first or second that I talked to. You must have been the second because . . . Who put us in contact? Doug Dalton. He said I ought to talk to you and I trooped down. Where were you? Torrance?

Walter Croskey: Yes. That was in 1986.

William Masterson: Nineteen eighty-six, yeah. Then I put it on hold for a while.

Walter Croskey: I remember telling you that I thought it was a great idea.

William Masterson: I know. You gave a lot of encouragement. And I'll tell you, coming from you, I paid close attention. And I never forgot it, but I put it on hold for a while because my wife said, "Are you sure you want to do this? You've been so happy." "Okay, fine, let me look at it in a while." And I continued trying cases. But then it was funny.

How's our time? Am I taking too much time?

Walter Croskey: You have plenty of time.

William Masterson: I guess this is relevant to going on the bench. There I was again in a jury trial, only this time it was in Los Angeles; it was in the local federal court. I had the defendant in the case, a major entity, and I could not settle that case. It was a case I wanted to settle for . . .

This case was an example of how sometimes you don't get the good facts. I couldn't settle for less than seven figures and everything. And we

tried the case; I did the best I could, and the jury went out to deliberate. And I'm in my office early the following afternoon; I got a call from the clerk saying they had a verdict. So I said, "Thanks for the call, I'll be right up." And he said, "Well, take your time."

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The plaintiff's lawyers from Century said yes. I said, "No, I've got nothing else to do." And so I went up there. And I knew the clerk, because I had tried a lot of cases, and it was for Andy Hauk. And I knew the clerk really well, and I remember he said—it was very funny—he said, "I've got to run down to the clerk's office and file these papers; would you get the phone?" I said sure, I'd answer it: "Courtroom of Judge Hauk." The phone never rang though. So I was all by myself in this courtroom, in the imposing courtrooms that they had there. I can't tell you how many times I had been in that position waiting to see whether I was going to get an element of personal validation if they found for my client. Because you can't help but put some of yourself on the line; it's the siren song and it's the curse of trial practice—at least it was for me.

So anyway, I'm sitting in this courtroom awaiting the verdict all by myself, and I can remember thinking to myself, I said, "Well, I wonder what they did. I wonder what they're going to do, what's the verdict." And I said, "I sure would rather have won than lost, but when it comes right down to it, I really don't think I care."

At that point, it was almost like a revelation—and this is in the late spring, early summer, of 1987—and I said, "I've got to do something else," because I think I was losing the edge that I think you have to have. You've really got to want to win, you've really got to want and really care. And I just had this thought, and I said no, and at which point I said, "That idea of the bench, I think I'd better revive that." The rest is history. *[laughing]*

Walter Croskey: You put in an application.

William Masterson: I had been talking to my good friend Judy Chirlin, because we had a Republican governor, Governor Deukmejian. I've been a registered Democrat all my life, but where I grew up in Queens, in an immigrant neighborhood during the Depression, I didn't meet a Republican until the family moved to California.

I've voted for a lot of Republicans in my life, but I keep the label of registered Democrat. I mean, it's sort of a family loyalty, kind of a cultural . . . I can't explain it. I just never switched, and I wasn't going to switch. I didn't want to look like a rice Christian or something, and I was assured by Judy that it probably wouldn't make a difference with me, and okay. Because I'd never been a political lawyer, head of lawyer for whoever or what have you; and sure enough, then I got the call from the superior court.

And the funny thing is I knew I could do the work; I spent a lifetime in the courtroom. The only thing was I didn't know whether I would like it or

not. I had an idea from the way you talked about it, and from others. I talked to Chris Markey, a classmate in law school, Harry Hupp over in the federal court, and other friends that I had who were judges; but I was taking on faith whether I would like it or not. But I thought I would. But I was confident that I could do the work, and the only thing I didn't know was how much I would love it.

Walter Croskey: You went on the court in December of 1987.

William Masterson: Actually sworn in January 5th of '88.

Walter Croskey: What was your first assignment?

William Masterson: To the dependency section of the juvenile court.

Walter Croskey: How did you like that?

William Masterson: For those who don't know what dependency is, it's the section of the juvenile court that deals with bad parents; delinquency deals with bad kids. To tell you the truth, I had no idea what dependency did; I had never practiced in that. And my first boss was . . . You know, this is embarrassing; she's over in Roger Boren's division, Japanese-American gal.

(01:05:21)

Walter Croskey: Kathy Doi Todd?

William Masterson: Kathryn Doi Todd. And I mean, I should remember that; and if she ever sees this, I apologize—a senior moment right before you. She was the supervising judge, and I don't think she was ready for what she was getting. Here was this guy coming from Skadden, Arps, and I had this incredible office in a high-rise office building and everything.

And a lot of people objected; they didn't want to be sent to the dependency court. And so I said, "Can you tell me what's involved in this work?" And so she outlined what it was and I told her, I said, "Well, god, that sounds like really important work." And I think she almost fainted, because that was not the usual reaction that she had.

I spent three months in the dependency court. It's the most important professional work I've ever done in my life. I thought it was incredible. Many times it was a wrenching, emotional experience, when you saw what people were doing to their own children and everything; but the wonder of it, the absolute wonder of it!

When I left work that day, every day, I could truthfully say to myself that day I had saved children. Where do you get that, other than in work like that? God, it was really something. I mean, I didn't save the world or anything, but I had saved some children and given them a chance.

Walter Croskey: When you left there, where did you go?

William Masterson: *[Laughing]* I went to criminal night court, a felony court. My exposure in the Dr. Noguchi case was really the first brush I had had with the area of criminal law—not that the Noguchi thing was a criminal case, but a number of my witnesses in this case involving the chief medical examiner–coroner were people from the sheriff's crime lab, LAPD crime lab, matters such as that.

I hadn't had any exposure to criminal law since I had left law school—we had the mandatory one year—and I wanted to try my hand at it. I made that plain to both Jack Goertzen, who was the then-PJ, and then he was soon replaced; he went to the Court of Appeal, and he was replaced by Skip Byrne. And so Skip knew that I wanted to do criminal work and they had an opening in night court. So I showed up and I had the first felony jury trial I saw in my life, I was the judge. *[laughing]* That was a hoot.

Walter Croskey: How long did you stay there?

William Masterson: I was there for another three months, and then they sent me to a felony day court; and that's when I started getting big-time felony.

Walter Croskey: How long did you stay trying criminal cases?

William Masterson: For the total five-year period on the superior court I had a criminal department for three out of the five years. For years three and four of being on the superior court, Rick Torres . . . At the end of my second year on the court, in other words, years one and two were basically criminal, and year five was criminal. But at the end of my second year, Rick Torres—who was a friend and I had done a lot of work before him when I was a lawyer—he called me up and he said that he was losing so many of his civil trial judges to ADR work and also to the Court of Appeal and would I take a civil assignment.

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I said, "Can I ask you a couple of questions?" He said, "Sure." I said, "I don't want to go to central civil west, and I don't want a fast-track department," because I felt that I would just be like a traffic cop if I was in it. He said no, at that time they still had half of the civil trial judges who were getting their cases from master calendar.

I said, "Rick, I'm going to call you tomorrow; the answer is going to be yes, but out of courtesy to my supervising judge"— in Pasadena, where I was—"I just want to tell him what I'm going to do." He said he understood. So then I had, it turned out to be, really civil complex commercial litigation.

That's what he wanted to do, but he had to give me a couple of medical malpractice and a couple of intersection cases because there were some of the older judges that weren't getting the complex commercial cases who might have been jealous if this new kid got them. Sometimes rank does not have its privileges. *[laughing]*

Walter Croskey: Well, in the five years, you had a dependency assignment and a criminal assignment and a civil assignment. How do you rate them as the ones that you got the most satisfaction out of?

William Masterson: Criminal. In terms of importance, dependency right up there, only three months. But god, I'll never forget that. But criminal, you had the feeling like you were a frontline soldier, you know what I mean? I don't mean to be excessive or dramatic or anything, but I remember Joseph Wambaugh, who was a client I had. I successfully defended him in a libel case against him—you know, the fellow that writes the police novels and everything. He was always talking about the thin blue line that separates us from the savages, from the criminal; and not that I thought I was ever a policeman, but I felt I was a part of that effort. An overwhelming percentage of people are law-abiding, reasonable people, but there is an element, unfortunately, and it's totally amoral.

And I just felt it was really important. The law was the only thing between us and the jungle. That's almost a cliché, but that was the way I looked at it. And doing this, yet at the same time working within the process of the law, was very, very important.

Walter Croskey: In trying those criminal cases, did you try most of them in jury trials, or were you doing many bench trials?

William Masterson: I did a lot of bench trials after they got to know me. I never gave lawyers a bad time. I think that practicing law is a really difficult way to make a living. It takes a lot out of you, and it's hard.

Some people, when they go on the bench, all of a sudden they say . . . maybe they got jerked around by judges when they were in practice and now they're going to take it out on somebody else. And I always thought that was just plain stupid. So I never did that. It's not that I was that nice, but I didn't give people a bad time just to be giving them a bad time.

And I always remember . . . I spent my second year on the bench in Pasadena, and then I had civil for two years. And that second year that I spent in Pasadena, I had a criminal department in years three and four and civil downtown. Then I went back to Pasadena for year five, and when I went back to Pasadena for a criminal department because I had wanted criminal again, they put on a luncheon for me. And it was sponsored by the district attorneys, the public defenders, and the private lawyers that did court employment work. One of the nicest things anybody ever did to me, all of them on both sides. God, I just loved that. Chinese restaurant, the food wasn't that good, but I was just really pleased to have that done. Nice.

Walter Croskey: Well, I know that you went to the Court of Appeal.

William Masterson: Yes, sir.

(01:14:55)

Walter Croskey: How did you decide that that was something you wanted to do?

William Masterson: My life has been a series of segments where I've done something. Like I was with Sheppard Mullin for about eight years, and then I was at Litton Industries, and then I went back to Sheppard Mullin. And it's not that I wasn't able to hold down a job; it's just that I've done different things. And there were people that I talked to about going over to the Court of Appeal, and the first person I spoke to about going on the Court of Appeal was Walter Croskey. Do you remember that?

Walter Croskey: Yes.

William Masterson: At this time I was pushing 60, and not that I was slowing down particularly, but again, your perspective on things changes. And I had absolutely loved my time on the trial court, and it's not that I was getting tired of it any more than I got tired of practicing law. It's just that I thought about doing something else. And I had the sense from talking to you, Walter, that this might appeal. It's obviously, on the Court of Appeal, more of an intellectual endeavor. I think in a trial court your people skills account for 90 percent of what you do.

But up here, there was more of the intellectual challenge. And I think that sort of was it, and plus I thought the quality of life might be a little better. And maybe I didn't have to be there five days out of the weeks, so long as you kept your production up. And it was a mixed bag of motivations, as it is with so many things.

Walter Croskey: You did get to the Court of Appeal in January of '93. You were assigned to Division One. You were enrobed there. How did you like that?

William Masterson: It was great; I loved it. I had done a lot of writing when I was a lawyer. I had a couple of clerks that were just sent from heaven, research attorneys, and I always thought if I could have taken those guys out with me into private practice, we each would have made millions of dollars—they were that good.

We had a very congenial group in my chambers there. And it was really interesting, and occasionally you'd get a case that you get all excited about and want to do something particularly good on it. And it was one of them that was in that nice folder that they sent me in preparation for this. So anyway, I loved the time in the Court of Appeal. It was very good.

Walter Croskey: What kind of cases appeared? Because your practice has been so very variable and your experience is so varied, both as a lawyer and as a trial judge, how do you see the things that you did up here on the Court of Appeal in that juxtaposition?

William Masterson: Roughly half of my load was criminal on the Court of Appeal, so that was obviously different; but the subject matter was the same as my time in criminal on the superior court. It was different, but it was the same.

The thing that I think about when I think about the Court of Appeal is that it was much more like being back in private practice, where I was the senior partner and my research attorneys were the younger partners. I'm running the show. I'm responsible for the product, but it's a cooperative effort between me and one of them on quote, "a case," and then with the other one on a case. It was sort of like that, and it worked out great.

(01:20:03)

Walter Croskey: But did you enjoy it as much as you did trial work?

William Masterson: No. The answer is no, because being a superior court trial judge is the best job I ever had in my life. It challenged every part of you. How do you get along with people? How do you control unruly lawyers? How do you control unruly defendants? What do you do when this big, hulky criminal defendant busts out of the jury box? *[laughing]*

As you're hitting the panic button, you're hoping that your bailiff is going to tackle him before he gets up there to get you. That happened to me in Pasadena. I didn't do anything, but the guy hadn't had his medication that morning and he just went berserk on the thing. Trial court was an adventure every day, plus everybody laughs at your jokes if you're a trial judge.

Walter Croskey: I would like to get a flavor from you, then, if you look back over this whole career—because I'll get to the rest of it in a minute—but just from the trial practice you had, all those years as a lawyer and then as a trial judge and then as a Court of Appeal judge, how do you judge that in its entirety? And how do you value it, and what was most important to you in terms of the things that you wanted to do in the legal profession?

William Masterson: When I went on the bench, I knew that I had tried every kind of case that I ever wanted to try; and as importantly, I had also tried some I did not want to try. *[laughing]* So I never looked back. When I went on the Court of Appeal, I had done that treasured time, frontline soldier, three years in criminal. So I go on the Court of Appeal.

I didn't look back until I missed the trial court. Of course I missed the trial court. There were things that happened, some near terrifying, and some grossly horrible in terms of some of the cases, but overall it was an incredible human experience.

Then I retired. You know, I finally got to the point where I said, "Well, I think I've done this long enough." And I became eligible for a pension, and I thought I could continue on here and thought about it. But then I thought . . . One of the things is that my wife and I wanted to go somewhere else to live. We wanted to live on the ocean.

Walter Croskey: That's kind of hard to do, just to pick up after being a whole lifetime in one area. How do you make that decision?

William Masterson: Well, I'm kind of rootless in some ways. I think it probably has something to do with growing up. I haven't gone into everything with my growing up; you know, I never really sank roots down. Things were kind of tangled when I was growing up, so I never really got that attached to places—to people I would, some people. So I just picked up and went. That's what I did.

Walter Croskey: You bought some property up in Mendocino County and built a home up there?

William Masterson: Yeah, right on the ocean.

Walter Croskey: But you also engaged in private judging. How did that come about?

William Masterson: I retired in June of 2000, and we had bought our lot and hired architects, and my anticipation had been we would retire and load the dogs into the cars and then drive up and start building. But my wife had a photography business. She is a gifted fine-art photographer, and she wanted to spend another year in Southern California. Obviously, I know when to give in. *[laughing]* So we spent the extra year. Really, I didn't think I wanted to do ADR work.

(01:25:01)

I wasn't sure what I wanted to do, whether it would be volunteer work or who knows, but yet I didn't want to just sit around waiting for her to come home or what have you. And so I thought, well, all right. I let it be known that I was available for the ADR work, and I just waited for the phone to ring. I didn't do any idea of merchandising. I would have found that tacky and distasteful.

The phone rang often enough, and to my surprise, I found that I really enjoyed the work. The funny thing is, it's like having a succession, and particularly when . . . I do only arbitrations. I don't do mediations. It's almost like having a succession of jury waiver civil cases, involving really complex, challenging issues. Really challenging.

It's actually fascinating, and where you actually sit on the case and you guide it through and you make up your own code of civil procedure—letter motions, shortened times for reply, and then telephone conferences.

And I'll go through almost an entire case with lawyers, and I never even look at them or see them until I fly down to Los Angeles for a hearing on the thing—really fascinating, fun work. And some of the cases you have—you can't talk about them because arbitrations are confidential—but some of them are just excellent cases.

Walter Croskey: Something I haven't asked you about—you've just indicated occasionally—that I would like to ask you about is your family. You have a wife and four children. Tell us about them.

William Masterson: My oldest son is in his late 40s, and he is a professor of classics, Latin and Greek, and is a faculty member at Victoria University in Wellington, New Zealand. Second child, oldest daughter, is Mary, and she is in her mid 40s and is probably the world's best mother and at the same time is a very, very successful executive in the banking industry.

Third child Timothy has a bachelor's and a master's and is a counselor for bad kids in the Sacramento area. And then my youngest, Barbara, is right up there with her older sister as being the world's greatest mother, and she is an assistant United States attorney. She was in Los Angeles and then she and her husband, a Secret Service agent, relocated because he was relocated by the service to Burlington, Vermont; and she was then hired by the U.S. attorney in Burlington, Vermont.

My wife, as I mentioned, is a gifted fine-arts photographer, and four grandchildren, and they are the absolute light of my life. I have a seven-year-old granddaughter who pushes me around.

Walter Croskey: *[Laughing]* Well, do they get a chance to come up and see you in Mendocino?

William Masterson: A very attractive spot.

Walter Croskey: I know, but do they get a chance to come, or do you bring them out there whenever you can?

William Masterson: Every time I can. We have an annual Hawaii outing for all children and grandchildren, and my wife and I take everybody to Kona coast for a week. And I mean, it's like a family reunion that we do. It works out great.

Walter Croskey: In terms of looking at your view of the law, how would you rate being a judge as opposed to being a lawyer?

William Masterson: There's absolutely no comparison. Being a judge is so much better than being a lawyer; but of course you can't hope to be any good as a judge unless you've been a lawyer for quite some time. But in terms of the benefit of being a judge, the day I became a judge, the stress went out of my life.

(01:30:10)

That's almost 20 years ago. And I had a good life beforehand, but being a judge, I never worried about my cases; and when I left chambers at any time, the cases stayed on the desk. I didn't take them home with me. Not so when I was a lawyer. Oh, god—well, you remember.

Walter Croskey: Yeah. What do we do, or how do we go about encouraging lawyers to become judges?

William Masterson: I do a lot of this. I'll have a lawyer in an arbitration, and obviously I can't talk to them until it's resolved, but I'll ask them—if they're the kind of

person that I think would have that degree of temperament, because temperament is the overarching requirement for this.

You don't need to be a rocket scientist to do this work I did and that you're still doing. And it's not to say that it's not beneficial to be smart. If you're smart you're going to get a lot more business done, but to me temperament is the key. I remember Chris Markey. I had lunch with him, and similar to the one I had with you. And he said, "Do you know want to know the four things that make a really great judge?" And I said, "Sure." He says, "Patience, intelligence, patience, and patience." It wasn't until I had on the robes that I realized just how wise that advice was.

So if I have someone that I think looks good, knows his stuff, is smart enough, but has got good temperament, I will contact him—not only because it would be nice to be with them: "Have you ever thought about going on the bench?" Of course the economics kill a lot of the discussions, but I do what I can. I don't know; you can't advertise for judges, because you never know who would show up.

You get a bad judge on the bench, god, the amount of damage that one bad judge can do to people. It's not just money damages; it's just the scarring that some people have to go through, some poor litigants or lawyers. And I saw that. You know, I served on the judicial performance commission for years, and god, I'd see some of the horror stories—people that never should have been let into a courthouse. Terrible. So I don't know if I'd be much help on recruiting judges.

Walter Croskey: Do you feel like your career has provided you with a judicial philosophy that you think is the one we should all have as judicial officers?

William Masterson: I don't know; it's a thought. I don't know that I would elevate it to be a philosophy, but it's something that I came to realize gradually when I was a judge. And I can remember expressing it when it formed a couple of years after I had been a judge for a couple of years. And I expressed it to my youngest daughter, who was on the verge. She had spent two years in private practice, and she referred to herself as a discovery goddess and a motion queen, and said that the work she was doing in private practice, civil practice, didn't challenge her passion. So she became an assistant U.S. attorney.

When she did that . . . and by this time having dealt with prosecutors, I can remember telling her this, which some might call a philosophy. I don't put it up that high. Here's the realization that I came to: "The law is, and within the law there is process, and as judges I'm a part of that process. I'm a very important part of that process, but I am not the process."

(01:35:14)

That's where a lot of judges go wrong. They start thinking that they are the process and that they can do no wrong and they can do whatever they damn well feel like.

Walter Croskey: Do you think that judges should be, to use the analogy to a sport, umpires—just call the balls and strikes? Or do they have some greater purpose—to make sure that in this case, in this time, in this place a particular justice results?

William Masterson: Going back to the process, balls and strikes, that's kind of a homey type thing. But I have to tell you, I think it's more that way rather than trying to find justice. How in god's name do I know what justice really is? All I ever know about a case, all I ever hear about a case, is what the lawyers elect to tell me.

Maybe if I could spend some time talking to the parties and really get to the root of the thing, then I might say, "Well, the just resolution is this." But the process doesn't let me do that, and I have to respect the process.

Walter Croskey: What does a judge do, for example, when he sees a case from the evidence that has been presented so far—a particular side has merit to its position, but the lawyer isn't handling it very well or is doing things that are jeopardizing the case rather than advancing it? We've all seen that example in front of us. How does a judge approach that?

William Masterson: Follows the process, and the process says you're not supposed to take sides. You're not supposed to try somebody's case for them. And all you can do is utter a prayer for the person who had the bad fortune to hire this lawyer. To me, the best way to do the job is to remember where you are and who you are and what you are not.

You're not some kind of a mini god that's going to take care of everything. You're still a human being, and you're supposed to just try to do the best you can to follow the rules, and the rule is the process and that you're part of the process.

Walter Croskey: Early in this conversation you said something about, almost it was like serendipity you turned this way.

William Masterson: Exactly.

Walter Croskey: That turn that brought you into the law, are you glad it happened?

William Masterson: No question about it. I've got to tell you something. I have had one of the best lives of anybody I know. And I never really thought it was going to end up this way when I was kind of in my teens—the first one in my family to ever graduate from college—and I had no idea.

I am in a constant state of gratitude, and have been for quite some time, about where I was fortunate enough to end up. And I can't think of anything else that I could have done that would have been as good to me as going into the law. We'd have to have time for another interview to hear my discourse on where the law has gone over the last 40, 50 years or anything.

Walter Croskey: Are you disappointed in where it has gone?

William Masterson: No, absolutely not. In 1960 the Democrats took over again, and government started getting bigger and big business was getting even bigger yet. Lawyers emerge as the interlocutors between big government, big business; and the rest is history. You know, the law firms started getting bigger because . . .

No, what I'm talking about is luck. I was born at the right time—a bad time for the Korean War, but the right time in terms of the change in the law. When you and I went to law school, you didn't go to law school to make . . . I don't want to say wealthy or anything like that.

(01:40:05)

But to have a chance of making the money that somebody who went into business would be, you'd certainly do better than if you had not gone to law school, but not that much. That's really changed now, really changed, and changed during our lifetime on the thing. And you can't sneeze at that.

Walter Croskey: If there was anything that you would like to see different or in our system or in the way the courts work, what would that be?

William Masterson: It would sound kind of silly. Discovery is still going crazy, and it's such a waste of time, so much of it. Do you know what I do with depositions when somebody wants them in an arbitration? I talk to them about what are the points that they want to elicit and then I turn to each side and I say, "Guess what, folks?" They'll say, "Oh, we need to take 25 depositions." The other side says, "Well, we need at least 15."

I say, "I tell you what. This side here," I said, "you have 18 hours for depositions." And they asked me, "Do you mean 18 depositions?" I said, "No, 18 hours, and you can take as many depositions you want; you could take 36 half-hour depositions if you want. The other side, you get 18 hours, and you will use that up by cross-examination. And one of you be the timekeeper on the thing. After you do this, this is your allotted time; that's all you get. If you want more, you come back to me and I may give you some more."

I have been doing this now actively for seven years. Nobody has ever come back to me. I just impose limitations. I put up a gate on the thing, and the Code of Civil Procedure doesn't put up the gate. They try to do it with written interrogatories and things like that. We need to put up more gates, because the cost of litigation is out of sight, absolutely out of sight.

Walter Croskey: Do you think judges should do more within their powers that are given them to control this?

William Masterson: I really haven't given it that much thought. It's really the Legislature that ought to do something like this, if you could ever get a legislature to move. I don't know what would happen if a superior court judge, in light of provisions in the CCP, said "You have 18 hours of depositions and no more unless you come to me"; maybe they could do that, unless there

was a threshold showing that there had been some abuse or something. But the abuse is built into the structure. It's an abusive structure. It's just things like that.

And then maybe we'd get back to having some trials. I was talking to somebody; one of the other arbitrators on this case is a retired federal judge, and he was telling me that I think that they're now down to something less than 3 percent of their cases that are tried.

It used to be 7 percent, and now it's even less. They're trying cases on affidavits for direct test. I mean, the heart is going out of the system, unfortunately. But you and I were in it at a good time; I think we should be thankful for that, don't you?

Walter Croskey: I think so. Well, Bill, let me tell you that this has been very interesting. I'm wondering if there is anything that I have not asked you that you would like to comment on before we close this contribution of yours to the Legacy Project.

William Masterson: Whoever put the materials together for me on this, they sent me a three-ring binder with a number of my cases and everything, and god, I'd like to give them a medal or a hug, depending upon their gender. Because 12½ years . . . They say, "Does any particular case stand out in your mind as a judge?" And there was a case that, in my seven and a half years on the Court of Appeal; I think it was in my fifth year.

(01:45:06)

I had a case involving a shanking in the Los Angeles County Jail by a Hispanic gang. I think it was Nuestra Familia. Two eyewitnesses that were right at the heart of the case, these guys saw it, and the trial judge had made an order that their identity need not be disclosed to the defendants unless and until these people were actually put on the stand as witnesses.

And at which point I had a problem with that, thinking that it may be, might be, useful if before trial the defendant's lawyers had some opportunity to do some investigation about these people. What gang did they belong to? Was there any reason? I originally had . . . The case was assigned to me, and I wrote a majority opinion reversing this, and I couldn't get another vote.

So my majority opinion became a dissent, and I said, "Okay." I didn't cry about it. I didn't rage. I didn't get mad at anybody. On my last day on the court, June 30 of the year 2000, the Supreme Court, which had granted review, issued an opinion reversing the Court of Appeal and adopting what I wanted to do. I think I have it. And the reason I brought this, Walter, is you'd been asking me about the process. And would you mind if I just read it to you?

Walter Croskey: No, go ahead.

William Masterson: I said, "I close by referencing the majority statement that I have chosen by this dissent to elevate procedure over the witnesses' welfare because they were worried about the witnesses getting knifed by Nuestra Familia." I said, "The statement is colorful, but inaccurate. I have tried to make it clear on the foregoing that what I advocate is not a procedure, but rather an adherence to a process which has served us well for generations."

And then the closing paragraph: "Probably the greatest strength we have as a society is our ability to overcome the real or perceived threat du jour, whether it be organized crime in the '30s, claims of internal subversion in the '50s, or terrorism and militia groups in the '90s. We survive these by dealing with them within the framework of our democratic institutions, not the least of which are those guarantees of a fair trial that I see damaged by the majority opinion. Of course the temptation is ever present to abridge these guarantees when faced, as a majority puts it, with forces of social disintegration and anarchy. Dangers to the witnesses in this case and in many other cases are real, but as a society we have survived much, and we will surely survive the threat posed by the gang activity of today. The greater danger is if we overreact and accept an abridgement of liberty foreign to our history and tradition. For if we do that, we shall harm ourselves more than any gang or group of gang ever could."

God, I was so happy when the Supreme Court . . . They didn't quote that; I'm not suggesting that they bought it.

Walter Croskey: That has relevance to the things we see today.

William Masterson: Yeah, I thought about that afterwards. And it's interesting; things never really change. They just look different from time to time.

Walter Croskey: Bill, thank you very much. I'm very glad that you had a chance to participate and be a part of the judicial process for the years you spent; and I'm glad you had the time to spend it with us today.

William Masterson: Make the time; I think, and have thought for years, what the Chief has been doing and is doing is absolutely terrific. God, we are so lucky to have him. Amen.

Walter Croskey: Amen.

Duration: 110 minutes
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