

Gus J. Solomon

SR 1226, Oral History, by Rick Harmon

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THE OREGON
HISTORICAL
SOCIETY
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SOLOMON: Gus Jerome Solomon

RH: Rick Harmon

Transcribed by: Unknown

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Tape 1, Side 1

1984 July 23

RH: This is an interview with U.S. [United States] District Court Judge Gus Solomon in his chambers in the U. S. District Courthouse in Southwest Portland. The date is July 23rd, 1984. The interviewer is Rick Harmon for the Oregon Historical Society. This is Tape 1, Side 1.

[Tape stops]

Solomon, I'd like to ask you this morning to start by just stating your full name and the date and place of your birth.

SOLOMON: My name is Gus Jerome Solomon, and I was born in Portland, Oregon, on August 29th, 1906.

RH: What were the names of your parents, and what were their places of birth?

SOLOMON: My father's name was Jacob, and he was born in Romania in 1872, and he came to the United States in 1886. My mother's name was Rose Rosencrantz, and she

was born in a little town outside of Kiev in Russia,¹ and she too was born in 1872. She came to Portland in 1892.²

RH: You say your father came to the U.S. in 1886. Where did he go first?

SOLOMON: My father arrived in New York and stayed there for one or two years, and went to night school there. Then he went to Key West, Florida, and he stayed there for several years because there were relatives of his there. Apparently there was quite a Romanian community in Key West, Florida. And he stayed there until there was a big fire in Key West which destroyed most of the community. He, as well as other people, moved out. Some of them went to Tampa, Florida, others went to New Orleans, and some of them went to Cuba. My father went to Tampa, Florida. And then he stayed there for four or five years, and then he began to follow the fairs. He was a young man, and I think he was selling notions or something. He went to Chicago, and then finally arrived in Portland. While he was here, he walked down the street, and he ran into a lonsman³ of his, a fellow who came from the same town in Romania. So they talked together, and my father decided to stay in Portland, and he went in business with this man. But that business arrangement didn't last very long, and my father opened up his own place of business thereafter.

RH: What sort of business was his initial business?

SOLOMON: My father opened up a little store that catered to workmen. He sold overalls, and work gloves, and shoes, and things of that kind.

RH: Could you tell me some of your early memories of life in Portland?

¹ At the time Rose Rosencrantz's birth, Kiev was a part of the Russian Empire. It would later become the capital of Ukraine.

² In an addendum to Tapes 1 and 2, Solomon writes that this date is in error, and the mother came to Portland in 1895.

³ "Lonsman" is a term of endearment between Jewish people, connoting kinship or common ground.

SOLOMON: Yes, but I thought I'd better tell you first about my mother who came here, or do you want to know about that?

RH: Okay, sure.

SOLOMON: My mother came to Portland with a brother in 1892, and another brother was here also. My father met my mother shortly after she arrived in Portland, and he was impressed not only with my mother, but with her brothers who were intellectuals. My father had little education, and her brothers were somewhat scholars. He thought they were very nice people.

My father and mother got married about four or five months after they met each other. They had five children, and I was the youngest. I had a brother who was born in 1896, and another brother who was born a couple of years later, and then I had two sisters. Now, I recall that I first lived on 1st Street – that's where I was born. I wasn't born in the hospital; I was born at home on 1st Street between Lincoln and College. I lived there for about two years. My father always said that I was the lucky one, lucky for the whole family, because on the day I was born, he either bought or sold some property on which he made \$8,000 that day, so things began to look up.

Then the whole family moved to Goose Hollow; that's the area [around] 14th and Clay Street. My mother didn't like it there at. It was a strange group of people. All of her friends and relatives lived in South Portland, and that's where she wanted to be. We lived three years. During that period of time, my father decided to build an apartment house, and he built the first apartment house in all of South Portland. It was on 1st and Caruthers Street, called the "Caruthers Apartments," and it was a brick building. I don't recall how many apartments it had, but on the first floor there was a group of stores, five stores. This building was about 100 by 100 [feet]. It was known throughout the area as the Solomon Apartments, but that wasn't its name.

He built that apartment, and then my family decided to move back to South Portland. My father bought a house on the corner of 4th and Grant. It was a very nice house. He bought that house, and then he tried to sell the one in Goose Hollow. I recall that my mother wanted to make a good impression on some people who were coming out to see the house, and so she made a fire in the fireplace. Well, the people who came to see the house arrived at just about the same time as the fire engine came. The house was in flames, [Laughs] or part of it. Anyway, the people bought the house, so he was able to sell it.

RH: How old were you at that time?

SOLOMON: About five years old.

RH: So do you remember that far back?

SOLOMON: I certainly do.

RH: What did your mother mean by characterizing the neighbors there as strange people? Were they non-Jews?

SOLOMON: No. I didn't mean strange. They were strangers; she didn't know any of the people there. There were some Jewish people, but not very many. It was a different type of community to what she had been used to. She had very few friends in the neighborhood, and she was a gregarious person and liked to fraternize with her neighbors, and she wasn't able to do it there.

RH: What do you remember about the neighborhoods that you lived in as you started getting a little older and having more contact with neighbors?

SOLOMON: Well, when I was five years old, we moved to 4th and Grant Street. We had relatives in the area. It was primarily a Jewish, Italian, and German neighborhood, but it was primarily a Catholic neighborhood at that particular time. I used to play with the children in the area, and we all got along very, very well. I started to go to school when I was six years old. The school was almost a mile away from our home. I first entered Shattuck School, the old Shattuck School, which was located on 5th and 6th and Harrison and College Streets. I went there for about two or three years until they closed the school down and moved it up a couple blocks to the new Shattuck School, and I went there also.

RH: How long did you live in that house on Grant, then?

SOLOMON: I lived there until I was twelve years old, so I must have lived there about seven years. It was during that period that World War I occurred. My oldest brother was one of the first people in Oregon to enlist. He enlisted in the Oregon National Guard. Then my other brother joined the army, but only at Oregon State College⁴ (it was Oregon Agricultural College at that time), and he joined the S.A.T.C. [Student Army Training Corps] and was there until the end of the war, actually. My oldest brother went over to France in the fall of 1917, one of the first people to go over, and he did not return until 1919.

What else do you want?

RH: What do you recall about . . .

SOLOMON: The neighborhood?

RH: . . . the physical description of your house that you lived in there on Grand?

⁴ Later Oregon State University.

SOLOMON: Grant, it was.

RH: Grant, I mean, I'm sorry. What sort of house was it? What did it look like?

SOLOMON: Well, I'll bring you a picture of it, but it was about a four-bedroom house, and it had a nice size living room, and a dining room, and then an additional living room. It was a nice house.

RH: Was it a two-story house?

SOLOMON: It was a two-story house, there. It was comfortable. I liked it.

RH: Did you share a bedroom with one of your siblings, or did you have a room to your own?

SOLOMON: I think I occupied – for a while, I had my own bedroom, and then I think for a while I shared a room, and that based on the fact that – when my two brothers were home, of course I had to share a bedroom. But then both of my brothers left, and were in the military, and so I had a bedroom to myself.

RH: How did this house compare with other houses around it? Was it quite a nice house? Spacious and so on?

SOLOMON: Yes. It was a good house. I want to tell you, I think my father subsequently became one of the richest men in the whole area, you see, and he was well known in the neighborhood. We had a nice house. And then in 1919, we moved to the Irvington District, and there we had a beautiful home. It was I think about [a] five-bedroom home. On the first floor, it had a big living room, and a fine dining room, and a music room, and a

kitchen and a sub-kitchen. And then we had five bedrooms on the second floor, and then it had a third floor. There was a big room [on the third floor], we used to have parties there, and then servant's quarters over there. So we had a very nice home there, and we moved there in 1919.

RH: You mentioned the First World War and the impact that that had on your family. What about the Russian Revolution in 1917? Did that make any impression on your parents, having come from Russia and Eastern Europe?

SOLOMON: No, none at all. My father and mother, like many, many immigrants, were delighted to be away from Russia and Romania. They sort of escaped from Russia. They hated Russia, and they hated Romania. We've suffered intellectually as a result of that, because we never had any knowledge of what happened over there. They never used to talk about their life in Romania or Russia. It was only after prodding, after I graduated college, that I used to try to talk to them about their life there. But they were not very much interested in talking about that period of their life.

My father and mother were – particularly my father was very patriotic. I know he bought quite a few liberty bonds at that time, and he was critical of the people in the neighborhood whose sons didn't join the army. That had a lasting effect on me, because I saw in the area a home that was – some of the neighbors, thank goodness not my parents, had painted a yellow stripe down in front of the house.⁵ And I know that when I went to the downtown, I saw young women pulling young men into the recruiting stations.

I always regarded myself as a liberal. And many of the liberal people during the Second World War were opposed to the draft. But I wasn't. I spoke in favor of the draft at the churches and other places on the ground that when I saw there was people humiliated without regard to whether they were physically able to go into the army or not. And there were other reasons why a person wouldn't go into the army. But it didn't

⁵ Based on context, Solomon most likely means that locals painted a yellow stripe on the home of someone who did not enlist, as a way of accusing them of cowardice.

make any difference to some of the neighbors. I recall that one time I made a speech at the First Baptist Church about the draft. I wasn't asked whether I liked the draft or not, I was just asked to explain it to a group, and I pointed out that just the day before I'd read in the paper where in New Jersey, welfare refused to give funds to some of the people on the ground that they had children of troop age. So this had a lasting effect upon my attitudes.

RH: Do you recall there being any distinction between Jews of German origin and Jews of eastern European and Russian origin during your young years?

SOLOMON: Yes. I knew that some of the German Jews were among the wealthiest, and they went to a different synagogue than we did. But I was not privy to any of these attitudes. I didn't come in contact with any of those people. Most of the people with whom I visited were people who came from Russia and Romania and Poland, and places of that kind. I did suffer some discrimination, not too much, but some in the area. When I walked through certain areas on my way to the Neighborhood House where I went to Hebrew School for a while, I was accused of being a "Christ killer." But what I was taught [was], "Don't stop, just keep on walking, and don't get into the arguments with those boys over there."

RH: These taunts came from Catholic boys?

SOLOMON: Well, I guess they were, some of the Italians. And others too, because we were in partly a Jewish neighborhood.

RH: Could you tell me a little bit more about your father's business as you perceived it over the years, and maybe some contact you had with it?

SOLOMON: Yes. In 1917, the government was building ships. In Portland they were building ships on the waterfront. My father's apartment house was on 1st and Caruthers Street, and if you'd go directly east, you would get to the shipyards. And the men in the shipyards worked the first shift up until about 4:00 o'clock, and then they would walk up the hill, many of them would, and they would get streetcars to go downtown and other places in the city. My father opened up a store in his apartment house on the first floor, and he carried the same kind of merchandise that he had downtown. It was a comparatively small store, and they had work clothes of all kinds.

He had sort of a retired man who was running it for him. Well, that was fine, except that when the workmen left work at 4:00 o'clock and came up to get their streetcar, that's when he'd do quite a bit of his business, and he was there alone. Now I was about twelve years old at the time, maybe a little younger, and so I helped him out. I would get out of school at 3:30 in the afternoon, and I would run [Laughs] (or at least walk pretty fast) down to my father's place on 1st and Caruthers, which was about a mile and a half, maybe a little less. And I would work there until about 4:30 or 5:00 o'clock, and then I would go home. I would also work on Saturday mornings. Now as a result, I did not participate in any athletic activities or stay around school in the afternoon, because I was working. And I did work there until he closed the store in 1918 after the war had ended.

I also did other work for him. My two brothers were gone. My father was not very well-educated. He could read, and he loved to read the newspapers, but he was not very good on writing. So I used to prepare the deposit slips, because we'd cash a lot of checks from these workmen, and then they had to be deposited at the bank. I used to do the bank deposits for him. I not only did that, but I also worked in the store. Later on I'll tell you how that helped me out many years later. Well, I could tell you now. My father after a while gave me \$10 a week, which is the equivalent of about \$100.00 a week now. [Laughs] I think he gave me \$5 at first, and then I got \$10 a week. And my middle brother, when he found out about that [Laughs] [when?] he came back, he thought that that was just altogether too much, and that I was wasting my money. So he took the money away from me and deposited it in a bank account for me. For years I kept adding onto that

bank account. And then when my father lost his money, this was very valuable for me, because it helped me get through school.

RH: Did you say what kind of business that was on the bottom of the apartment building?

SOLOMON: It was a clothing store.

RH: That was the same kind of business, then?

SOLOMON: Yes. My father, when he came to Portland, he opened up a clothing store. And then several years later, he opened up another one in Klamath Falls, Oregon, and the same kind, because they were dealing with loggers and people in the woods. That's who he was dealing with, workmen. A relative of his ran that store for a while, became very well-known because of a slogan that they had there. The slogan of the store [was], "I ain't mad at nobody." That was done because there was a fight between two sections of the city, and he was right in the middle, [RH laughs] and he wanted to let the people know that he wasn't taking sides. But then my father sold him the business a few years later. And my father ran a business, it became larger, and then he went into the jobbing business, same type of merchandise. Then he began to buy timber lands.

My father never believed in fire insurance. He thought that if you didn't burn the place yourself, it wouldn't burn. Well, we had some very bad experiences. About 1919 or 1920, around there, there was a big fire about three doors away, and it shifted to my father's place and it practically destroyed it. My father didn't believe in insurance, but I had a cousin who finally got him to buy \$11,000 worth of insurance. Well, when the place was burnt, the insurance company gave him the \$11,000, but he must have lost maybe \$75,000 or \$100,000 over there. And he also had trouble – well, not trouble, but he owned timber lands, and they burnt, and at that time, you couldn't get insurance on

timber lands even if you wanted it. So he had some very bad experiences with fires over there.

RH: What kind of a student were you in grammar school?

SOLOMON: Well, I was not a very good student. I always figured I was smarter than most of the other people, but I didn't study at home, and I didn't have to, because I got along pretty well. I always could write well, so I would get pretty good grades. But I wasn't motivated as well as I should be. I think it was partly due to my home life. I was never really pushed to study. I just assumed I would be going to high school and college, but my father and mother never urged me on.

Now, I was with boys who did have that kind of urging. And some of them became some of the most famous people in the world. In this little teeny area that I lived in, we have – one of the fellows who was born two days before me is world's most famous pharmacologist, the world's most famous pharmacologist in the history of the world. His name is Louis Goodman, and he is known all over the world as being a great pharmacologist. They call his book "The Blue Bible" in the medical schools. And then there was another . . .

[End of Tape 1, Side 1]

Tape 1, Side 2**1984 July 23**

RH: This is an interview with Judge Gus Solomon in his chambers in the U.S. District Courthouse in Southwest Portland. The date is July 23rd, 1984. The interviewer is Rick Harmon for the Oregon Historical Society. This is Tape 1, Side 2.

[Tape stops, extended silence]

SOLOMON: Well, and then there was another fellow who used to go to school with us, and he subsequently became the advisor to the Truman Commission on Science. And I noticed about three weeks ago, he gave a million dollars to Oregon State College because he felt so kindly towards that college because it gave him a scholarship, and he said, according to the newspaper, that if it hadn't been for Oregon State College, he'd never have gotten the education that he did. Then there was another . . .

RH: What's his name?

SOLOMON: His name is Milton Harris, Dr. Milton Harris. There was another person by the name of David Tamkin. Now he was born on the same day as I was. He became a composer. He composed an opera called *The Dybbuk*, which is well known – not as well-known as it should be. And he wrote another one, *The Purple Plum Tree*, which has not been produced for other reasons. But he was a fine composer and also a musician. There was another man by the name of Louis Kaufman, who's still alive, and I see him. He became a great violinist, and musicologist, and an art collector. So, I was with people who were really motivated. But I didn't have the fire that they had.

RH: Do you recall what some of your early interests were during that time, whether it would be reading or hobbies or something?

SOLOMON: No. I did a little reading, but not very much. I don't know how I spent my time. I wasn't very good in athletics. I had a number of friends, and we used to play together. I didn't go to art museums. I didn't like music. I took some lessons in piano, and it didn't take. But I did work. I worked for my father, I told you, and later on I worked down at his men's store. I didn't have very much time to myself, because for a while I went to Hebrew Language School for about a year, and I did that when I went to the Neighborhood House, they had [that]. I was busy, and I had a happy childhood, but I can't say I was engaged in any real interesting activities.

RH: Well, I wonder if you could give me more of a sense of

[Sound, possibly something dropping]

SOLOMON: Oh, oh oh oh oh oh, I forgot [inaudible].

[Tape stops]

RH: I'd like to get a little bit more of a sense of what day-to-day life was like in your family in terms of the roles that your mother and father played. Did your mother cook the meals, and the family ate together?

SOLOMON: Yes. We always ate together. My father left early in the morning, and he didn't come home until about 6:30. Many times we ate before my father came home. But we had a close family life. None of us got into any trouble. When we went to school, we had to be back [Slaps desk] by a certain hour, or else give an explanation to why, and we always were there [on time]. Wherever we would go, we would notify our parents that we were leaving. On Saturdays and Sundays, we would go to the movies or we'd go to the theater. There was an old Baker Theatre that my folks would take me to.

Are you from Portland?

RH: No. But I'm familiar with the Baker Theatre.

SOLOMON: OK. So we had a – my mother was a wonderful cook. Well, I don't know what . . .

RH: Did you have good relations with your brothers and sisters, by and large?

SOLOMON: Yes. We always had good relations. We were always friendly with each other, and we'd take care of each other. In the summers we would go down to the seashore, that's primarily my two sisters and I and my mother, and my father would come down there sometimes over the weekend.

RH: This might be a good time to give the names of your brothers and sisters.

SOLOMON: Yes. My oldest brother was named Eugene. My other brother was named Sam, and he was next to Eugene. Then I had a sister by the name of Claire. I think it was originally Clara or Ida, and she changed it. Then I had another sister by the name of Delphine, and she was four years older than I was, and sixteen months younger than Claire.

My oldest brother, after he came back from the military, he got married and he went back to Chicago. He had been a lawyer. He studied law at night in Portland at the old Northwest – well, it was the University of Oregon at that time. Then he began to practice law in New York⁶. My other brother went to Oregon State, but he wasn't very much of a scholar, and he went into business. He was in the grocery business, and then he was in the men's clothing [business], and then he opened up a place where they sell ski equipment and sporting goods. He ran it until he died about ten years ago. My older

⁶ As Solomon writes in his addendum to Tapes 1 and 2, he misspeaks here and says "New York" instead of Chicago.

sister is still alive, and her husband was the manager of the adjustment department of the Retail Credit Association in Portland. My other sister, who died a few years ago, Delphine Wollin, she had married a dentist by the name of [Charles] Wollin, who had a very good practice and who was well-known in this community.

RH: Did your mother work at all in your father's business?

SOLOMON: Oh no. My mother never worked. I don't know of any women, except the poor ones, real poor, that did any work among my family. No, she took care of the kids (well, there were five of us), and she took care of the house. We did have help part of that time. She had sometimes full-time help and sometimes part-time help.

RH: You mentioned a little bit of the travelling that you did as a family within Oregon. Did you make other sorts of trips?

SOLOMON: No, I didn't. I failed to tell you that when my father went to Tampa, Florida, his older brother went to Matanzas, Cuba, and he there lived. And my father had an interest in for a while in that business, but my uncle was a ship chandler, and ran, I think, a store, too, in Matanzas. I think he was quite wealthy, he became quite wealthy, and came to visit us, and his daughter and son, one of them came here. So my father used to go to Cuba quite often. My brother Sam went there several times, and my sister went there and stayed there for oh, maybe four or five months. But I did not do any travelling with my family. I didn't do any travelling, except once in 1917 when my brother was to go overseas. My father took my mother and me, because I was the smaller, to New York. That was in 1917, and that was the first time I had ever left Oregon.

RH: You mentioned that your father was quite patriotic, especially during the World War I years. Do you recall anything other remarkable about his political values at all? Was he [very committed to?] – ?

SOLOMON: Well, my father was a Republican. [Laughs] He was anxious to vote, and he was to go through all of the qualifications [of the candidates] very much. That's all I recall. He was supposed to not be a very generous person, but he was. He gave to our synagogue. He contributed to various causes very early. But he wasn't active in politics.

RH: What sort of role did your religion play in your family? You mentioned that you attended the Neighborhood House for a while.

SOLOMON: My father was not very religious; neither was my mother. We ate Jewish foods. [Laughs] I went to the synagogue when I was a young man, primarily because I had some friends who went there. During a certain part of the service which was not for young people, we used to go out and play soccer together. I mentioned some of the people, like Louis Goodman, that's where we became very good friends. We were not a very religious family, although my mother's brothers, one of whom was a cantor, and the other was a sexton in the synagogue. But our family was not noted for its religious activities, although most of the people that we knew were Jewish, and of course practically all of the friends of the family were Jewish.

RH: Did your father participate in B'nai B'rith at?

SOLOMON: No, he didn't. He belonged to the Odd Fellows and the Woodmen of the World, I remember. Those are the two organizations. But he didn't belong to the B'nai B'rith. I belonged to the B'nai B'rith later on, but he did not.

RH: Well, let's move on to your high school experience at Jefferson and Lincoln. You attended both of those high schools, I understand.

SOLOMON: Yeah. I – turn it off for a minute.

[Tape stops]

[I] graduated from Shattuck Grade School when I was almost 13 years old. I graduated after we had gone to Irvington, which was in a better neighborhood. Now, most of the people in our neighborhood, or some of them, went to Jefferson High School. We were in the Jefferson High School District. But some of the people with whom I played, some of the boys, went to Lincoln High School. So when I went to high school, I spent my first term at Lincoln High School. But I was not a very good student, and I didn't do too well. My mother got very upset about that. She wanted me to change schools, which I did, and I went then to Jefferson High School. I stayed there for about two and a half years, at Jefferson High School. I did tolerable work, but nothing outstanding at Jefferson High School.

Because most of my friends were at Lincoln High School, I had very little social life at Jefferson High School. So I moved back to Lincoln High School. In the year or year and a half I was there, I became active in a lot of things. I recall that I was assistant business manager of the *Cardinal*, which is the school monthly, and I became the business manager of the class play, and I belonged to a debating society. I had a number of friends there. And I did much better in school, although I wasn't one of the top students at the high school. Although some of my friends were very well motivated, as I told you, but I wasn't among them.

At the end of the second year, I went to a Y.M.C.A. [Young Men's Christian Association] school during the summer and picked up a couple of credits. And then I graduated in just a little over three years [from] high school. I graduated in December 1922, but I didn't get a diploma until January, but I had already entered the University of Washington, because I had to go to a school that was on a term basis. I went to the University of Washington, and that was sort of a disaster for me, because I was absolutely friendless there. I didn't know anybody in that school nor in the city. I lived in a room over there, and I stayed there for two quarters. My grades were all right, but it was sort of a

miserable experience for me. The next year I applied at Reed College, and entered there in the fall of 1923, to Reed College. Turn it off for a sec- . . .

[Tape stops]

I told you that while I was in Lincoln High School and when lived in Irvington, I knew a lot of the boys there. I learned to play basketball, and I learned to play cards. I played soccer, and I went swimming. I participated in many more activities when I was a junior and senior in high school. Then when I went to the University of Washington, none of the people that I knew from high school or my neighborhood were there, and I was alone. When I went to Reed College, most of those people were at Reed.

RH: I want to stop you for a minute and ask you about what influences led you to aspire to go to college in the first place. You mentioned that you didn't get too much motivation from home, and your grades weren't outstanding. Why was it that you just went right on to college like that in the first place?

SOLOMON: Because all my friends went to college. I didn't know anybody that didn't go to college among our group, and my father had the money, so I went to college along with my friends.

At Reed College I had a number of friends there, and that was a good experience for me. I loved Reed. I enjoyed being there. I enjoyed the intellectual life. For the first time, I had a real social life. I began to go to dances and I met – and I participated in some athletics. I even played on the class football team. So I made lot of friends, and I did a lot of work. I wasn't an outstanding student, although I must have had a very good average. Multiplying the number of [class] hours by the number of grades, the average is 25 points a year, and I got 29.685 points my first year, which put me into like a B-plus average. So I was doing better in college as a result of the motivation that I had, and the people with whom I was fraternizing. Because they were studying, then I was studying.

RH: Were you developing any intellectual interests?

SOLOMON: Yes. I started out in biology because I thought maybe I'd become a physician. But I didn't like the [ball?], so I changed, and I went into history, history and politics. I became very much interested in it, and from that time on, I became quite a liberal in my thinking at Reed College.

RH: Do you recall what ways that your study of history and politics influenced you in that direction, in the liberal direction?

SOLOMON: Oh, no, nothing in particular. We had wonderful professors. They had a system there where you would study a period in history, you were [also] studying the literature of that same period. This was very helpful. We started out in the ancient history, and in the second year we were taking medieval history, and modern history – third year, primarily, [for] modern history. I was impressed with the right to vote and equality of opportunity. Being a Jew, I naturally was influenced in that direction because of the discrimination to which some people suffered.

Now I want to say that at Reed there was absolutely no discrimination whatsoever. That was what impressed me about the school. I didn't feel the same way in other universities. University of Washington, there was discrimination against Jews, and the same thing is true with the other universities that I went to. But not at Reed. And that's why I support Reed now with money.

RH: You mentioned that there was a fairly lively intellectual atmosphere there at Reed, too. What was some of the sorts of things that were in the air being discussed at that time?

SOLOMON: Of course we would discuss politics, and we would go to the theater. Our politics was not directed to local politics; it was primarily on the world scene. Well, I don't know, are you interested in what subjects we discussed?

RH: Yes, if you can recall them. What about the growing unrest of labor during that time? Or did you all become classified in terms of conservatives and liberals at that time, and those who were sympathetic to labor and those who weren't?

SOLOMON: I was sympathetic to labor, in spite of the fact that my father was once picketed by a labor union because he used to open up on Sunday mornings, and that was against the union rules. Also, on some days like Saturday evenings, he would keep open until 8:00 o'clock. In that period, the clerk's unions didn't want you to open up on Sunday. None of the stores were open, and they picketed him. My father paid the wages all right, but he didn't comply with the rules. I recall that I was very embarrassed, and didn't want to go into his store while there was picketing going on.

RH: So he had union members working for him?

SOLOMON: Yes. But I was always friendly with the union movement. I was impressed with the socialist movement, too, to some extent, because the people who came from Russia, and Romania, and Poland in the 1880s and 1890s were impressed with Karl Marx and the whole socialist movement. And the Jews who came to New York, they were the backbone of the socialist movement, and I knew that. Like Morris Hillquit and many of the other people.

RH: Are there specific members of the faculty or administration at Reed that you recall, and that you would like to mention as having any particular impact on you at that time?

SOLOMON: Well, I thought that all the faculty was good. There were some faculty members that I didn't have, but they had influence, like Professor McKinley of political science. Professor Noble was interested in political science, too, but he primarily in the international field; and Professor Arragon. Well, to tell you frankly, I liked all the professors there. There was none that I didn't like. I was pleased with the education that I was getting, and I was pleased with the people that I was working with.

I stayed at Reed two full years. In the middle of that time, I went down to the University of California [at Berkeley] in a summer session. I liked it there, too, but it wasn't the same as Reed. I left Reed at the end of my junior year. I didn't want to leave, but I had no real choice because the president of the University, who was teaching history, President [Richard] Scholz, he died. And Professor McKinley, who was the American political scientist, went to Syracuse on a sabbatical, and Professor Noble went to Barnard on a sabbatical. So here was my main – I was interested in history and political science, and there wasn't anybody left [Slaps desk] in this little school [to teach those courses], and we had about 250 - 300 students at that time.

So I applied to and was admitted at the University of Chicago. I recall when I went there, they had given me enough credits to enter either the sophomore or the junior year. Subsequently, I was able to get senior status, and I graduated in three quarters. I graduated with my class in June of 1926, when I was 19 years old at that time.

[End of Tape 1, Side 2]

Tape 2, Side 1**1984 July 23**

RH: This is an interview with District Court Judge Gus Solomon. The date is July 23rd, 1984. The interviewer is Rick Harmon. This is Tape 2, Side 1.

[Tape stops]

I'd like you to describe a little bit why you chose to go to the University of Chicago. I understand that you felt like you didn't have a choice to stay at Reed, but why the University of Chicago?

SOLOMON: Well, in Portland I met a man by the name of Harry Kenin, and Harry Kenin had taught at University of Washington. I didn't know him – I met him over there just for a few minutes, was never in any of his classes, but I knew some of family. And then when I came home, I talked to him. He had taken a master's degree at the University of Chicago after he left University of Washington, and he studied with a man by the name of Charles E. Merriam, who at that time was one of the most famous political theorist in America. He told me about that school. Now another thing, I had a brother who was practicing law there. And I knew that Chicago was a good school. So I applied, and I was accepted there.

Now, from the point of view of intellectual activity, it was a very good school, and I enjoyed it. But there again, my social life was a disaster, because I didn't know anybody. My brother lived on the other side [of Chicago], so I used to see him over the weekends, but I didn't have very many friends there. It was a lonesome experience. I was glad to finish Chicago. I never thought of going back there.

RH: Did you suffer some discrimination at Chicago, would you say?

SOLOMON: Not very much. I never got that close to what was going on to realize I had been discriminated against, you see, because I didn't know anybody. For some reason, I didn't try to get to be friendly with somebody. I didn't live in a dormitory, or one of those fraternities, or anything like that. I lived in a room. So I didn't see very many people. And I was coming there as a senior, and you don't meet very many people at that stage, because they all have their friends. I did have some relatives, and I saw them. But Chicago – I did quite a bit of studying there, and I did pretty well. I made honors. I recall I didn't have to take any examinations the last quarter. They had a deal there, where if you had a B average or something like that –.

RH: I read something somewhere about how you had applied for fellowships there, and felt that you didn't receive them because you were Jewish.

SOLOMON: At that time, I was thinking in terms of going into history as my life's work, and going in the academic world. I talked to one of my professors, and he said to me, "I think you're just wasting your time, because even if you do get a fellowship you'll never get a job." At that time, I don't think there was anyone on the history faculty at [the University of] Chicago who was a Jew, and in the whole liberal arts faculty, well there wasn't more than two or three of them. You're either a Nobel Prize winner [Laughs] or you didn't get a job. And I might have gotten a job, I think, at the University of Buffalo or something, they were advertising, but nothing else. So I decided that it was futile for me to attempt to pursue an academic career, so I returned to Portland.

I tried to get a job, and I wasn't doing very well. I might tell you that my father had lost quite a bit of money in 1921, and by 1926 he was going down. The fire in his business had occurred earlier, and he closed up his business for a while. Then he opened it up, and conditions were not good. I don't think he was doing very well in the apartment. So it was becoming tougher for us to live, I mean to get a lot of money.

Anyway, I had no opportunities in business, and I wasn't interested in business. So when I came home, I decided I would go to law school. My father said that he would stake me, so I applied at Harvard and I was accepted at Harvard. Then I decided not to go because I'd had a run-in with another person there who was going there,⁷ and he was going to live with a friend of mine. So rather than go [to Harvard], I applied at Columbia University, and I was accepted there. I went to Columbia, and that was a great experience. I took the train with a man who I had known very well by the name of Max Gordon. [Points] That's his picture up there. He's the world's oldest nightclub operator in the world, and he is well known. Have you been to New York?

RH: Yes.

SOLOMON: He owns the Village Vanguard, which is a very famous place. It's now more famous in Japan than it is – but he's the one who developed many of the great artists and musicians. And his place is a jazz place. But he and I went back there. We knew each other at Reed. We used to, during the summers – he had no money at all, I had more, so I would buy his lunches and everything, and we would go to the library and read. I got interested in some of the Norwegian writers. And we used to read literature there. He was interested primarily in Thomas Hardy, as a result of which I got interested in Hardy. We became very good friends. He decided he'd go back to law school, which was a mistake, he had no interest in it at all. So we went back to Columbia, and we roomed together. I put up most of the money because he didn't have any. He was supposed to get some from his brother to whom he had loaned money, and then never got it back, or not at that time, anyway. He lasted about six weeks at Columbia. Then another man from Portland, Gilbert Sussman, moved in with me.

I enjoyed New York very much. I wasn't too much interested in law. In fact, I used to skip all kinds of classes and go – because I was interested in anthropology at that time, and in history. That was my favorite. So I used to attend all the history classes

⁷ Based on context, the "there" in this case likely means the East Coast, rather than Harvard.

[Laughs] and some political science and anthropology. I'd go to a lot of classes, but they weren't law. Well, time began to catch up with me, and about the last month, I began to study. I studied quite hard, and I made it through my classes all right.

But in the meantime, it was a wonderful experience for me to be in New York. I had lot of friends. I saw all kinds of shows. We used to go down to a drug store, I forgot the name of it, and you could buy tickets very cheap the night of the [show]. These were excess tickets. I knew some other people, and I had a girlfriend there. So I enjoyed my year in New York very, very much. I had some wonderful professors. My only regret is I didn't study harder over there, because these were really first class people. This was the golden era of Columbia University Law School.

I stayed there for nine months, and then I returned to Portland. I would have gone back, but I got sick in Portland. I was in the hospital in late August, and I knew I couldn't go back there, so I applied to Stanford University. I went to Stanford Law School in the fall of 1927, and I stayed at Stanford for two quarters. I didn't have too many friends there either, at that time. I'd had this operation, I was feeling lousy, and so I quit at the end of two quarters. I came home. My father still had his apartment house. He said, "If you're home, you can't sit around. You've got to do some work." I didn't get a job, so he gave me a job in the apartment house painting with the janitor. After I did that for about three weeks, [Laughs] I decided it was easier to go back to school. [RH laughs] So I entered the summer quarter, and I went back to Stanford University.

I might tell you about this time, my father was really losing his money. And it was beginning at this time that I began to call on my brother for the money that I had had saved up. My father would give me a certain amount, and then I would take the rest of the money that I absolutely needed in order to live on. For instance, as Palo Alto was concerned, and the rates were cheap for the railroad, [but] I didn't come home during the vacation time because I didn't have enough money to pay the railroad fare back and forth. I didn't want to have that much money. When I went back – I lived in a dormitory which was very cheap, and I stayed there until I finished in 1929. I didn't make an

outstanding record. I was pretty good. Some courses I did all right. But I was more interested in many other activities, and I'll tell you about that later.

[End of Tape 2, Side 1]

Addendum to Previous tapes:

SOLOMON WRITES: I have just replayed the tape from the beginning, and I noticed that I made a number of mistakes. I said New York when I meant Chicago, and I found that the date upon which my mother came to this country is in error. I think the earliest she came was 1895.

In connection with the fire in our house in Goose Hollow, I forgot the most important event. Prior to the time my mother made this fire in the fireplace, and although we had lived in the house for about three years, she had never used the fireplace before. But she wanted to make a good impression, so she used it for the first time. The fireplace was defective, and that caused the fire.

In connection with my year at Columbia University, I thought I was a liberal, and I was. But one of the events that deeply affected me was a meeting that I went to called by the American Civil Liberties Union. There was Arthur Garfield Hayes, who was the General Counsel of the American Civil Liberties Union, and Morris R. Cohn, the Professor of Philosophy at CCNY, and a Professor Montague.

They talked about the Sacco and Vanzetti case. I was deeply impressed with what I heard. In Portland, after I got out of the hospital in late August, 1927, I went to Seaside, Oregon. On the night that Sacco and Vanzetti were executed, I recall that I walked up and down the beach during the time they were scheduled for execution. I was deeply affected by the fact that they were executed, and I thought they were unfairly being executed.

At Stanford, I met a number of very able students from various parts of the United States, and I saw them frequently. We played cards together. While I didn't study law as much as I should have, I did read a great deal. I recall that I read the *Nation* and the *New Republic*, *Atlantic Monthly*, *Harper's*, and *Current History*. I read a number of novels. In fact, I became a sort of arbiter on things political.

This was the period of the election at which Herbert Hoover was elected president. I was unhappy about some of the anti-Catholic feelings and the remarks that were being made on the campus at that time against Al Smith. I went to a dinner at the law school during that summer; most of the discussion was about the election. I was one of the few that made any critical remarks about Herbert Hoover. I told them that I didn't appreciate some of the things that he said in a New Jersey speech. I recall that I was attacked by many of the other students. Then when I tried to register Democrat, I was asked a great number of questions about whether I intended to return to Oregon, and why I thought I was entitled to register in California. But none of these questions were asked other students who indicated that they wanted to register Republican.

Generally, my experiences at Stanford were pleasant. It was a beautiful place to live, and I swam a great deal. I went to San Francisco frequently. I had a good time. Of course, I didn't know any women there. There were very few women in the law school, and I didn't know anybody outside the law school. This was different than at Reed College. I failed to mention that at Reed every night we would eat at the commons. All the dormitory students ate in the same place. After dinner, we would dance for about 45 minutes before we returned to our rooms to work. It was a very pleasant experience, and I enjoyed it.

Tape 2, Side 2**1984 July 26**

RH: [This is an interview] with U.S. District Court Judge Gus Solomon in his chambers in the U.S. District Courthouse in Southwest Portland. The date is July 26, 1984. The interviewer is Rick Harmon for the Oregon Historical Society. This is Tape 2, Side 2.

[Tape stops]

Judge, before we go on to continue where we left off before, I'd like to follow up with a couple of questions related to our first discussion. You referred a couple of times to the financial difficulties that your father had between 1921 and 1926, and you mentioned the fires which partly accounted for that, but I'd like you to say a little more, if you could, about what else caused that financial slump for your father in those years.

SOLOMON: Well, I think that was all. He did continue on his business. His retail business was all right, but his jobbing business, it didn't materialize very well. I think the market on certain types of work pants and shirts became very bad, and I don't think he was able to sell a lot of these things at a profit. His business deteriorated, and I think the real estate market went bad too, during that period. I think my father lost practically all of his money before the Great Depression of 1929. He began to lose money beginning in 1926, and by 1929, I think he was in bad shape, although he was still operating.

RH: What sort of impact did that have on the lifestyle of your parents? Did they have to move to a different house and change their lifestyle dramatically?

SOLOMON: Well, no. We had moved from that big house that we lived in on 14th and Clay⁸ to a house on Miramar Place, which was much smaller and much less expensive.

⁸ This is likely an error, and Solomon meant to say "14th and Knott."

My father was very depressed, and as a result, he and my mother separated, and they never returned. He was just crushed by the loss. So I lived with my mother from that time on – not always, but my mother either lived with me or with a sister of mine.

RH: But your father continued to support the family?

SOLOMON: No. After a while he didn't. He left Portland. I might say that he lost the apartment house. I don't remember what year it was, but I think around 1930 or 1931, maybe a little later.

RH: So then did your brother's law practice in Chicago and your law practice, once it started, did that become the basis for your mother's support in the later years?

SOLOMON: My brother in Chicago never helped support the family. I was the one, and I had a hell of a time making a living in Portland. My sister Claire, who is still living, she and her husband were most helpful. I recall that during that period I used to give \$150 a month for her support, after she moved [in with my sister]. But that was difficult for us.

RH: After your experience at the University of Chicago when you returned to Portland, how did you decide to go to law school in particular at that point? What made you choose law school?

SOLOMON: Well, I couldn't go into business, because there was nothing – my father was losing his money, and I knew that there wasn't any future there. I decided I would go into law because that seemed to be the only viable alternative that I had. I was interested in government, and I was interested in law, and I thought that that would be a pretty good profession. Although I can't say that I really knew anybody who were lawyers other than my brother.

RH: Well, after your year at Columbia Law School, I think you said you intended to return but for the fact that you became ill. I wonder, what exactly was the nature of that illness that you had, [hopefully?]?

SOLOMON: Well, I had an appendicitis operation. They also thought that I had a bad gall bladder. It turned out that that wasn't the case. However, I didn't go into the hospital until about the third week in August. At that time, Columbia started in the middle of September. It took four to five days before you'd get back there by train. So it meant I had to leave no later than the 10th of September. Stanford, on the other hand, started around on October 1st, and it only took one day to get down to Palo Alto. So I had about three weeks additional time, and I thought that was preferable.

RH: Last time you finished up by describing your performances at Stanford Law School as not outstanding but okay, and you indicated that you were involved in several other things. I wonder if you could talk a little bit more about some of those involvements.

SOLOMON: I think I mentioned the fact that I was reading a great deal. I used to read *Current History*, and the *New Republic*, and *The Nation*, and *Harpers*, and *Atlantic Monthly*. I spent a great deal of time in the periodical rooms, and I kept abreast of what was going on in the political life of the country. Many times I would get into discussions with other students. I became sort of an arbiter on what was happening around the country because of the fact that I read so much. Now, this is when I came back, I believe, to Stanford in the summer of 1928.

When I came back, and particularly after the summer quarter, I began making a number of new friends. I was living in the Stanford Union, which is a dormitory, with another Portland man whom I knew by the name of Ted Swett. He got in the dormitory room because he was crippled. He had arthritis, Marie Strümpell type of arthritis, and he used crutches. So I think he got a priority, and then I came with him to occupy the room.

We met lot of people – I used to play a lot of cards. We played bridge, and we played poker. As a result, we met a lot of new people. They were very bright, many of them.

I see some of those people even now, 55 years later. I often go to lunch with them, and they are in Los Angeles. We have a lunch every month. I can't attend all of them because I'm, not – and we call it "the Survivors." These people are very successful lawyers, some of the really most successful in the area. One of the fellows is named Robert Paradise. He was an oil and gas lawyer, and now he operates for himself. He just gave an endowed professorship for \$1,300,000. He is very devoted to Stanford. Another man is Ted Weisman, who's a very able person. He represented some of the wealthy people in the country. One of his principal clients was Norton Simon. He is interested in a lot of public activities, and is very much interested in Stanford and in the – what is the name of that clinic for mental illness in Topeka, Kansas?⁹ He's interested in many other things. The third one is a man by the name of William Levit, and he was a state court judge for many years. He quit, I think, primarily because his daughter was going to become a judge. Her name is Jackie Levit-Wies, and she's tried some quite famous cases, she recently tried the case involving the Marx Brothers, or one of them, Groucho Marx. He is the counsel in Los Angeles for a New York firm called Stroom and Stroom and Levan. He has represented all of the judges in the State of California in connection with their salary disputes. These are really able people with whom I was friendly at Stanford.

RH: Do you recall some of the particular causes or international events that your reading focused around, or that were the topics of your discussions in these groups at that time?

SOLOMON: Well, it was primarily economics. I might tell you that I was beginning to read at that time Thorstein Veblen. One of my friends [has] written a book on Thorstein Veblen. His name was Joe Dorfman, and he was at Columbia University with me. Now, Veblen came to Stanford – never taught there, but he retired there, and he died after I

⁹ Solomon is referring to the Menninger Clinic.

was at Stanford for about three or four days and I was looking for him, and then I read that he had died. He was not very well known on the Stanford campus.

I was interested in the liberal causes. I was a good Democrat at that time also, but it's very difficult for me to tell you precisely what I was interested in.

RH: Would you say that the groups that you were frequenting at that time were generally isolationists in these interwar years, as fascism began to appear in Europe during those times?

SOLOMON: No. I don't recall discussing that. Some of the people were staunch Republicans, conservative. Stanford at that time attracted some of the wealthy students in the law school. They were interested in achieving. They wanted to be in large corporations or in prestigious law firms. That was their ambition. I didn't have that ambition. I wasn't working towards that end. I was more interested in liberal causes. In spite of the attitude of the great majority, there were people who espoused the liberal cause. I learned about that more later than when I was at school.

RH: Could you tell me something about what law education was like at Stanford at that time?

SOLOMON: I believe that the teaching [of] law at Stanford followed more traditional course than it did at Columbia. At Columbia – let's see, you'll have to [inaudible].

[Tape stops]

I was at Columbia during a period of quite upheaval in thinking. They had people like Karl Llewellyn and Hessel Yntema and Herman Oliphant, who espoused a new theory of teaching, in which you – many times, you considered the question of [a very?] statistical frequency. They believed that in order to teach law, you had know something

about the industry or the field in which you were studying. In other words, when you took insurance law, you wanted to find out about how insurance is sold, what they protect, all these other things. The economics of the field was so important. Now, at a later time, I will talk about this, but I will collect my thoughts.

There was a writer¹⁰ who, when he was at Stanford, developed a new theory – not a new theory, but the use of words precisely. For example, he defined the words of "power," and "right," and "privilege," and he talked about "jural correlatives" and "jural opposites." It's a great work, but it wasn't given any credence at Stanford when he was there, and even when I was there, they thought it was "much to do about nothing," as one professor told me. But at Columbia the professors were embarking on a new method of teaching law. Stanford was much more traditional and much more conservative in their techniques.

RH: That approach that was espoused at Columbia sounds like an approach to education that would be very fitting for someone who was going to eventually become a judge, because isn't it that sort of understanding of the industry that's involved in the cases is exactly the sort of thing you need?

SOLOMON: I think you're right. But at that time, the [teaching] in the law schools consisted primarily of reading excerpts from appellate decisions. That was due to the fact that the man who had developed the whole theory of legal education, [Christopher Columbus] Langdell (and who was dean at Harvard, it's called the "Ames-Langdell Theory") was an appellate lawyer himself. And he had had a tremendous influence on the teaching of law throughout the United States. In most of the so-called good schools, the "approved" schools, they taught by the case method. What you would do is you would read portions of cases in order to establish and find out about different fields. That is now the most popular method of teaching law, although it is combined with practical experience. For example, when I went to law school – hold, wait a minute.

¹⁰ Solomon is referring here to Wesley Newcomb Hohfeld (1879-1918).

[Tape stops]

[When I] went to law school, the professors looked askance at any student who thought that he wanted practical experience. If you had any spare time, they would like you to read books on legal philosophy. They wanted you to read the works of the Vinerian Professor of Law at Oxford University. But they looked down upon people who wanted to find out how the law was actually being operated. That's not what's happening now. The only concession they made at that time was to have a Legal Aid Society at some of the big law schools. But, now, practical experience is one of the things that they teach a great deal. Some schools permit their students to take a quarter off, or maybe a semester off, and work for a judge or work for an office, and they get credit for it. Now, recently I gave a talk before the Multnomah Bar Association, in which I pointed out that when a student graduated law school [in the 1920s or 1930s] and he came to practice law, most of them never knew where the courthouse was, or if they found that out, what would happen when you got into the courthouse. They had no experience in the drafting of documents. It was a tragic thing, and that's why they had – either you had to work for nothing for a lawyer, or if you could get paid by a lawyer in a law office, that would be fine, and you'd learn the practical aspects of the law from the older and more experienced lawyers.

RH: But you wouldn't get any credit for it in school though?

SOLOMON: No. Now, Stanford was the more traditional type of law school; they were not keeping up with what was being done in some of the big schools like Columbia. I think Columbia was the leader in that field. But now it's altogether different. Stanford is equally as good, if not better, than most of those other schools.

RH: Well, after you graduated from Stanford, did you come back to Oregon to prepare for your bar exam?

SOLOMON: Yes. I came back to Portland. First thing I did was I borrowed \$200 from my brother who was practicing law in Chicago to be able to pay for the taking of the bar examination, I didn't have any money. I also wanted to buy a suit of clothes to look for a job. I didn't take any bar review course. I don't know whether there was such a course in Oregon, and if there was, I didn't take it. I wouldn't have been able to take it because I didn't have the money. But I studied with a friend of mine, I mentioned his name before: Harry Kenin. He had gotten ahold of some old examination questions. So, I used to go over those questions with him, and I would try to find out the answers if I didn't know the answers. But I knew more of the answers than he did. We studied there together for about thirty days before the examination. I took the examination, and I passed it, and so did he. That was the way we prepared for the bar.

RH: Did the bar exam at that time still tilt quite a lot toward an emphasis on Oregon law codes and so on?

SOLOMON: I don't know, I don't remember. It may well have been that. I know that most of them were essay questions and not true and false. I think that was the basis of the examination.

RH: Now, after you passed your bar exam, did you consider practicing law anywhere other than Portland?

SOLOMON: No. I never considered going anywhere but Portland. This was my home. I liked it here. And I think that the situation in other cities was just as bad as it was in Portland. I got out in June, and I passed the bar, I think they notified me in September,

and in October I think the big crash came, in 1929. But even prior to that time, it was difficult to get a job.

Now, I called on a number of law offices seeking to get a job, but it was difficult for me. I hated to ask for a job. I thought it was embarrassing and demeaning to ask somebody for a job. And after the first few times, I was even more embarrassed and more unhappy, because I didn't think I was being treated very well by the people to whom I was applying. After the first week or two, I seldom asked anybody for a job, even though my folks wanted me to go out and look for a job, and my father had friends who suggested that I see their lawyers. I did, but I wasn't getting anyplace.

I had a couple [of] law friends at that time, lawyers. In between my leaving Columbia and entering Stanford, for about two months, I worked for two lawyers without pay. I was in their office. One name was David Robinson, and he was a good liberal lawyer. The other was Arthur Goldsmith. They were not partners, they just occupied space together. Arthur Goldsmith was a very conservative man in spite of the fact that he represented farm cooperatives. During the time I was with them, I learned some of the practical aspects of the law, the thing that I thought that law school students needed but weren't getting. I found out where to file the papers. I sat in on a couple of cases that they had in court. I learned to draft some papers. I wrote collection letters. I did things of that kind, and it was really valuable experience.

So, when I came out two years later, I talked to them about getting a job. They didn't have anything in their office. In the meantime, David Robinson, I think, stopped practicing general law and became a representative of the Anti-Defamation League, it was connected with the B'nai B'rith. Arthur Goldsmith was doing pretty well, and he did give me a little work from time to time to work on cases of his. But I wasn't getting anyplace in the job market.

I had a brother-in-law by the name of Bernie Cantor. He was married to my sister Claire, who I said was still alive. He had been made the manager of the adjustment department of the Retail Credit Association in Portland. Now, the Retail Credit Association's primary function was [as a] credit reportings company. They give

businesses reports on the credit rating of most people. But he was in the division that [was] charged with the collection of money for the members who wanted to give them their business. He was also interested in what was then known as "pooled accounts." In other words, rather than have a person go bankrupt, they would have a system where you could pool your accounts with the adjustment department, pay them \$50 a month or \$75, and they would distribute the amounts that you owed to the various creditors in proportion to the size of their claims. Now, this saves the merchants a quite a bit of money, and it made it unnecessary for a lot of these people to go bankrupt.

Now, when I couldn't get a job, he said, "I got an office space. You can come in, and you represent us, and I'll give you \$50 a month." And that's how I got started in the practice of law. I did his work, and wherever I could, I would get some outside work. I didn't take collections on the outside, but I got some other business.

RH: This was in the Panama Building?

SOLOMON: That's right.¹¹

RH: Besides your work for the Retail Credit Association, I understand you got some business from some of your father's acquaintances just as you began to start out in law. Could you tell me a little bit about those?

SOLOMON: I got more from relatives and friends. I think I mentioned the fact that I inherited a good reputation from my father. His business acquaintances said "Solomon's word is as good as his bond." I got some business from furniture dealers and others who wanted a lawyer. Most people didn't come to me if they wanted a shrewd and sharp lawyer who knew all the tricks. When they came to me, they wanted a lawyer who would prepare a contract or some other legal document. Sometimes they hired me for a small

¹¹ The audio stops at this point, so the remainder of Tape 2, Side 2 could not be audit/edited.

case. Bernie Cantor, my brother-in-law, also knew people, and he got a few cases for me. But, I didn't get many.

RH: Well, how long after you started practice was it that you met Leo Levenson, and what were the circumstances of that meeting?

SOLOMON: I met him about seven or eight months later. I was single and so was he. Morris Tarshis, who was working for another lawyer, and Sammy Wilderman, a lawyer who worked as a newspaperman, and Leo and I went to Newport together. Leo and I became good friends, and later on I saw him for lunch. He told me that he could get an extra room in the Yeon Building, and he asked me if I wanted to come over. I certainly did want to come over because I was not enthusiastic about the collection business - although I didn't do too much collection business, what we were doing then is to make it unnecessary for people to go bankrupt but to have these pooled accounts so that they could pay the merchants of Portland.

RH: This was your work with the Retail Credit Association?

SOLOMON: That's right.

RH: What was the state of Leo Levenson's practice at that time?

SOLOMON: Well, he didn't have much of a practice, but he did get some personal injury cases, and even at that time he got work from other lawyers because he was a good briefer, and he read all the cases. But, he didn't have much business either.

RH: Well, what was the nature of the cooperative relationship that you formed with him at that time.

SOLOMON: We were both in for ourselves, and I didn't do any work for him and he didn't do any work for me (except on rare occasions), but we just officed together. We officed together for two or three years. He had been in practice longer than I had, and I asked him questions. Sometimes he asked me questions. Maybe on one or two occasions, or on a few occasions, we handled a case together. That continued for two or three years.

One day Irvin Goodman, who was handling some civil rights cases and some labor business, came over. He said that he was getting more and more civil business which he wasn't able to handle because he was devoting most of his time to civil rights work. He asked if we were interested in going in with him. We talked, and then we decided that we would go in with him, but we needed more space. So, we moved from the 7th Floor to the 12th Floor and got very nice offices. He came in with us, but he wasn't a partner of ours and neither was Leo Levenson a partner of mine, but we used a common letterhead for that business which we handled together (maybe we shouldn't have). Each of us continued to use our own stationery, but when we worked together on a case, then we would use the Goodman, Levenson & Solomon stationery. We did that for five or six years. We first were in Yeon Building, and then we moved to the Spalding Building.

RH: Why do you say that you probably shouldn't have done that?

SOLOMON: Well, later I learned that there was some bar association rule against holding yourself out as a partnership when you are not a partnership. Of course, we were actually partners on those cases that we handled together, but we were not general partners.

RH: When he first approached you then, that would have been around 1932 or 1933?

SOLOMON: It might have been. I don't remember.

RH: Why was it that he approached you and Leo Levenson? Did you know him from some other context?

SOLOMON: Oh, I knew Goodman. He had gone to Reed College before I did, and I knew relatives of his. One of his cousins was one of my best friends. But that wasn't the reason he came to us. I think he came because, at that time, I had been getting some civil rights work myself. He wanted to get someone who believed in civil rights, although he was much more to the left than either Leo or me.

RH: Did either of you have any qualms about associating with him because he was so much farther left than you.

SOLOMON: Not at that time. I really didn't know much about his business at the time he came in. He represented a number of poor people and organizations for poor people. There were many of those during that period. I just don't recall the names of those organizations.

RH: Was he the attorney for the International Labor Defense Association?

SOLOMON: Oh yes. He was their principal attorney. I believe that he was also a member, I don't think he was ever a member, but he represented the Communist party.

RH: Do you think he was a Communist?

SOLOMON: No. I don't think he ever belonged to the Communist party. He never told me whether he did or not, but I don't believe he did.

RH: What sort of organization was the International Labor Defense?

SOLOMON: It was similar to the American Civil Liberties Union, except that it handled cases for left-wing labor organizations (almost exclusively). You see, the American Civil Liberties Union was an organization that handled civil rights work for anyone. It didn't make any difference whether you were an employer or an employee, or whether you were wealthy or poor. The A.C.L.U. would handle your case if they thought that your civil rights were being deprived. They appeared in many cases for public officials and for others who were right-wingers who were deprived of an opportunity to appear on the radio. So, it was a different type of an organization. Although, I might say, that most of the people who were members were liberals, and most of the people for whom they appeared were also liberals.

RH: It certainly suffered from charges later on.

SOLOMON: Oh yes.

RH: Do you think that is what it was.

SOLOMON: Oh no. Roosevelt was accused of being a member of the Communist party - President Roosevelt, Senator Norris, and many other people were. The American Civil Liberties Union did have a couple of Communists on their board, but later Elizabeth Gurley Flynn, who was a member of the Communist party, was thrown out of the organization or at least out of the position of leadership.

RH: We have referred to the hard economic times of the early 30's a couple of times, and the number of poor people. I wonder - what were your thoughts at that time about the causes of the depression?

SOLOMON: Well, I don't know if I had very many thoughts except the fact that I saw a lot of poor people. It was a terrible time. I saw people selling apples and fruit on the street,

and begging and living in these Hoovervilles. I was a member of the Republican party at that time, but I didn't agree with what Herbert Hoover was doing. I was a Republican, but only because I wanted to vote for Harry Kenin, a friend of mine, in the primaries, and because he convinced me that if I wanted to have my vote count, I had to vote in the primaries, and at that time, the Republican Party was the dominant party. So I registered Republican at that time. But, I believed in more concern by the government for the poor, and at the time I also believed in strong labor unions. I also was beginning to get interested in public power.

RH: So, for a very brief time, you registered as a Republican?

SOLOMON: Actually, I registered as a Republican until about 1938 or 1940. I changed my registration because I wanted to vote for Henry Hess, who was running for Governor against General Martin, and I have remained a Democrat even since that time. I was much more comfortable in the Democratic Party.

RH: You had let your registration go that long as a Republican?

SOLOMON: Inaction was one, and secondly because most of the registered voters were Republican, and there was something to the idea that if you wanted to make your vote count, you had better be in the party that is going to elect the candidate. If you were running on the Republican ticket, you had a good chance of getting elected. You had much less chance if you were running as a Democrat. I wanted to participate in the selection of the man who was going to be the Republican candidate. Of course, that didn't affect me on the presidential campaigns.

[End of Tape 2, Side 2]

Tape 3, Side 1
1984 August 1

RH: This is an interview with U.S. Circuit Court Judge Gus Solomon in his chambers in the U.S. District Courthouse in Southwest Portland. The date is August 1st, 1984. The interviewer is Rick Harmon for the Oregon Historical Society. This is Tape 3, side 1.

[Tape stops]

You made the point that you had never actually formed a formal partnership with Mr. Levenson and Mr. Goodman, but you did have a sort of agreement or relationship with them that even led to a sharing of fees. I wonder if you could explain just briefly what the difference would be between a true law partnership and the kind of relationship you had with them.

SOLOMON: I handled my own work and didn't split the fees with them that I got from my own work. But many times Leo Levenson and I would work on a case together, and we would split the fees. But more often, Leo Levenson and I would handle the civil work of Irvin Goodman. He got quite a bit of civil work and didn't do any of it. Then we handled it for him, and it didn't make any difference who worked on the case, Leo Levenson or I, whatever fees we got we would split three ways. That was our arrangement.

Now, in consideration of that, we also helped Irvin Goodman in some of his civil rights cases. We worked on those cases for him. He didn't have the patience and maybe not the skill to work on briefs, and Leo Levenson was a good briefer. I did some of that work also. So, we handled some of the briefs for him on those cases we wanted to handle.

RH: What were some of those cases, do you recall?

SOLOMON: Well, one of the cases was the case of Theodore Jordan. Theodore Jordan was convicted of murder and sentenced to die. He was a black man. We looked over the case, and we concluded that he didn't get a fair trial. There were a lot of errors in it. So, Irvin Goodman decided to appeal the case, and we helped draft the brief in that case. He did all the public appearances, and he spoke before the black organizations. And this was the first time in Oregon that the question of discrimination against blacks, and the fact that the blacks were often deprived of an opportunity to get a fair trial, was actually raised in Oregon.

Now, we lost that case in the Supreme Court of Oregon, but because of the issues that were raised, Theodore Jordan was given – not a suspended sentence, but the death penalty was set aside, and he was sentenced to life imprisonment. He was very grateful for it, but some of the black organizations were not very happy with our handling of the case, I recall.

RH: What was their dispute with it?

SOLOMON: Well, one of the disputes was that Irvin Goodman was representing at that time the – just, [wonder if you can?]

[Tape stops]

Irvin Goodman at that time was representing the International Labor Defense, and some of them thought that that was too radical an organization to have participated.

RH: Well, you finished up last time also talking about some of your political beliefs in the 1930s. You mentioned strong labor unions, public power, social security, legal aid. How, in your own mind, did you distinguish your beliefs from somebody who actually proclaimed themselves as a socialist? What was the difference? How did people see the difference at that time?

SOLOMON: Well, although I believe in the capitalistic system, but I just thought that labor was not getting the kind of deal to which it was entitled, and that there were social programs. I was a believer in the programs that Franklin Roosevelt espoused [a] short time later. I believed in strong labor unions. I believed that the laborer should get more money for his work. I believed in social security. These are the things that the liberal Democrats stand for.

RH: But by believing in public power, you believed in certain modifications to private enterprise, then?

SOLOMON: Yes. I did. I think that there was certain things that the government should participate in for the benefit of all the people. That's the foundation of the P.U.D. [Public Utility District] system in Oregon.

RH: Right, we'll get to that in a minute. Did you take a lively interest in the presidential campaign of 1932, then?

SOLOMON: No, not in 1932. [I did take interest in the campaigns in] 1936, and in 1940 and in 1944.

RH: And in those subsequent presidential campaigns, you were always strongly supporting Franklin Roosevelt?

SOLOMON: That's right. Later on, I became the treasurer of the Draft Truman Committee. That was in 1944, I believe it was, or 1948, I think.

RH: Did you discuss with some of your friends at that time the virtues of Norman Thomas'¹² quest for the presidency, or did some of the people you dealt with support Norman Thomas during those years?

SOLOMON: I didn't know very many socialists, and I don't think they were very strong here. Later on, Monroe Sweetland had been a socialist, and was one of the organizers of the Oregon Commonwealth Federation, but I think he was a registered Democrat at that time. There were socialists in the organization, but they weren't very influential. But they were one of the driving forces against the communists that were in the organization. They opposed them, and we got a lot of support from them on the anti-communist positions that we took.

RH: I wonder if you could tell now about your effort to organize a legal aid program in Oregon, the history of it, and where the idea originated, and so on.

SOLOMON: Well, I think I mentioned earlier that during the summer between my leaving Columbia University and going to Stanford, I went into the office of a lawyer by the name of David Robinson. He was a public spirited man, and he did work for the judges. He handled indigent clients. Never got paid for it, but he handled those clients. And I did some work while I was with him for his indigent clients. When I graduated law school and was looking for a job (which I didn't get), I did some work on some of these cases for him. And later on, when I opened up my own office, I continued to do work of that kind.

One day, he asked me to handle a divorce case: a woman who had been sued by her husband who was in the military, and who was in another city. So I represented her in the case, which had been filed in Clackamas County. During the course of the handling of the case, it became necessary for me to take depositions in Oakland, California; in Atlanta, Georgia; and in Boston; mainly in Boston. I didn't have any money to go there, so

¹² Norman Thomas (1884-1968) was a Presbyterian minister and pacifist who ran for United States president on the Socialist Party of America ticket six times, starting in 1928.

I learned about the legal aid societies in those communities. I remember, I wrote to a legal aid committee at Harvard. I remember the address: 16A Ashburton Place. I wrote to them, and they took the depositions for me in the Boston area. And then they were the ones who told me about the legal aid societies in Atlanta, Georgia and Oakland, California, and they were very helpful. We tried the case and we won it. I was pleased with the type of cooperation we got.

So I wrote a letter to the director at the legal aid society in Harvard, and I told him that I would like to organize one in Oregon. The next thing I knew, I got a letter from a man who was a professor at Duke University, and he told me he was coming out to Portland, and he would be glad to meet with me and whoever else I might want. That, actually, was about four or five years after I had started to practice law. So I invited a few people. I didn't know too many prominent lawyers, but I knew a couple. We had a little meeting there.

RH: That was John Bradaway?¹³

SOLOMON: John Bradway, yes, that's the man.

RH: What was the connection between the letter he wrote to you from North Carolina and the letter you wrote to Cambridge, Massachusetts?

SOLOMON: Well, they were the ones that got in touch with John Bradway. I – that's wonderful, did I write John Bradway's name someplace?

RH: I found it somewhere.

SOLOMON: Oh. But he was the man, and he came out. He had one or two students here. I think one of them [was] Tom Stoel, who [is] now the principal partner in the largest

¹³ Harmon pronounces it as "Bradaway" in his question, but, as reflected subsequently, the name is "Bradway."

firm in the city. We talked about organizing, and he gave us some very valuable advice. And then, nothing happened for a while.

One day, I got a call from David Robinson. And David Robinson told me that a man by the name of Deich, I think his name was Richard Deich, who had been a former city commissioner, who was then with the W.P.A. [Works Progress Administration], had talked to him about the organizing [of] a legal aid society in Portland. Mr. Deich was not primarily interested in helping the poor people as much as he was getting jobs for some unemployed lawyers, and for one ex-professor from Willamette University Law School who needed the job, and some secretaries.

Well, I talked to Mr. Robinson, and told him what I had been doing as far as Mr. Bradway was concerned and our committee, and we would certainly like [to organize]. Then I learned, either from Mr. Robinson or from Mr. Deich, that they were willing to finance the salaries, and also the rental of space and other costs, other than getting furniture – for some reason or another, they couldn't buy furniture for us, and office equipment, like a typewriter. I learned that we could get the necessary furniture at that time for \$600, so I went out to raise that \$600. I recall that I called on two or three of the big offices, and they gave me \$100 apiece. Then I . . .

RH: Law offices?

SOLOMON: Yes. Then I went to one of the other leading offices and talked to one of the principal partners. This time I had a circuit judge from the state system with me. I told [the partner] what I wanted the money for and asked him for some, and he was very hostile. He said, "I'm not going to give you anything; that's a communist scheme." So, I said to him, "Are you accusing the Chief Justice of the United States, Charles Evans Hughes, of being a Communist?" I said, "He's the honorary chairman of the New York Legal Aid Society and has been active for many, many years." And I said, "The only excuse we take is if you haven't got any money." He got embarrassed, and he asked me to see one of his other partners. We did, and that partner offered us \$10. I told him that if

they could only afford \$10, they ought to keep the money. I didn't take the money, and they didn't give me any money. But we didn't have too much trouble raising the \$600.

But after we raised the \$600, we needed official sponsorship from a legal organization. I went before the Multnomah Bar Association, and I told them that we were getting the finances to run this office and the only thing I needed was official sponsorship from the Multnomah Bar Association, and if they gave me that, we could organize, and the Bar Association would have no further financial obligations, but they would be able to select some of the members of the committee. Well then, I got just a series of abusive talk by some of the members. One person got up and accused me of being a communist and a socialist. Another accused me of trying to take bread out of the mouths of lawyers. Then a third one stated that we didn't need it because "there are many lawyers in the city that are willing to handle cases on a contingent basis."

Well, to make a long story short, they didn't approve my motion. The Oregon State Bar had recently been organized, and they were having a meeting in Baker, Oregon. So, I went to Baker and talked to the Board of Governors, not to the convention, but to the Board of Governors, told them the problem, and they gave me the official sponsorship. That was the reason why for many, many years, up until recently, this committee was called The Legal Aid Committee of the Oregon State Bar.

So, we organized at that time. We had a small office. But it soon developed that the members of the committee were opposed to handling certain types of cases. They refused to permit the legal aid lawyers to handle divorce cases. They thought that the Legal Aid Committee should not handle the divorce [cases]. They also refused to permit them to handle bankruptcy cases. Incidentally, those are the largest segment of the cases handled by legal aid societies all over the United States, including Oregon at the present time.

As a result, I handled most of the divorce cases myself without any fees. I also handled some bankruptcy cases, and I recall one of them, which was quite amusing. A man came to me, and I think he had been in the garbage business. He was a Russian German from North Portland. He wanted to file a petition of bankruptcy. So I handled it

for him. And he, at that time, got a job in the shipyards. After I completed the case, he came in, and he was all dressed up, and he said, "How much do I owe you?" I said, "You don't owe me anything." And he said, "You mean it's all free?" I said, "Yes, you paid me the actual costs" (some \$20 or \$30, whatever it was), "but I donated my time." He thought for a moment, walked out, and as he was walking out, he took a dime out of his pocket and flipped it on my desk, and he said, "Buy yourself a cigar." So that – I no longer can say I never got any money for handling this work for legal aid clients.

RH: Did you suspect that that client wasn't actually indigent, later?

SOLOMON: Well, he might not have been indigent at that time, but that didn't make any difference. I had agreed to handle it without any charge, and I wouldn't take any fee.

RH: Wasn't anything done to screen the financial resources of people when they came in to ask for legal help?

SOLOMON: There might have been, but that's not what – when they sent them to me, I handled them.

RH: I see. I wanted to just go back and ask a couple of things about what sort of timeframe we're talking about. For example, when you first had this meeting where Professor Bradway came out from Duke, was that around the mid-1930s, would you say?

SOLOMON: Yes, the mid-1930s. Maybe a little later. Maybe around 1937.

RH: Then your appearance before the Multnomah County Bar, that was –?

SOLOMON: That was about 1938 or 1939, I believe.

RH: So then, what was the source of Mr. Deich's money, that formed the . . . ?

SOLOMON: That's W.P.A., Works Progress Administration.

RH: That was federal money.

SOLOMON: Yes. I recall, I resigned from the committee a short time later over an incident that happened. I normally prepared the annual report that was given to the Oregon State Bar. One day I wrote my report, and I ended it with a flourish, and I [said], "We're looking forward to an ever-expanding service to the community." And they objected to that statement on the ground that we should always look forward to the time that we would be able to close the office, get smaller. I thought that was ridiculous because I was sure that there would always be times when there would be poor people that needed that help and couldn't afford it. And they were getting along alright, and said, "You no longer need me." So I resigned after that.

But I was right. I think there are more than a hundred lawyers in the state of Oregon who at the present time work for legal aid societies for free – I mean, they don't work for free, but they work all over the state. I know that there's offices in Multnomah County, Lane County, Marion County, Polk County, and that there are smaller offices in Albany, Coos Bay, Hillsboro, Klamath Falls, Ontario, Oregon City, Pendleton, and Roseburg. They all handle legal aid work, and there's much more prosperity now than there was at the time that we were handling the work.

RH: This reception that you received from the Multnomah County Bar Association, in the aftermath of that, did you have any feeling that some of it might have had to do with the reputation you were gaining for the kinds of cases that you were handling?

SOLOMON: No, I don't think so. Although subsequently I appeared before them again. I recall that around that time, maybe a little later, there was some minimum fees schedules

that were under consideration. In other words, there was minimum charge of so much for handling a divorce, or handling a mortgage foreclosure, or [for an] office visit, but primarily minimum charges for handling personal injury cases. I think the scale that was recommended was 25% if the case was settled, 30% after suit, 40% after trial in the trial court, and 50% if it went to the Supreme Court. I thought that those fees were outrageous, particularly cases in the Supreme Court, because if a man would get \$10,000, for example, the lawyer would get \$5,000. But, out of the client's share, he would have to pay his doctor bills and all the expenses. So, he might end up with about \$2,500, and the lawyer would get \$5,000. And \$2,500 for an injury that even the jury found at that time was worth \$10,000, wasn't very much.

I protested the fees schedule. They had it written up in such a way that if you violated that fees schedule, it would be subject to grievance committee, and you could be sanctioned for it, maybe even disbarred. So, I said to them, "Don't worry about getting a proper case, because I'm telling you right now that I'm not going [Slaps knee repeatedly] to follow that minimum fee schedule. If I get a judgment for someone in the circuit court, I'm not going to charge 40%, particularly in a case that doesn't warrant it."

Well, they didn't file any grievance against me, but an interesting note is, in the last five years, the Oregon State Bar was sued by the federal government because they had this minimum fees schedule. One of the lawyers for the State Bar came to me to sign an order of some kind. I said, "I'm not going to sign this order because I'm disqualified, because if the government tries this case, I'm going to testify [Knocks on desk] on behalf of the government that I opposed this minimum fees schedule, and that this was not inadvertent at all." Well, to make a long story short, the State [Bar] repealed that minimum fees schedule, and the case was dropped, I think, after that.

[End of Tape 3, Side 1]

Tape 3, Side 2
1984 August 1

RH: This is an interview with U.S. District Court Judge Gus Solomon. The date is August 1st, 1984. This is Tape 3, Side 2.

[Tape stops]

I wanted to just ask whether that incident occurred before or after your appearance in front of the Multnomah County Bar, where you brought up the legal aid idea?

SOLOMON: Oh, that was much later.

RH: Now, why was it that you decided to go to the Board of Governors of the Oregon State Bar after the Multnomah County Bar reacted against it? Was that really the alternative at that point? There weren't other county bar associations?

SOLOMON: No, and we wanted to have it in Portland. We wanted to have the office in Portland. I thought that that was the most feasible method. I thought that the leaders of the Oregon State Bar would take a different attitude than some of the people who spoke, and they did. That was adopted unanimously by the Board of Governors of the Oregon State Bar.

RH: Was there any protest from the membership at large?

SOLOMON: Oh, no. We never had anything like that. Of course, I don't think they ever knew in advance that I was going to go to the Board of Governors. I went there, at the meeting, told them what I wanted, and it was approved almost immediately.

RH: I wonder if you could now tell me about your initial interest in and then support of public power in this region?

SOLOMON: Well, I – hold it for a second.

[Tape stops]

In 1934 or 1935, I met with a group of friends who were in – I think it was in connection with the Oregon Commonwealth Federation, and also I had friends in the Oregon State Grange, which is a farm organization. They were very much interested in public power. Some of the people in Oregon, particularly big industry, wanted the Bonneville Power Administration to be under the jurisdiction of the Army [Corps of] Engineers, because they believed that Army Engineers would be much more friendly to established business, big business, big industry, and the existing utilities. My friends who were in the labor movement and who were in the farm movement wanted it in the Department of Interior because they thought that they [would] have a better chance of having the power used for the people. I think that Secretary Ickes, at that time, was secretary of the interior. So, we had meetings of various kinds to sponsor that movement to get it into the Department of Interior, and it was. It was put into the Department of Interior.

Then, after the dams were being constructed, or were practically completed, Secretary Ickes appointed J. D. Ross, who was the head of Seattle City Light, to be the first administrator. They had an assistant administrator and various other people, and I met those people. I didn't meet Mr. Ross except casually. They had an office in the old Failing Building, which was on the corner of Fifth and Alder Street. I was in the Yeon Building right across the street. So I [met] some of those people, I told you. The assistant administrator was a man by the name of Gendron. He and I became very friendly. We used to play cards together, and some of the other people would play cards.

Then, I was a friend of Richard Neuberger, who became United States senator later, and he had a friend by the name of Steven Kahn, with whom he had written a book on Senator Norris,¹⁴ and Steve Kahn went to work in the Public Relations Department of the Bonneville Power Administration. He, incidentally, is the man who got Woodie Guthrie to come to Bonneville. So I used to go to some of the meetings, and then I was interested in the public power organization of Oregon, was becoming fairly active. And I was active in that organization.

And then, the Tillamook People's Utility District was not getting along very well. They needed a lawyer, and they didn't have very much money. So, they hired me. And hired meant that – I didn't get hardly anything either, but we had hopes of getting these P.U.D.s in the business. Then, the Northern Wasco County P.U.D. was organized, and I was retained. I was retained primarily because I knew a little about it, but more important, the local lawyers and the so-called respectable lawyers didn't want to handle that business. Now, they all clamor for it, but at that time, they didn't want that business. Then, there was another organization, Clatskanie P.U.D., near Astoria. So I helped them organize, and they hired me. Then, there was the Central Lincoln [P.U.D.]. Somebody else had organized it, but they needed some help, particularly when they were in the process of acquiring a utility, and they hired me. And that's how, over a period of years, I became the lawyer, not only for all of the existing P.U.D.s, but also for their association, and I helped in the organization of new ones.

Now in addition to these P.U.D.s, I helped organize electric co-ops under the R.E.A. Act (Rural Electrification Administration). I acted as the lawyer for the Clackamas County R.E.A. and several others, and I represented the association. Now, I don't recall if we ever completed any of the acquisitions before World War II, 1941, but I think we might have had one or two. During the war, all of this work stopped completely, because we couldn't build anything, and nobody was going to sell us their facilities. I had been busy before 1941, and then I didn't get active in it again until about 1943 – well, maybe after 1945, I got busy.

¹⁴ This is presumably referring to Senator George W. Norris (1861-1944), who supported Franklin D. Roosevelt's New Deal policies.

RH: Well, Oregon was considerably behind Washington in this regard.

SOLOMON: Oh, yes.

RH: What was the explanation for that?

SOLOMON: Well, I don't know. They had the people, and [Seattle] City Light was there, and Tacoma Light. Then there was a group who were interested in organizing – mainly, the Washington State Grange was much more active, and they got started earlier. They had some good people there. There was a man by the name of Paul Coughlin, and Jack Cluck, who were very active in organizing, and did a wonderful job. They were good liberals and good lawyers, and they were active. But Washington did organize many more districts than Oregon. Among them was Clark County P.U.D.

RH: Can you give me some sense of the opposition to this idea that you and your friends confronted in Oregon? Who opposed it, and for what reasons?

SOLOMON: Well, the private power companies. Portland General Electric Company; the old Northwestern Electric Company, which became Pacific Power & Light Company; and Mountain States Power Company. All of them put in thousands and thousands of dollars. They had the *Oregon Voter* and they had the newspapers. The newspapers were constantly fighting us, particularly the *Oregon Journal*. They would vilify not only the idea of public ownership, which they called a socialist or a communist scheme, but they also vilified me personally. Newspapers had editorials about me. Attacked me one time because, after we had organized in The Dalles, Oregon, I went before the commission and opposed Pacific Power & Light Company (or the old Northwestern Electric Company) from granting their request to reduce their rates. They wanted to reduce the rates in Wasco County to make them equal the rates that we were going to charge, and yet they

were charging at least 50% [Slaps desk] more in the City of Portland than throughout the state! I said, "Well, why don't they reduce the rates every place, and not single out The Dalles?" But the *Oregon Journal* was very upset that I would do a thing like that. And the state went along with them. They permitted them to reduce the rates in those areas where they had competition.

RH: And the other areas where they didn't essentially subsidize [it?].

SOLOMON: Yeah, that's right. But they contended that they weren't doing that, that the stockholders were paying that out of their own pockets. That's what they were contending.

RH: But, these interests really successfully reached the public in . . .

SOLOMON: Oh, yeah, we lost it. We had a P.U.D. election in Portland, and they spent tremendous sums of money to defeat us, and they were successful in defeating us. We were delayed – I don't think there was P.U.D. election won in Oregon for 20 or 25 years. Recently, I heard that there were a couple of new districts formed, but for many years we didn't get a district formed. At that time, and maybe even now, you had to have two elections: one to organize, and the other to issue bonds, you see.

RH: Now, as far as your original interest in this idea, were you interested in public ownership of any other industries, or what was it about power that made you feel that that industry should be publicly organized?

SOLOMON: Well, I was convinced from talking to my friends that that was the only way to bring industry here, and I thought that the public ownership of utilities was important. In fact, I was in favor of having the streetcar system in Portland publicly owned. Later on, many years later, it did become publicly owned. I thought that the water systems should

be publicly owned, and in Portland it was publicly owned. I didn't see the difference between the water system and the electric system. I suppose you know that in some cities, the water systems are owned privately.

RH: So, you have this notion about utilities in general then.

SOLOMON: I don't recall any specific industry, other than the utility industry, that I thought should be publicly owned. And I know that I didn't actively support any such organization. Although I went to private colleges myself, I believe that education should be publicly owned.

RH: Was part of the interest in public power in the region due to the performance of private utility companies?

SOLOMON: That's right. I'll tell you that I organized the Northeast Clackamas County Electric Cooperative only because the Portland General Electric Company refused to give central station service to hundreds of residents in the area. It wasn't profitable for them. Therefore, they did not want to give central station service. Before I organized it, I went to them and I said, "This doesn't look like a very profitable system." But they wouldn't talk to us. They said, "No, you go ahead, organize," and that's what we did. Later on, after I went on the court, they made a strong bid and they acquired that system that we organized. [Both laugh]

RH: And then, at the time of the Depression, many of these private utility companies completely collapsed, and these large holding companies for utilities went bust.

SOLOMON: That's right. There wasn't so many of them, but they drained some of these companies, and charged big fees, and diverted the funds in some of the places. What was the name of that very famous man in Chicago? I think he went to jail, but I don't . . .

RH: Oh, Insull?

SOLOMON: Yes, Samuel Insull. But when we organized the Northeast Clackamas County, some of our people didn't have enough to wire their homes.

[Tape stops]

Some of the people in the area didn't have enough money to wire their homes. So, we got the contractors to hire them to work, billing the system, so they got enough money to pay for the wiring and to pay a couple of months' electric bills. These were tough times. I recall, I went out there a few years later, and oh, they got a different attitude among the people. These were poor communities.

RH: I wonder if you could say a little more about the ways that you went about trying to organize these P.U.D.s and these cooperatives. What ways did you try to spread the word about the virtues of public power?

SOLOMON: Well, I was not the leader in that. The Oregon State Grange, [Morton] Tompkins and [Raymond] Gill and some of the other [Grange members] were the real driving force behind the organization, the farm organization. And Monroe Sweetland and the Oregon Commonwealth Federation was active. They were the ones who really went out into the farm communities and urged people to vote for them. I handled the legal work for the organizing committees, but the publicity and the house-to-house calling was done by the farm organizations. Not only Oregon State Grange, but the Farmer's Union helped, too.

RH: When did this case that you handled that established the constitutionality of the Oregon People's Utility District, when did that case actually take place?

SOLOMON: I can find it for you. It's In Re Tillamook County People's Utility District. I think it must have been around 1937 or 1938. Then there was another one in Wasco County. I handled a number of cases for them. I might tell you I didn't get very much money for it. [RH laughs]

RH: Can you say anything about the case itself, the Tillamook case, the background of it, and what that case really involved?

SOLOMON: Well, we had to get money. We couldn't issue any general obligation bonds; we could only issue revenue bonds. The purchasers of bonds – actually, the bankers, wouldn't give us any money or credit until we established the validity of the P.U.D. laws and the procedures that we were adopting. So, we filed a case for that purpose, to establish the validity of the organization, and it was the power companies that fought us there.

RH: Did the validity of these P.U.D.s have to be established in state after state? It certainly was established in other states by then.

SOLOMON: Yes, but the laws in those other states were different. The same thing is true with the procedures that they followed. In any event, the investment houses wouldn't lend us any money until we established the validity.

RH: Speaking of the financing of the P.U.D.s, I read of a man named Meyers who was a confederate of Mr. Ross, who was very active in helping the P.U.D.s acquire the private companies. Did you ever meet him?

SOLOMON: Yes, I met him. I tried to do business with him, but he did not want to do business with us because, unlike the P.U.D.s in some of the other states [such as]

Nebraska and Washington, we could not enter into a contract with Guy Meyers unless we had it approved by the voters. We had to get authorization to issue the bonds, and then when we issued bonds, we'd have to sell them to the highest bidder. And he was not interested in that. You see, he would enter into private financial deals in other states.

RH: So the Oregon situation wasn't as lucrative for him, then.

SOLOMON: That's right. And it was competitive.

RH: Could you say a little something about your campaign in 1938 to 1940 to organize the utility district in Portland? Now, was that in Portland, or was that Multnomah County?

SOLOMON: That was in Portland as I recall it, and I was interested. But I didn't take the lead in that. There was another man, who I've referred to before, by the name of Harry Kenin, who became a state senator, and he was on the school board. He was very much interested in organizing the Portland district. There was a man who was the chairman of that committee, and I forgot his name. They raised quite a bit of money. I helped in that, but only peripherally. The main work was done by a committee here, in which Harry Kenin was the real leader. But, I know that they attack[ed] him also. The newspapers were bitter, and industry also. We didn't do too well – did pretty good, but they outspent us maybe 20 to one.

RH: Has the amount of litigation surrounding the BPA and its operation in subsequent decades really changed your attitude at all about the usefulness of it in the first place?

SOLOMON: Oh, no. I think it's a great organization. They've had some people who are very conservative, and it's been run, according to many people, for the benefit of big business and industry. But I don't think that's true. I think that it has helped the private companies, and it has also helped the whole region considerably. We have a tremendous

amount of power that we never would have had except for the Bonneville Power Administration. I think it's a great organization in spite of the fact that they have some very conservative leadership. Peter Johnson is a conservative, but so what? He's doing a good job.

RH: Could you say a little something about your informal employment service that you had in helping young lawyers get work with New Deal agencies in the 1930s and 1940s?

SOLOMON: Yeah. I think I mentioned that I did not believe that I was treated very well by the lawyers, the existing law firms in town when I was looking for a job. I resolved at that time that if I were ever able to help other lawyers, I would do it. Well, within four or five years, a number of my friends gotten out of law school. By that time, I had met a number of lawyers. So, I would arrange for my young friends to meet these lawyers. A few of them got jobs, but most of them didn't.

In 1940, or maybe 1939 – well, even earlier, after the New Deal came in, they were organizing agencies. Farm Security Administration, agencies of that kind. They were opening up offices in Portland (and all the Northwest states, all of the country). I graduated in the class of 1929, and many of my classmates couldn't get jobs on Wall Street and other places. So, when the New Deal agencies were formed, they succeeded in getting jobs with those agencies. Now, at that time, if you were a Jew, you couldn't get a job on Wall Street, or some of the –. Now, many of the lawyers in those agencies after a year or two were sought after by Wall Street firms and other big firms, and not only in New York, but in Chicago, in Cleveland, in Boston. And they left government service to take those jobs. Well, some of the Jewish fellows, they didn't have that opportunity. So what happened, they became assistant general counsels, associate general counsels, general counsels of some of these big agencies. I knew some of them, and I had friends who knew them. When they wanted to staff an office in Portland, some of them would get in touch with me. I was able to recommend people to fill those spots. Now, this was also true of Bonneville. As I became more active in the organization, I knew the general

counsels, I knew some of the people in the Department of Interior, and so I recommended lawyers for them.

Now, I recall that when Farm Security Administration was opening an office in Portland, one of my friends was made the general counsel. I got him to hire about three of my good friends, able fellows (some of the leaders of the bar, now). This was not limited to Farm Security Administration; I got good people at Bonneville.

[End of Tape 3, Side 2]

Tape 4, Side 1
1984 August 1

RH: This is an interview with U.S. District Court Judge Gus Solomon. The date is August 1st, 1984. This is Tape 4, Side 1.

[Tape stops]

SOLOMON: Well, as a result of these experiences, I began getting letters from young lawyers at Harvard, and Yale, and Columbia. Apparently they had some sort of a loose organization, and they had a booklet, and they put my name in it, and that if you are looking for jobs in Portland, you get ahold of me. Well, I began to get a lot of inquiries, not only about government agencies, but about private law offices. By this time, I had become acquainted with the lawyers in Portland (this was 1944, 1945, 1946, 1947), so when a person would get in touch with me, I would tell them where I thought he might get a job, because I was keeping in touch with some of the local lawyers. It was very interesting, and I believe I helped quite a few people.

Some of it was very sad. I recall one man who came to me, and he had a fine record, he was a Jewish fellow. He had started out at San Diego, and then he went to Los Angeles, and then he went to San Francisco, and then he came to Portland on his way to Seattle. And when he came to my office, he wept. He couldn't get past [Slaps desk] the secretaries because he was Jewish! Didn't have a chance! It was a sad and terrible situation.

Well, I was able to help some of these people, and I recall later on, I called the head of one of the big offices that I knew. Well, it Lloyd Davies. That was the big office: Hart, Spencer, McCulloch, Rockwood & Davies, they were the largest office in the city. I said to him, "Lloyd, I'd like to talk to you about your hiring policy." He said, "What's wrong with our hiring policy?" I said, "Nothing wrong with it, except that you don't hire any Jews." So he says, "You don't think that I'm anti-Semitic, do you?" And I said, "Hell, no! If I

thought that, I wouldn't be talking to you." (He's a very nice person.) He said, "You know how careful we are in the selection." And I said, "I know that, but I've sent you students from Harvard, and Yale, and Columbia, and Pennsylvania, and Chicago. These fellows who I've sent you have all the amenities and social graces. They wear hats [Laughs] and vests. They talk beautifully, and they're well educated." And he says, "Maybe they just don't fit." I said, "Lloyd, how old is your office?" He said, "Well, it's about 75 years old." And I said, "Are you telling me that in 75 years, you've never found a Jewish fellow that fit?" He looked at me and said, "Send me the next fellow."

A few days later, a young man who had been a clerk for one of the Supreme Court justices in Oregon, and who graduated the University of Chicago, and who was in the Tax Department in the state, said, "I'd like to leave government, and I would like to get into private industry. Do you know where I could get a job?" So I said, "I think I know. Why don't you go and see Lloyd Davies in the Hart office?" "Oh," he said, "they'll never hire me, I'm Jewish." I said, "I know you're Jewish. You just go on over there."

I said, "How well do you know Judge Lusk?" (that's the man he worked for), and he said, "Oh, I know him very well." I said, "You just have him call up Lloyd Davies and say he's sending you down, and that you're a good man." So he says to me, "Should Justice Lusk tell him that I'm Jewish?" I said, "Leave Judge Lusk alone. You just tell him what I tell you to do." [RH laughs]

About three days later, he came in, and he was all smiles. I said, "You got the job, didn't you?" And he said, "Yeah. Judge Lusk did more than I asked him to do. When I told him what I wanted to do, he said, 'I'm going to go down there with you.'" And so he drove him to Portland so he could go over there. That was the beginning of the time when Jewish fellows were able to get jobs. That office, which has now about 110 or 120 people, must have 20 to 30 Jewish men and women.

I'll tell you one story about a woman who came to me, and she wanted a job, and I gave her a job. Then, she wanted a job in an office, and I called up a half a dozen places, and they [said], "It's just too bad you didn't call me last week." Never could get an interview for her. Finally, I called two places, and they were willing to see her. Then a

friend of mine calls up, and he says to me, "Gus, do you have anybody over there that we could hire?" ([He] would have been a partner by then.) And I said, "Yes, you're in luck. I got somebody." I told him the name of this person, and he said, "A woman?" And I said, "Yeah." So he said, "I can't use her." I said, "Why not?" He says, "We have a small office." [RH laughs] So I said, "She can work in a small office just as well as in a big office." He said, "You don't understand. The only time we get to talk is at lunch time." "Well," I said, "she eats just like everybody else. What do you talk about at lunch that a married woman can't listen to?" So, she didn't get the job. (I might say that he now hires a number of women.) But she did get a job [elsewhere], and that's how we broke into the bias against women in this area. I also did it [as far as?] blacks are concerned.

RH: The inroads made for women and blacks, did they come a little later the success with Jews?

SOLOMON: They did, yes, it did. Quite a bit later. Except that blacks, I never was successful as far as legal jobs were concerned, but other jobs – for instance, I have a court reporter who is black. Maybe that should be – I should talk about it at a later time, when I'm talking about my work in the court.

RH: OK. But your lack of success in finding legal jobs for blacks, is that due to the fact that blacks just aren't coming out of law school, or it's just still tough for blacks to get into law firms here?

SOLOMON: Both. But, I think that we don't have any outstanding black lawyers – people who come out with good records. But some of them are – I think that if these black lawyers were of a different color, they would get jobs. It's more difficult. But on the other hand, in certain offices, in certain cities, blacks get jobs where – when they [otherwise] couldn't get in those offices with the records that they have.

RH: This first group of lawyers that were contacting you for help and this first group of people that you got jobs for in New Deal agencies, were these people largely Jewish?

SOLOMON: No. Very small percentage of them were Jewish. And the first jobs that I got for these people, none of them were Jews. But later on, we got – for example, I mentioned the fact that in the Farm Security Administration, the head of that office was a Jew, but none of the people [who] were hired were Jewish. They were friends of mine, most of them were former classmates of mine who had come in, who were not Jewish. No, in the early years, maybe 75% or 80% of them were not Jewish.

[Tape stops]

Tell you that Jews were not the only ones that were having difficulty getting jobs. The Catholics were having a terrible time. One of my colleagues, Judge Kilkenny, will tell you, if he hasn't already told you, that he was the first Catholic to ever practice law in Pendleton, Oregon. I recall when there were practically no Catholics who were in the judiciary. Judge Kilkenny was the first Catholic that ever was a judge [Rapidly taps on desk] in the federal system in Oregon. Even in the state system it was difficult, although they had some outstanding people.

I recall one time, I was solicited to vote for a lawyer for a judgeship. And he told me, "You know, I'm the only white man running." I didn't know what he was talking about. I said, "What do you mean?" And he told me, "One of [my opponents], you know, is a Catholic, and that other one, he was born a Catholic. He doesn't let anybody know about it, but he was born a Catholic." And I said to him, "You're a hell of a guy to tell that to me!" [Both laugh] And then I went over to one of my friends who was handling that other fellow's campaign, and I gave him some money and I told him the story. [Slaps desk] And I said, "This is just outrageous." Incidentally, that man didn't win, and he never became a judge.

OK.

[End of Tape 4, Side 1]

Tape 4, Side 2
1984 August 22

RH: This is an interview with U.S. District Court Judge Gus Solomon in his chambers in the U.S. District Courthouse in Southwest Portland. The date is August 22nd, 1984. The interviewer is Rick Harmon for the Oregon Historical Society. This is Tape 4, Side 2.

[Tape stops]

Judge, I want to begin this morning by asking you about your knowledge of and involvement in the effort to form a functioning civil liberties group in Portland in the 1930s, and the first thing I wanted to know was, what was your initial contact with [an] incipient civil liberties movement in Oregon?

SOLOMON: Turn it off for a second.

[Tape stops]

When I was a student at Columbia University, I did go to a meeting of the American Civil Liberties Union. I heard Arthur Garfield Hayes, who was the attorney, and I heard Roger Baldwin, who was the director. There were also others that spoke at that meeting. That was a meeting to protest the impending executions of Sacco and Vanzetti in Boston. I thought it was a good organization.

When I came to Portland some years later, I asked around, and I found out that there was no active group here. But then I learned that there was a man by the name of W. S. U'ren, who was on the National Board, and that there was a woman who was in the Labor Department, who was also on the National Board. I went to see them, and told them that there ought to be a local chapter. U'ren was totally uninterested, so I wrote a letter to Roger Baldwin, and to the secretary then, and I didn't get very much help. Later on, I went and saw a man by the name of Esterly, H.M. Esterly, and I talked to him.

Now, I don't remember very much about that period. The only reason I know something about it is that I've read a book recently about the early days of the A.C.L.U. [American Civil Liberties Union] and also an article by a young man by the name of Gallagher, I believe his name is, who said that I went over and saw Mr. Esterly with Irvin Goodman and wanted to take an active part, and he was wasn't very much interested, either. But there were two women, whose names I don't recall – oh, Mrs. Nunn and –

RH: Trevett?

SOLOMON: Yeah, Lucy Trevett.¹⁵ And they were interested in the A.C.L.U. Apparently they did have an organization that was not active. I recall that we did become active, and I thought it was because of my efforts. From the articles I've read, maybe I wasn't so active, I wasn't the moving force.

But anyway, we did form a group, and we elected as our president Ross Anderson, who was a Methodist minister. There was a young man by the name of Lockwood, whose father was the general agent of the Connecticut Mutual Life Insurance Company, and who had married a Spencer girl, whose father was the general counsel of the Union Pacific [Railroad], and [Lockwood] was interested in the organization. There were one or two others whose names I don't remember. I was selected as the treasurer of the organization. We did hold some meetings. I recall that B. A. Green came to one meeting, and Irvin Goodman came to at a meeting, and we had some people from labor movement who were interested, and . . .

RH: Excuse me, would this have been around the mid-1930s, do you think?

SOLOMON: Yes, I think that that's right, around 1935.

¹⁵ It is not explained in the interview, but Emily Bancroft Nunn and Katherine Lucy Trevett were sisters.

Well, we didn't do too much until I got interested in the DeJonge case. Now, Irvin Goodman had been the attorney for DeJonge, and I think there was a fellow by the name of Cliff O'Brien and a Harry Gross who assisted them. But in spite of the fact that he had been in the office with me, I didn't know too much about what he was doing. I heard about the case, but I had no participation in the case whatsoever. Then he lost the case, and this man was sentenced to seven years. I thought that sentence was outrageous. Then he appealed the case to the Supreme Court of Oregon, and he lost there.

Now, I didn't pay any particular attention, but one day, I think I was at a Chamber of Commerce meeting with a friend of mine. And a young lawyer by the name of Allan Hart was there. He doesn't remember this at all, that we were at that spot, but I remember that I went there with a man who I had helped when I was in school by the name of Arthur Goldsmith, who was a good lawyer and a nice fellow. He was a member of the Chamber of Commerce, and he invited me to come there. That was the first time I'd ever been to the Chamber of Commerce.

Anyway, this young man says to me – he was going to Yale Law School at the time, and he said, "Is Irvin Goodman going to appeal that case to the Supreme Court?" (DeJonge case.) And I said, "Well, I don't know. I haven't talked to him about it." He then said, "I wonder if they raised the claim of federal right." (First Amendment and the Fourteenth Amendment in that case.) And I said, "Well, I don't know." He said, "If he intends to appeal, he'd better do that, because the Angelo Herndon case in Georgia requires it." So I then went back to the office, and I asked Goodman if he had made the claim of federal right. And he said, "No." A few days later, we had a meeting of the American Civil Liberties Union, our local chapter, and I raised the question of whether they would like to appeal that case or participate in the appeal.

Now, I had talked to Goodman as to whether he intended to appeal, and he said no, that he wasn't going to try to bring it any further. Of course, he couldn't have brought it any further, actually, without having made the claim of federal right. But he said that the Communist Party didn't want the appeal because some people do their best work for in jail for them. They could use him as an example, just as they did – what was it?

[Tape stops]

Just like Mooney, and Billings, and the man from Centralia (I forgot his name, too) had "helped the laboring class," as he called it. So, DeJonge might be doing the same work by being in the penitentiary. Well, that claim didn't impress me, and I asked the A.C.L.U. if they wanted to appeal. They thought that that was a good case to take up because it involved civil rights.

So I wrote to Roger Baldwin, told him about the case, I sent him the [Oregon Supreme Court] decision, and asked him whether the A.C.L.U. would like to participate, and he told me, "Yes." I said I needed some help, and he suggested at that time two men: one is Osmond K. Fraenkel; and the other man was a man by the name of Green, who wrote with Felix Frankfurter, it's called *Frankfurter and Green*. I think that Frankfurter was one of the other people who was supposed to help me in that case. Well, Allan Hart and I wrote a petition for rehearing, which we filed with the Supreme Court of Oregon. At first, they didn't want to let me file it because they said, "Oh, you're with Irvin Goodman." I said, "He had nothing to do with my filing this petition. In fact, he doesn't want to file [petition?]; I want to file the petition." So they let me file it.

The petition was denied, but in that petition we made the claim of federal right, we raised it for the first time, which gave us the opportunity to appeal to the Supreme Court of the United States on the ground of deprivation of civil rights, a federal right. Well, I wrote to Osmond Fraenkel, who was then assigned to the case, and he said that there was some new rules by the Supreme Court, and if you filed an appeal, then you could file of a brief in support of jurisdiction. That rule had not gone into effect, but he suggested that we do it. I wrote that brief in support of jurisdiction, and within a comparatively short time, the Supreme Court accepted jurisdiction.

Now, I later learned that the Supreme Court was looking for a case of this kind, or some of the law clerks were, anyway, and they grabbed onto this this. Then, I was stuck with this case. Jurisdiction had been noted. I didn't have any money, and I certainly

couldn't go back to Washington, D.C. [District of Columbia] to argue the case. So, I wrote to Osmond Fraenkel, and told him that jurisdiction had been noted (I guess he knew it), and that they set the briefing schedule, which was just horrendous, as far as I was concerned; I couldn't do it. And he agreed to do it.

But then a few days later, I was fired [Laughs] (theoretically) from this case, although I didn't represent DeJonge. He came to me and said that he had been told by the Communist Party to fire me. They didn't want either Osmond Fraenkel or me to represent them. They wanted a man from New York by the name of Brodsky who had represented the Scottsborough Boys. So I told them that they were making a terrible mistake.

They had gotten angry at me for something I had done. When I was writing the brief on jurisdiction, I conceded that the Communist Party advocates the overthrow of government by force and violence. And there was plenty of justification for that in the [party's] literature, but they said no. Maybe it was a foolish thing for me to have tried to get them to agree that they were guilty of some violence, but I wanted to avoid the necessity of having to pay for a transcript which contained all the information of the violent statements that appeared in a lot of the literature, which I knew that the district attorney was going to introduce. Well, they were unhappy about me.

Anyway, I was out of the case. But then I was notified that if Osmond Fraenkel was willing to argue the case, we could come back into the case. So that's what happened. Osmond Fraenkel, who was the fine lawyer, and he was out in New York, and he was going to handle the case anyway, so he agreed to write the brief, and I prepared the transcript. Again, I was notified I couldn't concede these various things about force and violence. One of my friends, who was in the district attorney's office, Tarshish, who I was with when I first met Leo Levenson, he prepared the transcript for what he wanted in there. He put in plenty of violent material about the Communist Party, but there was nothing I could do about that, because I was willing to stipulate that in the first place. We did prepare the transcript, and Fraenkel did argue the case, and the case was unanimously reversed and sent back to [the Supreme Court of Oregon].

Well, that was my experience with the DeJonge case. During that period of time we had a lot of incidents, and there's a book going to be written about it by, not Henry Friendly, but –

[Tape stops]

Fred Friendly is writing a book on that, and he's bringing out what happened during the strike which precipitated the DeJonge case. I don't know if I mentioned that earlier.

RH: Yeah, I want to ask you a little bit about that strike, and in fact a couple of the incidents that served as a background for the DeJonge case. I wanted to just substantiate a couple of things though. It seems from your description that the Communist Party was sort of calling the shots as far as DeJonge personally was concerned. Is that true?

SOLOMON: I think so. Yeah, he was a member of the Communist Party. He didn't have any money, and they took over. They took over the trial. The trial was a disaster, but that's the way they tried it. But, during that period, they were organizing the longshoremen. The longshoremen were not very successful as against the business community, which didn't want an organized longshoremen's group. The police were quite brutal to the members of the union, and there was a number of beat-ups. Then President Roosevelt had sent out Senator [Robert F.] Wagner to take a look and see what was happening, and some police shot at Senator Wagner. I don't know, have you seen the newspaper articles? I collected those, recently . . .

RH: I have read an account of that, yes.

SOLOMON: It was a violent period, and it was during that period that DeJonge and some others called a meeting to protest against police violence. There were no unlawful statements made or theories advocated at this meeting; they were just going after the police. It was on that basis that the police came in and raided them, and arrested [DeJonge] because he was a member of the Communist Party, not that anything unlawful was advocated at that meeting. That was the civil rights issue that I took up.

RH: In the later stages of this case, then, it seems that Irvin Goodman dropped out of it completely, then. Is that right?

SOLOMON: Actually, once the Supreme Court of Oregon decided against his position, he didn't do anything, although his name was on the brief. But of course – actually, he took all the credit for the result of the Supreme Court of the United States decision.

RH: Did you continue to share an office with him after this?

SOLOMON: Yes, I did, for about two or three more years. I helped him in certain cases. There was another case, Theodore Jordan. Jordan was sentenced to death for the murder of somebody in Klamath Falls. He was very poorly represented, and they had kind of a rough deal on the instructions. Goodman came into the case, and he needed some help on the briefs, and so I did some of the work. I did some of the work on civil rights cases of other kinds that he had, although most of the cases that he had were – he didn't ask me for any help.

And at times, we were on the opposite sides of some things. For example, he was representing the International Labor Defense, and they were complaining bitterly against one of the state agencies, and vilifying them. And I remember the man who was in charge of that was a man by the name of Elmer Goudy, a very nice person who went to law school with me. I was representing somebody else over there, and I took [International Labor Defense] on, and said, "You're absolutely wrong about Elmer Goudy.

He's a decent guy, and he's not trying to persecute you at all." Well, that didn't endear me to those people, but that's what I did anyway.

RH: You mentioned that after your conversation with Allan Hart, when the idea was brought up to make a petition to the Supreme Court that you went to what constituted at that time the local chapter of the A.C.L.U. Why was it important for you at that time to get the backing of the local chapter, as opposed to immediately going to the national organization and getting their . . . ?

SOLOMON: Well, we had a local organization, and I thought it was important that the local organization begin to participate in some of these civil rights cases.

RH: But they didn't provide any substantial financial help?

SOLOMON: No. They didn't have very much money. Actually, I paid for the parts of the transcript out of my own pocket during that period. I might say it's a lot different than some of these young people who bleed for the poor and oppressed, [Laughs] and then when they win, they get thousands of dollars for it. I never got any money for anything I did in law in that line.

RH: I believe there was an effort in the early 1930s among civil liberties people in Oregon, and Portland in particular, to organize a drive for the repeal of the criminal syndicalist law through the initiative petition. Did you have any involvement in that?

SOLOMON: No, I did not. I now recognize that they did have a group, but I did not participate in that at all. I was confining most of my activities in that regard to law.

RH: You touched on some of the violence that existed in Portland in the early and mid-1930s. I wonder if you could give me some of your observations on what the so-called "Red Squad" consisted of in Portland, and what it did.

[Tape stops]

SOLOMON: I don't know very much about it. I knew that they had a Captain Keegan. And then they had a man by the name of O'Dale. And they had another man who was active, who had been a Boy Scout leader, but he had been kicked out because he was a homosexual and he was having relations with kids, but he became active in this "Red Squad."

It was primarily an organization that was against union activities. They were trying to get rid of union organizers in the lumber industry, and other types of industry. And if a fellow was real active, the employer would require them to go down and see these people, and to prove that he wasn't a member of the Communist Party or some other left-wing organizations. I don't know a great deal about them, except that they began to attack a number of people, including a minister from the Unitarian Church, and Harry Kenin, and they had professors at the University of Oregon who they accused of being communists. They had [on their hit list] Jesse Short from Reed College, who was a math professor, and they had Harry Kenin, a number of others. I don't think I was ever attacked by them at that time. I might have been. It was a group that played pretty close to the Police Department.

RH: So that it was, in one sense, sort of a private vigilante group, but they were insinuated in actual public authorities, or were public authorities.

SOLOMON: Yes, that's correct. Some years later – I did have a run-in with them. They took a young boy out of school and interrogated him about left-wing activities. The man who was on the school board had been the – I forgot his name, he became the president

of¹⁶ the Veterans of Foreign Wars. So, I went before the school board and protested. The rest of the board castigated [Louis] Starr. He never forgot it. When I was up for nomination, he attacked me as being a communist.

RH: Did you have any contact with or involvement in the trial of Ben Boloff in 1931.

SOLOMON: Yes, I did. The only thing I know about it is that Irvin Goodman came to me, and he wanted to get somebody to testify about American government. I called up Professor Charles McKinley of Reed College, a well-known and highly respected professor at Reed, who I think was then the head of the City Club. I told him what Goodman wanted and asked him if he would testify. He did, but I don't know what he testified to. That was my only contact with the case. I was never at the trial. I don't even know what the issues were, but I do remember that I got Professor McKinley to testify.

[End of Tape 4, Side 2]

¹⁶ Audio stops here. The following transcript on this tape side could not be audit/edited.

Tape 5, Side 1
1984 August 22

RH: This is an interview with U.S. District Court Judge Gus Solomon. The date is August 22nd, 1984. This is Tape 5, Side 1.

[Tape stops]

What did the advent of the Roosevelt administration in 1933 mean to people who were concerned about civil liberties? Did it seem like a new age was dawning to people at that time?

SOLOMON: I can't tell you. You know, this is something you ought to ask some of the historians who keep up with it. Of course, I was enthusiastic about Roosevelt, and I liked some of the New Deal agencies. I thought that he did a good job in getting young people off the streets and putting them these camps, you know. I forgot the name of the program.¹⁷ I don't recall that I was the beneficiary of any of his programs, although it was during this period that I did become interested in public power, and I began to represent some of the labor unions. But I thought that he had pulled us out of a real depression, and that the attitude of people had changed considerably as a result of his efforts.

RH: There seemed to have been a much more sympathetic attitude in his administration toward organized labor, too.

SOLOMON: Oh, yes. I think that that's true. When I said that I was not the beneficiary of anything, I didn't mean to indicate that the people in whom I was interested, like public power and labor, were not being assisted by the programs that he put into effect. But I was not interested in partisan politics at that time. I never ran for office. I didn't go out

¹⁷ Solomon is most likely referring to the Civilian Conservation Corps (CCC), a New Deal program which hired unmarried, unemployed men to do environmental conservation and natural resources development work; the agency built camps to house its workforce.

supporting [candidates] actively. I didn't march in these marches for – I forgot the name of the program that he put into effect, in which they determined minimum wage laws and hours of employment, things of that kind.

RH: One of the things that seem to me that most upset people on the left was police raids on the one hand, but also the number of deportation efforts that were . . .

[Tape stops]

. . . the number of deportation proceedings that were going on at that time to expel unnaturalized aliens who were thought to be left-wingers.

SOLOMON: Yeah. There was one man who Irvin Goodman represented over a period of time, and I forgot his name. I used to see him, but I didn't have any personal connection with that case or with any other case of that kind.

RH: Would that have been the Walter Ernst Baer case?

SOLOMON: Baer, Walter Baer! Yes, that's right. I knew him, and I didn't think very much of him as an individual. I don't know what ever happened to him – I don't think he was ever deported, was he?

RH: No. They were trying to deport him on the basis of moral turpitude because of a couple of crimes that he'd been convicted of in the past.

SOLOMON: That's right.

RH: But, the left believed that it was mainly because of his later political activities that he was being attacked at that time.

SOLOMON: Well, I imagine that that's the reason why Irvin Goodman got into the case.

RH: Were you familiar with the issues that surrounded the waterfront strike that broke out in 1934?

SOLOMON: No, I wasn't. I may have heard it peripherally, but I was not involved in that at all. Some years later, I did handle one case of an offshoot of the longshoremen. These were the office workers connected with the longshoremen. The only thing I did was settle a case in which they were involved. They selected me because they thought that I could settle it, because I was a good friend of the attorney for the Waterfront Employer's Association. That's the only reason why they ever hired me.

RH: Well, as the strike went on and got more and more bitter, it couldn't have failed to catch your notice somewhat. Did you have sympathies one way or the other about the issues in that strike or what was going on?

SOLOMON: Well, I was sympathetic to the position of labor, not only for the longshoremen, but for the woodworkers, and the machinists, and a lot of others. So I assume that I was friendly to the position of the longshoremen. However, if this was during the [period of] 1935, 1936-1937, I was then a member of the Oregon Commonwealth Federation, which was a political organization in which the longshoremen and the woodworkers and C.I.O. [Congress of Industrial Organizations] unions belonged, and also the Farmers' Union, and some of the grange people. So I knew something about these longshoremen. I might tell you that I didn't agree with the longshoremen, and they didn't agree with me on many of the political positions that they took. They attacked me, they didn't like me at all. Longshoremen never liked me.

RH: What was the focus of your disagreement?

SOLOMON: My focus was primarily in connection with their attitude towards the Soviet Union. I recall one time I spoke against them, and I bitterly attacked them because of the Soviet attack against Finland. That was written up in the newspapers, which years later was to my advantage, because when they were saying that I was playing footsie with the communists, here they had this front-page story in the *Oregonian* in which I attacked their position.

The woodworkers, there were two groups. I represented some of the local people. The international [union] was [led?] by a man by the name of Prichett, who was not friendly to me. Subsequently, he was responsible for my termination as the Oregon attorney for the woodworkers.

RH: Did you ever have any contact with Harry Bridges at all?

SOLOMON: No, never did.

RH: When you would have these disputes with people in the labor movement with whom you had some contact or were representing, was it usually because you were not far enough or extremist enough for their taste?

SOLOMON: Yeah. I think that's right.

RH: Well, could you tell me a little bit more about the Oregon Commonwealth Federation, and how you got involved in that, and what its purpose was?

SOLOMON: The Oregon Commonwealth Federation was organized by a group of people, including Monroe Sweetland, who had been a member of the Socialist Party. There was a number of others here in the A.F. of L. [American Federation of Labor] and the C.I.O. who had socialist sympathies. "Production for use and not for profit" was one of

their slogans. Now very early, however, there was a breach between the people in the organization who were in the A.F. of L. and those who weren't in the A.F. of L. And most of the A.F. of L. leaders withdrew from the organization. Now, that had been somewhat different than a few years before, when they had the labor college in connection with the A.F. of L. And it was an organization that was very sympathetic to the socialist point of view, but later they changed.

I got interested in the Oregon Commonwealth Federation because one day Monroe Sweetland, whom I didn't know, came to my office and asked me for a \$15 donation. He needed it for some purpose that I don't recall. So I listened to him, and I said, "All right, I'd give it to you." Even at that time, I was tithing. I put [10%] of my income for charity. I didn't only give it to the synagogue, but I gave it to schools [everyplace?]. I imagine I was making around \$3,000 at that time, so I would give \$300 away. So when he asked me for that \$15, I gave it to him. Apparently, I was the only one that had treated him so well. [Both laugh] He was in very dire financial circumstances. He came back a few days later around noontime to tell me something, and I invited him to lunch. Well, from that time on, he used to come almost every day [Laughs] if he didn't have anybody else to get lunch from – from me! We became quite friendly. Then he asked me if I wouldn't come to a meeting of the Oregon Commonwealth Federation. I went to a couple of meetings, and I thought it was a pretty good organization, and I then was made the treasurer of the organization within a very short time.

Now, it is primarily through that organization that I got to represent labor unions. You know, you asked me earlier how I got the – I think it was through the Oregon Commonwealth Federation that I got acquainted with the labor leaders in the woodworking industry.

It was during that period of time that labor unions were having a lot problems in connection with the Fair Labor Standards Act of 1935 or 1938. They weren't being paid overtime compensation. Some of those unions hired me, and I think that's the way I got to represent the unions. Now, the longshoremen wouldn't hire me because they didn't like my politics. And some of the others didn't. But the woodworkers and a few other

organizations with whom I became friendly did hire me. And then, it's through the Oregon Commonwealth Federation that I became interested in public power and got acquainted with Ray Gill and Morton Tompkins. The Grange was largely responsible for my representation of the public power groups. So, the Oregon Commonwealth Federation played an important role in my life because it gave me the opportunity to represent labor unions, [Knocks on desk] public power groups, [Knocks on desk] and Monroe Sweetland, who later became the Democratic national committeeman for Oregon, was the one who recommended me for the judgeship.

RH: How long did your association with that group last?

SOLOMON: My association with that group lasted about three years until – the war came on, I think, and they closed up. But my association with Monroe Sweetland has continued down to this time. [Knocks on desk] He's still one of my closest friends.

[Tape stops]

RH: You mentioned that your efforts to interest a few people in this area in constituting a more formal civil liberties group in the mid-1930s fell on deaf ears to some extent, some of your original efforts with . . .

SOLOMON: That's right.

RH . . . Mr. U'ren and Mr. Esterly. Why was it, do you think, that they were hesitant to constitute a formal group at that time?

SOLOMON: Well, W. S. U'ren had a reputation for being a liberal, but I didn't think so. I think he was a sharpie, and he was only interested in himself. And I don't think he was completely honest. He was not interested in any organization unless you could advance

his own interests. Now as far as Esterly is concerned, I didn't know Esterly very well. I read in this book that he was concerned about organizing the A.C.L.U. because he was fearful of communist influence. Now, that was kind of a shock to me, because I never wanted to get close to him, because I thought he was a member of the Communist Party! [Both laugh] So this is the first time I've read that here's a man who was against communism, when I thought he was favorable to communism. So, we never hit it off very well.

Then, he had these two friends, Lucy Trevett and Mrs. Nunn. But I'm sure that after we organized, he never had anything to do with the organization. Although I think his son, who for a while became interested in very left-wing activities, did come up for a short time, and then he left the organization. I don't think it was liberal enough for him.

RH: What involvement did you have with Richard Neuberger in this effort to —?

SOLOMON: Well, Dick Neuberger and Steve Kahn were very much interested in public power. Dick Neuberger, from the very beginning, was interested in politics. He was one of the people who supported the Commonwealth Federation, but I don't know whether he was ever an active member. I don't think so. But he was writing for the newspapers. And he was very active in the public power movement. He helped support Bonneville. Now, I don't think I mentioned to you that when Bonneville Power Administration opened its office and plant in Portland and around Portland, I became very close to the organization. I didn't know J. D. Ross, but I did know the assistant administrator, I'll think of his name pretty soon. [Laughs] And I met some of the others. They had a general counsel was sort of a disaster, but one of my friends, who had been in office with me, Frank Keenan, went there as assistant general counsel. And a number of my friends were in the legal division. It was during that period of time that I was appointed the attorney for many of the People's Utility Districts. Also, I helped organize some of the co-ops, the electric co-ops, during that period.

I think you can trace most of my activities to my early days in the Commonwealth Federation, as a result of which I got interested in labor, and then public power, and then in Bonneville, then the People's Utility Districts, the co-ops. That's the way I did it.

RH: Is there any more of your associations with organized labor that we haven't mentioned yet that you would like to mention?

SOLOMON: No. I handled a great number of the cases involving the Fair Labor Standards Act. I also represented the International Woodworkers of America (the I.W.A.) against the Carpenters' Union. You see, the Carpenters' Union had originally organized these woodworkers. But they tried to control them, they gave them second-class citizenship, because – then the woodworkers moved out, and there was a question of representation, and who was entitled to the money. There was quite a bit of litigation, and I handled some of that litigation for the I.W.A.

As a result of that, I got a little personal injury business. But not much, because all of that was controlled by a lawyer here (who was a very good lawyer) by the name of B. A. Green. He had both the A.F. of L. and the C.I.O., and he wouldn't participate in this warfare. He was glad to see me handle the work for the I.W.A. because I wasn't trying to grab his personal injury business, you see. [Laughs]

RH: You sort of stayed in the middle of things then?

SOLOMON: Yes. That's right. We were good friends, and he was a good liberal. I liked him, and apparently he liked me, particularly because I was never competing with him for the type of business that was lucrative. I [inaudible] . . .

[End of Tape 5, Side 1]

Tape 5, Side 2
1984 August 24

RH: This is an interview with U.S. District Court Judge Gus Solomon in his chambers in the U.S. District Courthouse in Southwest Portland. The date is August 24th, 1984. The interviewer is Rick Harmon for the Oregon Historical Society. This is Tape 5, Side 2.

[Tape stops]

Judge, over the last couple of sessions, you've given me a pretty good idea of the variety of legal experiences you had in the 1930s and 1940s. I'd like to ask the question, though, from what sort of activity did you earn the bulk of your income?

SOLOMON: I think near the end, I was – that means, in the 1940s, I received most of my income from business transactions. I represented furniture dealers and some manufacturers, and I represented people who bought real property. But during the latter part of the 1940s, I also had a substantial income in connection with the representation of P.U.D.s. I don't think I made very much money representing labor at that time.

RH: Would you say that in the 1940s, and particularly with the war years and after, that the kinds of legal activities you were involved in changed from more labor and civil liberties to more strictly business kinds of activities?

SOLOMON: Oh, I don't know. I think I was handling about the same during that period. Of course, during the war there was no activity on behalf of the utility districts. Everything stopped. So, until the war was over in 1945, I didn't make any money from that source. And I didn't do any work [with P.U.D.s] during that period. But, I think we started to work again in connection with the electric co-ops and P.U.D.s in about 1946.

RH: You gave me a copy of a publication called *The Enemy Within*. That claims to be kind of an exposé of communist infiltration into the labor movement and into the Oregon Commonwealth Federation. That pamphlet was published in 1941 by a man named S. Eugene Allen for something called The Oregon Labor Press. Can you tell me anything more about what that was intended to do, and who Mr. Allen was?

SOLOMON: S. Eugene Allen was a young man, who I think had graduated college, and he wanted to get into the labor movement, and he wanted to get into politics. He came to me for help, and I did give him some help financially when he wanted to run for office. Then he got a job with The Oregon Labor Press, which was the publication of the Oregon State Federation of Labor, and he completely changed his attitude, and he became a very conservative person. I think he was kicked out of a union, even, in the A.F. of L. union, because of his attitude, even the A.F. of L. Then he began to write these caustic articles about the Oregon Commonwealth Federation and the C.I.O. There was a group in the A.F. of L. – well, I think practically all the leadership was very bitter towards the C.I.O. He identified with that group.

Now, this had been a change of the composition of the A.F. of L. during the 1920s and 1930s, when the A.F. of L. was a liberal organization, and there were a number of socialists in the A.F. of L., and many people nationally in the organization were socialist. Gompers, for example, and Morris Hillquit. But the organization became progressively more conservative. At one time, they operated a labor college connected with the Oregon State Federation of Labor. That's written up in the *Oregon Historical Journal*¹⁸ of a couple months ago, and it tells that story. It tells the story of how they became more and more conservative, the leadership. They terminated their relationship with this labor college. But S. Eugene Allen was always friendly with me, and I notice he never has my name in the pamphlet.

RH: When he came to you originally, what were his politics?

¹⁸ Solomon might actually be referring to the *Oregon Historical Quarterly* here.

SOLOMON: Well, I don't know. He was just a young man interested in getting along, and interested in politics, and Democratic politics. I recall that I gave him some money, and I wrote out his statement for the voters' pamphlet at that time. I didn't see him very much after that, but we were always on speaking terms.

RH: I want to ask you about your public speaking in the late 1930's, some of the speaking that you did in front of groups for the anti-fascist cause. How did you get started in doing that? What was the motivation?

SOLOMON: I didn't make many speeches. One time, I did make a speech in 1938 at the Lincoln High School. There was a meeting to protest against police violence and some of the conduct of the Standard Oil Company. Apparently, the Standard Oil Company had been using *agents provocateur* and stirring up difficulties within the union. That's all brought out in a pamphlet that was issued by the State of California. I don't know if you have that pamphlet, but it's there, and I was sort of outraged at some of the things that they did, and I spoke at that meeting. There were other people: S. Stephenson Smith, who was the president of the Oregon Commonwealth Federation; and Monroe Sweetland; and some of the people from the woodworkers spoke out. Then there were a couple people who were more radical who spoke at that meeting. Prichett, I think, spoke there. But most of the people who spoke were liberals, but not radicals at all.

Now, I spoke there, and one time I went to a meeting, and before I knew it, I was the chairman of that particular session. I think it was involved in civil rights. But I don't recall making many public speeches on civil rights or in anything else, except when I would go to meetings of the public power groups, I would participate very actively.

RH: No speeches about anti-Semitism, as the tenor of . . .

SOLOMON: Yes, I did. I recall that I spoke at the First Congregationalist Church, at a meeting. The First Christian Church, I spoke there, the First Baptist Church, and the Methodist Church. I spoke at all these churches mainly on discrimination: discrimination against the blacks; discrimination against the Jews. I would usually lead off to discuss discrimination against all groups, and then ended up my talk with the discrimination against Jews.

I got into this because of a woman by the name of Isabel Gates, who was the Christian Friendliness Chairman of the American Baptist Convention. She always regarded me as one of the group because I had gone to a Baptist School, the University of Chicago was a Baptist school [RH laughs] when I went. I used to go to chapel there,¹⁹ but when I came to Portland and I got interested, and – as a result of my protest against the incarceration of Japanese during the war, I met other people who were – it was the Council of Christian and Jews, I believe it was, and there was a girl who was the secretary. As a result I met with a number of people, including the man who was the director of the [inaudible].

[Tape stops]

He was the director of the Portland Council of Churches. It was because of my contacts there that I was called upon to speak at a number of these meetings. I didn't limit them to church groups. I did speak at other groups arranged by the Christian Friendliness Committee of the Baptist Convention. [Portland is] in the American Baptist Convention, I don't know whether you're acquainted with that. There are Southern Baptists, there are Northern Baptists, but the difference between an American Baptist and a Northern Baptist is very small. But the differences between a Southern Baptist and an American Baptist is great.

¹⁹ Chapel attendance had been mandatory for students at the University of Chicago when Solomon attended.

RH: Well, what sort of response or reception did you get at these meetings? Did you have a feel for that?

SOLOMON: Oh, yeah. We got very good responses. I also spoke at these luncheon clubs, [what's it?].

[Tape stops]

Spoke at some luncheon clubs. There's a lot of interesting incidents that happened. I think I referred to one of them, a speech that I gave in London²⁰. I first spoke about discrimination in general against all minorities in education, in job opportunities, in housing, and in social clubs. Well, after I finished the general statement, I talked about Jews in particular, how they were affected. I was followed by a man from the Urban League, who discussed the types of discrimination to which blacks are subjected to. Then we were followed by a man from the Chinese Presbyterian Church, and he had never appeared before with us. He said, "This has been very interesting." Not until Judge Solomon (or Mr. Solomon, at that time) spoke did he ever realize that anyone other the Chinese people were discriminated against. He couldn't imagine the blacks being discriminated against because there are so many of them, and as far as the Jews are concerned, they're all so rich. [Both laugh] So we that that kind of participation. After a while, a lady raised her hand and said, "This has been a wonderful meeting, and I've learned so much. But the thing I don't understand is how programs like this get converts for the Baptist Church." [RH laughs] But generally, I would say that the reception I received and what came out of these meetings were very positive.

RH: I wanted to touch briefly on your marriage in 1939, I think it was, just how you met your wife, and what sorts of common interests and concerns brought you together.

²⁰ It's unclear exactly what Solomon's referring to, as he doesn't mention traveling abroad elsewhere in this portion of the oral history.

SOLOMON: Well, I was at a meeting of the Oregon Commonwealth Federation that was being held at a farm hall, and I saw her there. I had not known her personally, but my mother and her mother had been friendly, and we lived about two blocks away from each other for many years. She was a little younger. Her father was in the plumbing business, and he sold my father quite a few of the plumbing supplies that went into my father's apartment house. So, the families knew each other. I saw her, and I said, "What are you doing here?" This was a meeting of the Oregon Commonwealth – she got very angry, walked away, [Both laugh] and I didn't see her again for some time.

Then the Oregon Commonwealth Federation decided they were going to have small neighborhood groups, in addition to having the woodworkers as a union affiliated, or other groups, and the Grange. So one night I went down to a meeting that Monroe Sweetland asked me to go with him to. I remember it was at the Governor Building, which is not a very good location, even at that time. It was on 2nd and Stark Street. Libby Willer was there. We had a very short meeting, because we didn't get very many people to that meeting. I said to her, "How are you getting home?" I first asked her if she had a car, and she said no, and I said, "How are you going to get home?" And she said, "Well, I'm going to take the bus." I said "This is no time to be taking that bus at this time. I'll take you home." So, I took her home, and we became acquainted.

Then later on, I call– I didn't call her right away, but I went to another meeting. There was a meeting, I believe, of a woman who was on the staff, or she was a cabinet member, in the British Parliament. She was a liberal, and she came to a meeting, and there was quite a bit of controversy, I believe. I met Libby there at that meeting, and I took her home again. From that time on, we began to go out with each other. But we didn't get married for – that was in May or June of 1938, and we got married in March of 1939, primarily because I didn't have very much money. I had a lot of obligations, family obligations, so we couldn't get married, although we decided to get married in August of 1938.

RH: As you were getting acquainted with her, did you find that you had a political compatibility?

SOLOMON: Yes. She was a good liberal. She was interested in many of the activities in which I was interested in. She was bitterly anti-communist, but friendly toward the Democratic Party.

RH: Well, when the U.S. became involved in the Second World War, after the bombing of Pearl Harbor, what thoughts did you have about what your own involvement would be in the war effort, or whether you would have an involvement?

SOLOMON: Well, I was in favor of the war effort. I had been rejected from the military service when I was going to college at the University of Washington. They had rejected me for physical reasons. Then I was up for the draft, and I was rejected again. So, I was not called during the war. But, I actively supported the war effort. In fact, I made a lot of speeches earlier about Hitler before the war. I remember I made a speech at the First Congregationalist Church, at one of their evening sessions. And I was responsible for some pamphlets that were written. One of them was called *Hitler Destroys Unions*. That was primarily for labor. Then I got another one written, *Hitler Destroys Churches*. Then we had those distributed.

RH: Who financed those publications?

SOLOMON: That was done by the Anti-Defamation League. They talked to me about getting that done through a friend of mine by the name of David Robinson. I mentioned him earlier, I was in his office for a short time. But, I had been active in that.

Then, as you know, I also protested the sale of German-made goods by the department stores and others, I objected to that. I did that on behalf of the American Jewish Congress. I became interested in that organization, which was the organization

formed by the Rabbi Stephen S. Wise, who was a very well-known man. He actively supported the boycott of German-made goods.

RH: Well, I wanted to move into some of the areas of your legal activities during the war years, and the first one I wanted to ask you about was this case in which a Socialist Workers Party member who was in the army was sentenced to death because he wouldn't carry a weapon. What involvement did you have in that case?

SOLOMON: Very little. I was called by the *Oregonian* and told that there was a young man from this area (I think it was Vancouver, Washington) had been drafted into the army, and he refused to carry arms. He was tried before a military board and sentenced to death. I couldn't do very much for him here, but I got in touch with the people of American Friends Service Committee who had offices in Oakland, California, and they took over the case. I did try to do something for him here, but I wasn't able to do very much.

RH: Do you know what the outcome of that case was?

SOLOMON: Well, he wasn't sentenced to death, I can tell you that. I don't know what happened to him. I think that they gave him some minor sentence.

RH: Do you recall what your personal thoughts were when Executive Order 9066 was issued, and then later, when the evacuation of Japanese Americans began?

SOLOMON: I was deeply concerned about the executive order. I knew a few Japanese people who were here. But I always figured that if you can put an American citizen in a concentration camp because of his color or place of origin, you can do it because of his religion, and that was what was happening in Germany. I was outraged by that order, and

I did speak before a meeting of the American Jewish Congress and told them how I felt about the thing.

I then was asked by Judge James Alger Fee, who was the chief judge of this court, to act as *amicus curiae* in a case filed by the government against a man by the name of Minoru Yasui, who had deliberately violated the law in order to test the constitutionality of the act. I was not the only one who was asked to appear *amicus curiae*. There were others, Mr. Charles Hart, who was the head of the largest – it was Hart, Spencer, McCulloch, Rockwood & Davies, the largest office in the city. There was a man by the name of Al Hampson, who was one of the principal partners in the firm of Dey, Hampson & Nelson, the second-largest firm in the city. There was a man by the name of Robert McGuire, who was the attorney for the Union Pacific Railway. There was one other, whose name I don't recall. I was not a prominent lawyer at that time, but Judge Fee knew of my interest in . . .

[Tape stops]

I mentioned that Judge Fee had selected me along with these prominent lawyers (I was not very prominent). But I met with them on one or two occasions. Most of the people there were in favor of supporting the government. I told them that I thought the order was unconstitutional, and they made short shift of me. I did appear in the court. I might have said a very little, I objected to what was going on. There was a fellow by the name of Ferguson from Seattle who was a deputy United States attorney, or a deputy attorney general, and I think that Colonel Bendetsen was there at that meeting, and he was the assistant to General DeWitt, and I didn't agree with anything he said. I had previously asked the American Civil Liberties Union to come in with me, and they rejected my suggestion. I never knew why until I recently read this Irons book, and they have a reference to my letter, and that say that Roger Baldwin denied my request at that time because Morris Ernst, the general counsel of the A.C.L.U., was so bitterly opposed to that, and primarily because he was the personal attorney for J. Edgar Hoover, the head

of the F.B.I. [Federal Bureau of Investigation] There were other people in the organization, who said that this is nothing for the A.C.L.U. to participate in, because of the war, and we were favoring the United States against what the Japanese were doing.

[End of Tape 5, Side 2]

Tape 6, Side 1
1984 August 24

RH: This is an interview with U.S. District Court Judge Gus Solomon. The date is August 24th, 1984. This is Tape 6, Side 1.

[Tape stops]

SOLOMON: I didn't do very much, except that I represented one or two persons. One man who was in a cleaning business, and then I had a lady who was married to a Japanese [person]. She talked to me. I didn't do anything about the Japanese who were in these camps until I got a letter from Roger Baldwin. He told me (this was near the end of the war) that a young man who had been in the 442nd Battalion had lost both his arms and his legs. He was sent back to New York, and he wanted to come back to Oregon. I think he lived in Hood River. He couldn't come back because of Executive Order 9066. Roger Baldwin thought that was a good case to test the constitutionality of the act. I thought so, too. I began to check the law, and then I looked for other people to help me. At that time, let's see, Wayne Morse was, I think, the Dean of the Law School. I saw him down at Gearhart at a meeting of the Oregon Bar Association, and I asked him if he wouldn't join with me, and he said no, he couldn't. I think he decided he wouldn't do it because he had political ambitions and he was going to run for United States Senator. But he turned me down.

Then, I was preparing a complaint, which I would have sent back to New York for them to look at, but just about that time, I got a telephone call from a reporter for the *Oregonian*, about 10:00, 11:00 in the evening. I was in bed by then. He said, "What do you think of the action of General DeWitt in lifting the exclusion order?" I said, "Well, I didn't hear about it," and they told me what he had done, and I said, "Well, that's wonderful!" because I think, had he not done – but I was just about to file an action. I talked to him for a few minutes, and then I said, "Are you asking anyone else?" But he actually said he's asking the governor, and the mayor, and I remember that he asked Morton Tompkins,

from the Grange, and everybody he had talked to thought it was terrible. They recommended caution, don't get excited, the government was not going to do anything that's going to put our lives in jeopardy. I was the only one who was in favor of the repeal of the act. My name came out in the paper. The next day as I was walking down the street to my office, a fellow stops me, whom I knew, and said to me, "Don't you have any respect for your family?" I said, "What do you mean?" He said, "Well, you came out with this [statement]. How would you like to have your house bombed and your children killed?" and all that. And then I got another call!

I went to the office, and a little later, a young lady came in [inaudible], and she – my secretary came in, said this young lady's there, and I've forgot her name, and she came in and said, "I want to talk to you about your statement in the newspaper." She was a nice young girl, and I said, "Are you, too, complaining about what I said?" She said, "Oh, no. I never heard about you before. But I'm with the Council of Churches. I happen to be the secretary of the Council of Christians and Jews. We're meeting at the Y.W.C.A. [Young Women's Christian Association], have a group. We've been meeting for some time about this situation, and we're inviting you to come."

RH: Was that Betty Sale?

SOLOMON: Betty Sale! That's her name, yes. That was how I got interested in that group.

RH: I want to back up just a little bit, and ask you a couple of things about both the Yasui case and then the other case involving the disabled veteran. Now, what was your understanding, actually, for why General DeWitt lifted the order at that time? Did it have anything to do with this action that you were about to take, do you think?

SOLOMON: Oh, no. I think there was a number of people in government who were concerned about it, and they had discovered that the basis upon which they had issued

the order was false. A lot of people in government had given them bad information, including many people in the military. There was no trouble, for example, in Hawaii where maybe 60% of the population was Japanese. They never had one incidence. They never were any incidents in the United States. I think that they had come to realize that what they had done was wrong, and there were people in the government who realized it. That was the basis for the lifting of the order. I don't think that General DeWitt himself was as bitter or as sure of himself as some of the other people who were prodding him. Among them was Colonel Bendetsen.

RH: Did you ever have any contact with Earl Bernard, who was actually representing Yasui in that case?

SOLOMON: Very little. I knew Earl Bernard, and I talked to him. He was handling the case as the representative of Yasui, and he was getting paid for it. He was a good lawyer. I don't think at he was really emotionally and intellectually involved in it as I was, but there was nothing that I ever heard about him that was derogatory about the way he handled the case.

RH: I understood that part of the reason that the A.C.L.U. didn't respond to your query about handling the Yasui case was also because they felt Yasui wouldn't be a good test case because he had previously worked for the Japanese government, and in doing so forfeited his citizenship.

SOLOMON: Well, that was ridiculous. That was the basis upon which Judge Fee decided the case. He decided that the act was unconstitutional, or improper as far as most people concerned, as far as American citizens [concerned], but he said, he found that because Yasui had worked for the Japanese Council in Chicago, that he had forfeited his citizenship. I think that was a ridiculous thing, and when the case went to the Supreme Court of the United States, they rejected that basis. Said, nothing to it. But they

did find the Executive Order 9066 was justifiable in view of all the circumstances. I don't know what the A.C.L.U., the reason for its not going along with my suggestion [was], but I don't think it was that.

RH: Did you ever get to know Yasui at all as a person?

SOLOMON: Oh, yes. Yasui came to visit me not long ago. He wanted me to appear on a television program, and I refused to do it, because [I'll tell you why?]. He pointed out to the television man that I was the only one who really supported him. But he spoke here at a meeting of the A.C.L.U. He was given an honor of some kind, and also at the Oregon State Bar. He mentioned my participation. I think he's a difficult person. He's an aggressive person.

RH: Yeah. He was thought to be, I think, a bit obstinate in some –.

SOLOMON: Yes. I think in that obstinacy he was right. An old friend of his told him, "Why don't you comply with the order [Laughs] and forget about this?"

RH: Other people have also pointed out an apparent inconsistency in his behavior, in that, later in the war years, he tried to convince young Japanese who were interned to go ahead and file with the Selective Service; young Japanese who had refused to do that and had gone to jail for not doing that. And it's been pointed out that although he was sort of a hard-liner in his own case, that in that case he . . .

SOLOMON: Well, I don't think that's inconsistent at all. He just thought that it – I never knew about that, but that would show that he was a good American and believed in Americanism, because he didn't think that under the Constitution of the United States [taps desk] and under the laws, a person born in the United States should be put in a concentration camp. But he urged these boys to go ahead because he wanted to

preserve [taps desk] what he thought was good in the United States, even when they were fighting Japan, which he was supposed to have a great affinity for. No, I don't see anything inconsistent with that. There were Japanese in California and elsewhere who were against the United States, or at least partially. They were so embittered, they wouldn't go into the army. They wanted to go back to Japan, and some of them did after the war. But most of them were like Yasui. They went into the army, and they formed the 100th Combat Team, which became the 442nd [Battalion], which is the most decorated regiment in the history of the United States.

RH: Well, let's move on to your actual activities with the Committee to Aid Relocation, and your involvement with Betty Sale in this group. What were the functions of this committee, and what did you do after the Japanese began to return to the area?

SOLOMON: Well, even before they began to come here, we were concerned about the reception that they would receive. We were concerned about the fact they would need their property back. See, what happened was that many of these Japanese, they had good farms, and they took care of very well. They didn't have very much time between the time that they were ordered to evacuate and the time that they had to leave. A few of them were able to dispose of their property, but most of them weren't. So, they got their neighbors, their good friends, Caucasian neighbors, to take over their property and operate it. When they came back, their good neighbors didn't want to give them their property back in the first place, and practically all of them had lost money on their property, even though they made more money on their own adjacent property. They didn't want to account for the profits that they had made.

Well, some of the [returning Japanese] came to me, and talked to me about it. I tried to get lawyers to represent them in the Hood River area, and I couldn't get any lawyers to represent them. Lawyers were willing to represent them if they wanted to sell their property, but not if they wanted to get their property back. And so I represented a number of them in the Hood River area to get their property back. I was able to get their

property back, but many times I wasn't able to get very much by way of rental or profits for the use of their property.

One day, I got a call from one of the government agencies, that was charged with the responsibility of helping these – War Relocation Authorities. It was in, I think, the Department of Interior, there was a woman by the name of Fanny Friedman, a name I think at that time was Fanny Kennan. She called me up and said that there was a man at Maryhill, Washington. I think – his name wasn't Saito, but something like that, who had brought in a load of produce to the early morning market, and he wasn't able to sell it. She said he had to dump it. She asked me if I couldn't help. I said, yes, I would be glad to help him, and asked when he could bring in another load, and they said, well maybe the following Tuesday, for example this was on a Thursday. She said, "He can't continue to bring in produce if he has to dump it."

So, I began to call people. I called, I remember, Reed College and they said, "Oh, of course we'll take the produce, we'll buy it. What is he bringing in?" So I called, and I found out he was bringing in green onions and turnips. And then I called the director of the commons [at Reed], she said to me, "Gus, you went to Reed. What would you think if we served you turnips and green onions?" [RH laughs] So I said, "You've convinced me." So then I called the Good Samaritan Hospital – I called the bishop for the Episcopal Church, and he suggested that I call the Good Samaritan Hospital. I called them, and they said, "What has he got?" And I said, "Green onions and turnips." They said, "We can't use them, they're gas producers." [Laughs] Then I called various other people. I called a man who was in the produce business, and refused to on the ground that he sells to the Chinese.

Anyway, we went to the early morning market, about 4:30 in the morning. We were there a little early. Then they opened the doors, and all the trucks began to come in, farmers, and Saito came in. Nobody got around Saito, and he was all alone there. Finally, I went over and saw him, and I said to him, "Do you know any of these people?" He said, "Yes." I said, "Who did you do business with when you were here before [the war]?" He said, "I used to do business with that Mutual man." So he pointed him out to

me, and I went over to see that Mutual man, and I said, "Do you know Saito?" He said, "Yes." I said, "Is he a friend of yours?" And he said, "Yes." I said, "Do you like him?" And he said, "Yes." I said, "Why don't you buy a crate of turnips and a one of green onions?" He said "I just can't because I bought all that I could use. I have plenty of that." So I said to him, "Here's \$10. You go over and buy it, and then you can keep it." He looked at me and said, "I really need that, but if I buy from him, the Filipino workers in our place would not take it out of my truck, wouldn't carry it over the sidewalk." And I said, "You don't have to worry about that, because I do work for the C.I.O., and they belong to a C.I.O. union, and I'll talk to the director there. I'll see that it goes in." But he refused to do that.

By this time, various people had come around me because I was talking a little loud. One of the people who came was the market master, I remember, Mr. Garbarino. He says, "What's happened here?" I said, "There's nothing happening, except that Mr. Saito has brought over his produce and can't sell it. He's going to dump it." So he said to me, "He should have come here earlier," or something like that. And I said, "Well, he was here last week, and he still had to dump it! He couldn't sell it!" So he said, "That was a good try," I remember he said. And then I said, "You know, it seems to me that you've got too much produce, if – " Oh! What I wanted to tell you, was he said, "The reason he can't sell it is there's too many people here." I was there; some of the people from the government agencies were there; Mr. Dusenberry from the Oregon State Bar was there, he was the head of the Civil Rights Committee. We had about 15 people there. He said "There's too many people," I said, "Last week there weren't any people there, and he had to dump it." That's when he said, "That was a good try."

Then I said to him, "I think you've got too much food. You've got food to dump. And why, under these circumstances, do these farmers need extra gasoline for their trucks? Why do they need fertilizer for their farms? Why are there so many young men of troop age around here? Why aren't they in the fighting fronts instead of on the farms?" All the farmers were around, then. [Laughs] Then we walked out. I might tell you that we broke that boycott. We got a little other help. Father Tobin helped us then, he was the

vicar of the Catholic Church. But that was the basis on which we really broke that boycott.

RH: Were there other activities having to do with this Committee to Aid Relocation [than] speaking to groups?

SOLOMON: Yes, there were. I know that Mr. McNaughton, who was the president of the First National Bank, talked to the people out at Gresham. That was the other area in which there were many Japanese farmers before the war. He talked to them. And I think the Methodist Federation for Social Action got involved in it. There were other groups. I remember I was called by someone from the Y.W.C.A. They were having a group of people coming in – well, I think that was a group of Caucasians married to Japanese. [The Y.W.C.A.] tried to bring them into the community and teach them various trades, and maybe – I remember, one time they asked me for money, and I gave them \$100, I remember, to buy a piece of equipment that they could use for weeding, a machine. But otherwise, I don't remember very much. Oh, yes! I gave a scholarship. I paid the tuition for a young man to go to Reed College, and Mr. McNaughton from the bank, he gave another one. Of course, he had a lot more money than I did, but we did the same thing, I recall. There must have been other things that I just can't recall now that I did.

RH: I wonder if you were involved at all in the response to the so-called "Hood River Incident," where the Hood River American Legion post chose to take the names of, I think sixteen Japanese-American veterans off of their honor roll. There was quite a furor about that.

SOLOMON: Yes, I remember that very well. I knew the Minamoto family. They had the little hotel on Alder Street, 12th and Alder. They have a daughter who is married to a – Polly. She's married to a black lawyer, who represents the estate now. I think the names

of fifteen soldiers of Japanese ancestry that were killed fighting for America were restored. The only name that wasn't restored was a Minamoto boy.

Now, I know of another incident. Mary Jo?

[Tape stops]

Some time ago, they had a – no.

[Tape stops]

In Monterey, California, the government recently, within the past five years, has named buildings after young men of Japanese ancestry who fought in the war. Some of them were real heroes. I think one of the boys, while he was injured and dying, he notified the other Americans not to get close to that place. This saved their lives, he was responsible for the saving of their lives. Well, at this ceremony, Monroe Sweetland spoke. Monroe, in addition to his activities on the Oregon Commonwealth Federation, was very friendly to these families. When they brought this boy's body back, they wanted to bury the boy's body in Hood River. But the parents were concerned about bringing his body back because of the fact that they knew that these 15 or 16 boys of Japanese ancestry, their names were removed by the American Legion. They didn't want to get into that trouble. So they talked to Monroe. But Monroe insisted that the boy be brought back to Hood River. They had a ceremony at the – I think it's the First Baptist Church, and happily, there was no controversy. The place was just jammed with people, many of them they neighbors, and they paid him the honor to which he was entitled for his activities.

But I'll tell you another story I – have you got it?

[UNKNOWN PERSON, POSSIBLY THE MARY JO REFERRED TO EARLIER]: Yeah, I got it.²¹ [inaudible].

²¹ The "it" referred to here is most likely the pamphlet which Solomon reads from at the start of Tape 6, Side 2.

[End of Tape 6, Side 1]

Tape 6, Side 2
1984 August 24

RH: [This is an interview with U.S. District] Court Judge Gus Solomon. The date is August 24th, 1984. This is Tape 6, Side 2.

[Tape stops]

SOLOMON: The person I'm talking about is a man by the name of Frank Hachia. [Reading pamphlet] He had enlisted in the army on January 2nd, 1942 when his mother and brother were living in Japan when the war broke out. He served in the 7th and 32nd Infantry, and he was scheduled to go on – what's R. and R.? Relief and – Rest and . . .

RH: Recuperation.

SOLOMON: [Hachia] was scheduled to go on Rest and Recuperation back to Hawaii at the time of his death. But he refused to go, electing to stay with his unit until the Leyte Battle was over. He died on January 3, 1945 as a result of his wounds.

Oh, what I was telling you about is here. [Reads from pamphlet] "His body was sent to Hawaii where funeral services were held, and it was not until three years later that Hachia was finally placed in the rest of his home town, Hood River. Anti-Japanese sentiment was so strong that Frank's father was reluctant to have his body buried in Hood River. However, three years later, due to the efforts of a fellow serviceman, Monroe Sweetland, Frank's body was returned and placed to rest among the other fallen soldiers of Hood River."

Sweetland at that time was the – he had been the chairman of the C.I.O. War Relief. Then he went to the Far East with the American Red Cross at that time. He was there for about three years.

RH: Did you have any involvement in challenging the alien land law that was finally declared unconstitutional in 1949?

SOLOMON: Yes. I didn't like that law, of course. I had friends in the legislature, and I got them to introduce a bill to repeal that law. I can't tell you now whether it was repealed, except that I know that various people tried to block it in the legislature. I would get people like E. B. McNaughton and others to go down there and appear before the committee. And I thought we got it out of committee, and I thought we had won, but that might be another law.

But what happened was the Japanese didn't come to me to represent them. They went to a man by the name of Vern Dusenberry, and Vern Dusenberry called me and asked if I would not help him in the case. I said no, I didn't want to help him on that case, he could get other people. I recommended someone, and this other fellow really tried the case for Vern Dusenberry. They won the case, and they got the law declared unconstitutional.

RH: Who was the other person the he –?

SOLOMON: It was Allan Hart.

RH: Did you decide not to take the case because you were upset about not being approached in the first place?

SOLOMON: Well, I think that was partially the reason.

RH: Who were some of the people in the legislature that you were trying to convince of your position? Do you recall their names?

SOLOMON: I know the guy, I know him very well. The man who used to help me was – it begins with a "B" and he comes from La Grande. And he was a [trainman?]. He was a friend of Henry Hess'. I don't remember the fellow's name, but I'll try to find it. I don't remember.²²

RH: I think at this point I'd like to ask you when you first decided that you were interested in a federal judgeship, and what did you do to make that interest known?

SOLOMON: Well, I've told this story many times, but I was not interested in a federal judgeship. But one morning, I think it was early in 1949, my partner came into my office on a Saturday morning.

RH: Levenson? Is that . . . ?

SOLOMON: No, Ray Kell.

RH: You had a formal partner at that point?

SOLOMON: Well, he was actually my partner. Theoretically – I called him my partner, but he was not actually. He worked for me, but we operated mainly as a partnership. He came in and he said, "Who are you for, for the new federal judgeship that's being created?" I said, "I never gave it a thought." He said to me, "There's one being created. Who do you think you'd be for?" I gave him a name or two, and he said, "They can't get it." I said, "Why not?" and he said, "The lawyers are not going to go for them." Well, I said, "Who do you think the lawyers would go for?" And he said, "You." I said, "You're crazy." [RH laughs] He said, "In addition to which, you know I've talked to Monroe Sweetland many times. And he's the Democratic national committeeman; we don't have a Republican senator. There's nothing he that wouldn't do for you."

²² Solomon is referring to Vernon Bull here.

RH: You mean, you "don't have a Democratic senator"?

SOLOMON: Yes, "don't have a Democratic [senator]." And he said, "[Sweetland would] like to do something for you. You've been so much for him for the last 20 years, and he says he's never been able to do anything for you." So, I said "Look, I'm not going to get that job even if I wanted it. I've got a lot of work to do. Why don't you get the hell out of here?" [RH laughs]

About two hours later, my wife comes into the office. And Ray comes in and says, "Let's all go to lunch." I said, "All right, we'll go out to lunch." I didn't know that he had called her. So we went to a place across the street from the Equitable Building. It was a bottle club. At that time you couldn't buy liquor; you had to have a bottle. You'd go in there at this lunch, and you'd get your own bottle, you see? We all had a drink, and then he raised that question again. He asked Libby what she thought of it, and she thought that was a very good idea for me to become a federal judge if I could get it. He had explained to her that Monroe Sweetland was all for me, and he thought that Nancy Robinson, who the Democratic national committeewoman, would also be for me.

I said, "No, I'm not going to do it. Remember what the [*Oregon*] *Journal* did to me a short time ago?" They had an editorial just attacking me because I had made a statement to the Oregon Public Utilities commissioner objecting to Pacific Power & Light Company reducing rates in Wasco County and not reducing them elsewhere, reducing them solely in order to undercut the P.U.D. which I was representing. They had been pretty bitter about it, and they had made a number of statements. And I said, "I just don't want to go through what I know I'd have to go through if my name was put up for the judgeship. What about Portland General Electric Company? What about all these other outfits that would be very unhappy?"

So [Ray] talked, and finally I said, "All right. If I could get some protection, I might consider it. Tonight, John McCourt" (who had officed with me and who was then the district attorney of Multnomah County) "is coming over to my house for dinner. I'll talk to

him, and if he can get Phil Parrish" (who was a friend of mine and a friend of his) "to say that he would protect me in the event I was attacked by the *Journal*, I'll go." Now, Phil Parrish was the editor in chief of the *Oregonian*. I told [McCourt] that Ray was interested, not only because he would inherit the business, but also because he thought that the public power business might be getting less lucrative, or maybe we weren't getting as much of it. And he said that getting your name out in front would certainly not hurt you in getting future law business. Well, that was crazy, because soon as your name comes out, you lose business.

The next day, John McCourt called me on the telephone. It was a Sunday, I remember. He said, "I saw Phil this morning, and he said he's not interested in getting any business for you. He said if you want business, you can either talk to our display manager or to the manager or to the classified [Laughs] manager. They'll take care of you." But then [Phil] told John that he didn't think that I was interested in [mining up?] business, but I was interested in getting the [judgeship], and he says that John can tell me that he will take care of me. Well, that was the greatest boon a candidate for office can get, that the *Oregonian*, which is the largest newspaper in the state, said that he'd care of me. So . . .

RH: Just a second. Did you take that to mean that he would defend you in the case of an attack on you by the *Journal*, or that he would actually support your candidacy for the judgeship?

SOLOMON: I took that to mean that he would support me, but also that if the *Journal* made some nasty remarks, he would answer them editorially or see that it got answered. I didn't realize it, but there was another man who was friendly to me in that newspaper who wrote a column called "B. Mike." It was a column that dealt with television and daily activities around the city.

So when he gave me that word, or when I heard from John McCourt, I then called Monroe Sweetland, who was in Washington, D.C. to attend the inauguration of President

Truman. I told him what the situation was. He said, "Fine." Two days later, I saw an article in the *Oregonian* saying that Monroe Sweetland is back in Washington for the inauguration, and while he was there, he talked to the Democratic national committeeman and recommended that I be selected as the next judge. There was also this story that Nancy Robinson's main choice was man by the name of Latourette, Judge Latourette, but I was certainly her second choice.

Then I got a number of calls. When that happened, I knew I was in trouble, because I recognized that all the other candidates would start shooting at me. See, I was out in front. But I thought that was the best thing to do anyway. From then on, my name was mentioned prominently, and sometimes not very friendly, but I got quite a bit of publicity.

What else shall I say? The state chairman was a fellow by the name of Josslin, Leslie Josslin. It used to be spelled G-O-S-S-L-I-N, and then he changed it to a "J." He did not like Latourette.

RH: The chairman of the Oregon Bar?

SOLOMON: No. The chairman of the Multnomah Democratic Committee, or maybe the State [Democratic] Committee, I don't know. Anyway, there were some meetings, and he then began to attack me. And then there was a vote by all the county chairmen in the state. Some of these people thought that they could get the votes as against because I was primarily known in Multnomah County, and I won that hands-down. Josslin, his name was there, and the other candidates were Latourette, and Henry Hess, and a few others. But I got the most votes.

Then, the people who were against me decided that they would have a state vote among the bar. I refused to do anything about it, and some of the other fellows campaigned. I did much better than I thought; I was the fourth in the state on first choice votes. There was, I think, 17 or 18 people [on the ballot]. I didn't do so well on the [votes

for] second and third choices. But Latourette was way ahead. He had campaigners around the state, and he had most of the votes. He had almost a majority.

Then there was some people like Hugh Biggs, and Maguire. There were many people who had no chance at all because they were Republicans, but there were others who very decent guys, who were Democrats. But I was the most active of all the Democrats whose names were submitted because I was the [treasurer] of the Draft Truman Committee when there was a lot of opposition to him. I was also the treasurer of the Norris-Laguardia Committee, which supported Roosevelt and Truman. And I was active in certain other political enterprises. I don't think anyone who was named was active other than Pinky²³ Josslin, and he wasn't going to get it, I was sure of that.

RH: It seems that you had more support in Democratic political circles than you did among judicial people. Is that true?

SOLOMON: Oh, numerically, yes. Among the bar I wasn't the first choice, or the second choice, or the third choice. But I might tell you something: that no one who's a first or second or third choice is ever selected for this job.

I'll tell you a story, but I won't give you a name. One time, I was told that in a position that was coming up, that there were about twelve people running. The senator had said, he wants the F.B.I. reports and other reports on the first ten. I said, "The first ten?" He said, "Yeah." I said, "Who is the tenth man?" They told me, I said "He's the guy that's going to get it." [Laughs] Because if he wanted F.B.I. reports on the first three, the third man was going to get it. If it was five, the fifth man was going to get it. You see, what he was doing is getting an F.B.I. report on the man he wanted, and it was the tenth man down.

But that didn't – when you say I didn't have that kind of support, that's true, but I did have good support. I had supports from some of the leading firms in the city, and I

²³ Per his obituary in the *Oregonian*, published February 5, 1979, Leslie Josslin acquired the nickname "Pinky" in a 1937 controversy when he allegedly wrote letters from Governor Charles Martin's office criticizing a teacher, Ruth Stone, for being a member of a communist-linked group.

recall one time one of the Supreme Court justices from [the Supreme Court of] Oregon had talked to me, and he said that one of the other judges had suggested another name. And I'll tell you the name, it was Hugh Biggs, who's an excellent lawyer, and a nice guy, and a good friend of mine. And he was a great trial lawyer. So this other man said, "But what about Gus Solomon?" And oh, they didn't think – he said, "He's a lawyer. He's a lawyer's lawyer." See, I had appeared before the Supreme Court of Oregon a number of times, and I had been very successful. I didn't try very many, but I think of the last ten cases I had tried, I had won eight of them in the Supreme Court.

RH: What about Oregon's existing federal judges at that time, was there any support or lack of support there?

SOLOMON: Yes. One of the judges was very much opposed to me, and very strongly supported one of the other judges, and made his wishes known. Well, there's no question, Judge McCulloch was not for me. But Judge Fee –

[Tape stops]

You asked if any of the federal judges were for me or against me. I had intended to say that Judge McCulloch was in favor of another candidate very strongly, and the judge was certainly not opposed to me, Judge Fee, who was the chief judge here, and who was friendly with me. I don't know whether he was supporting me or not. We never discussed it. But I knew that he was friendly, and later developments indicated that.

RH: Now, Wayne Morse at that time was a Republican, and so he wouldn't normally have any direct input to the administration on the selection of a new federal judge in his state. But in Morse's case, he eventually did become a Democrat, and he already was sort of philosophically aligned with the Democrats. Did he have any input at all?

SOLOMON: Yes. He was strongly in favor of me. At first he didn't say very much, but then he did come out. You see, there were groups that were opposed to me, and they got the – there was one lawyer here in town who was very much opposed to me, and he was active nationally, and he got the American Bar Association to issue an adverse report on me. But that outraged [Laughs] the lawyers here, some of the leading lawyers in town, and they bombarded the committee with letters and with calls, and they withdrew the adverse statement. One of the statements they made [was], my appointment was politically motivated. There were two or three other people on that committee, nationally, who joined with them, but they called back that statement and didn't make a statement on me then.

RH: Is that the report that goes from the A.B.A. [American Bar Association] Committee to the Senate Judiciary Committee?

SOLOMON: That's right. I don't think it was as influential then as it is now, but I know that many of the leading firms in the city supported me at that time. I might – let's see, I was going to tell you, I did not have the support of the A.F. of L. either at that time; they were for Henry Hess. But I had the Grange and the farm organizations, and more important, the Democratic Party, and most important, Monroe Sweetland and Nancy Robinson. They were my principal support, and that's the reason I got the nomination. But there was a lot opposition. The *Journal* obviously didn't support me, and they would put the derogatory information in the paper, and they would always play up the other candidates. It was quite an active campaign.

RH: Were there any whisperings of communist sympathies at that point?

SOLOMON: Oh, yes there was. There was quite a bit of that, but most of it came after I was nominated.

RH: In your confirmation hearings?

SOLOMON: Yes.

[End of Tape 6, Side 2]

Tape 7, Side 1
1984 September 13

RH: This is an interview with U.S. District Court Judge Gus Solomon in his chambers in the U.S. District Courthouse in Southwest Portland. The date is September 13th, 1984. The interviewer is Rick Harmon for the Oregon Historical Society. This is Tape 7, Side 1.

[Tape stops]

Judge, we finished our discussion last time talking about your appointment to the district court, and we just mentioned your confirmation hearings, and I'd like to talk about that in a little more detail. First of all, you mentioned the report that the American Bar Association did on you and then sent to the Judiciary Committee. I was also wondering if you came to know any of the contents of your F.B.I. report that customarily goes to the Judiciary Committee.

SOLOMON: No, I never looked at it. I had heard that most of it was very favorable, but there were some critical remarks, mainly by non-lawyers, although there were some lawyers who were not enthusiastic about my appointment.

RH: What did the criticism involve? Do you know in any detail?

SOLOMON: No, I don't.

RH: What sort of thoughts did you have then, as your confirmation hearings approached?

SOLOMON: I was concerned about some of these attacks , mainly by non-lawyers who were critical of me because of the fact that I had been active in the American Civil

Liberties Union and the Oregon Commonwealth Federation, and organizations of that kind. Now you have to realize that this was during the McCarthy era, and that the word "communist" was bandied about freely. The American Civil Liberties Union was accused of being a communist organization, and even President Roosevelt was accused of being a communist. Certainly many of the liberal Democrats were so characterized. So I was getting that type of flack.

Then, there was some people who believed that a position in the United States District Court belongs to people who had represented the wealthy and the well-born. Also, there was – I think I mentioned that one man, a former public official, went back to Washington to protest my nomination on the ground that the people of Portland didn't want a Jew for a federal judge. There were other remarks of that kind.

RH: Who was that?

SOLOMON: The man who did that had been mayor of Portland, and he was a member of a government agency. His name was Joe Carson. But he was not alone in that attitude.

And then, I was accused of being a left-winger for a number of reasons. I had organized the Legal Aid Committee, as I mentioned earlier. Many people thought that that was a communist-type organization. Of course, I had represented the American Civil Liberties Union. But more important than the attack, many people were critical of me because I was one of the people who were active in the organization of People's Utility Districts and electric co-ops in order to bring central station service to farm areas. Many of the business community believed that these co-ops were a danger because they might take over the private power companies, as they had in the State of Washington, the Public Utility Districts.

RH: Most of these accusations then, involved, really, your political affiliations and not at all your competence as a lawyer, then?

SOLOMON: I think that's true. Although they did make those statements, but they quickly withdrew those because I had a better educational background than any other candidate who was there. I'd gone to a number of the leading schools in America, and I had acted as a lawyer's lawyer for many years. I did work for other lawyers.

RH: What were the actual dates of your confirmation hearings, and how long after the nomination did it come?

SOLOMON: I was nominated for a temporary appointment in November of 1949. Then when Congress resumed in January of 1950, my name was again sent in to Congress together with, I think, 23 other persons throughout the United States. Because there had been some of these protests – well, and even without them, my first hearing was in Salt Lake [City], Utah, and that was on May 4th, 1950.

I had been told that there was going to be opposition, so I talked to some of my friends. The man who really handled it for me was Gunther Krause. He was an old friend, and he was the attorney for the employers associations. His main client was the Waterfront Employers Association. He agreed to go and act as my lawyer.

Another man that went was B. A. Green, and he was the attorney for the Oregon State Federation of Labor. Then E. B. MacNaughton offered to go, and he was president of the First National Bank, and president of Reed College, and national president of the Unitarian Church. Two military men who were both lawyers agreed to go. One of them was Lamar Tooze, he was head of an important firm in the city, and he was a major general during World War II; and another man was General Chester McCarty, who was a long-time friend of mine, who was a – at that time, I think he was a brigadier general, later became a major general, in the Air Force. These five people went back to testify. During their testimony, they were asked questions about my political beliefs and my loyalty. A number of people had sent in letters. They asked questions of why I got no recommendations from the Multnomah Bar Association or the Oregon State Bar, and it was explained that they weren't doing those things. Then they asked a number of other

questions about my associations and whether I had attended a meeting of a lawyer who was representing communists. His name was Gladstein, from San Francisco. He had had a luncheon here, and a letter was sent to the effect that I had attended that luncheon. Well, I had never attended the luncheon at all, but they wanted a letter to that effect.

Anyway, apparently I was prejudiced because I didn't attend the meeting, but the counsel for the committee, a Mr. Sourwine, finally admitted that I had called him to ask him whether I should attend the meeting. He told me that it's not generally done, and he didn't think I should come. The committee had that statement from their counsel, but the committee was not satisfied. They thought that I should be so that they could question me.

RH: So you didn't actually testify at all at this hearing in Salt Lake, then?

SOLOMON: No, I did not. They said that they thought that a meeting should be held in Washington, D.C. at which I would be present. They did hold such a meeting, and that meeting was held on Monday, June 5th, 1950.

When I went there, I thought that I would be the only one testifying. But when I got there, I found that a young man by the name of Dan Mahoney was there to testify against me. Both Senator Cordon and Senator Morse were there, and they made very short statements. Then Mahoney began to talk, and he opposed my nomination on the ground that I was a communist, and I was trying to overthrow the government of the United States, and that I had engaged in all kinds of improper activities, radical activities. He admitted that he knew none of this from his own experience, but he said that he had gotten it from a man by the name of Major Millner. Then it was brought out that I was not very friendly with his father's political aspirations. His father had run for governor, and Congress, and I think the Senate, and I had opposed him, although earlier I had actually supported him when he first ran.

RH: This is Mahoney's father?

SOLOMON: Yeah. So, Mahoney made all kinds of statements, said that I had greeted a man by the name of Ford, who was running for – not Gerald Ford, but a Ford who was running for vice president on the communist ticket, and that after I had been on the reception committee at the Union Station I went over to a meeting at which he spoke, or a dinner. Then he had some other statements about me. Some of the things didn't come out; for example, he had gone to Monsignor Tobin and tried to get him to write and testify against me. Father Tobin refused to do it, and kicked him out of the office, actually. But he then – he made all kinds of allegations.

Well, the committee wasn't too impressed with him because he knew of no action of mine to support the Communist Party, but everything was innuendos. He said that I was a partner of Irvin Goodman's, and that because Irvin Goodman did certain things, I must have known about it. Anyway, at the end of his testimony (and they cut him short, not too short however), they said that they would subpoena Major Millner. The following Friday, June 9th, Major Millner showed up in Washington, D.C. at the hearing.

In the meantime, some of my friends became concerned about the attack against me and the nature of the attack, and they attended [the hearings]. One of them was David Lloyd Davies, who was one of the leading lawyers in Portland and [was in?] the biggest firm, and who I'd known for many, many years, even since I started practicing law. And then they had Ralph Cake, who was formerly a Republican national committeeman, and who was a partner of General Tooze.

Now, I didn't mention that in Salt Lake, all of these witnesses had testified to my ability and to my good character, to the nature of my business, and to my legal ability. All these statements were very laudatory. But they did read a letter or two from other people. For example, there was one man who had been the head of the Veterans of Foreign Wars, I just forgot his name.²⁴ He made these derogatory statements. But, General McCarty had called all the people who had made critical statements about me to find out the basis [Knocks on desk] for it. Did they have any actual knowledge? [Knocks

²⁴ Solomon is referring to Louis Starr.

on desk] And none of them could come up with anything. General Tooze, he also testified as to his knowledge of me and the fact that that office had represented my father some years before. E. B. MacNaughton, who was a very well-known man in public life, told about some of my activities. Some of the interrogators were concerned that I would get involved in all kinds of activities without using adequate discretion. They assured them that that wasn't true.

Now, when Major Millner testified, he started out with some statements about my left-wing leanings and the fact that I was with Irvin Goodman, but he denied that he ever told Dan Mahoney that I was a communist, and he denied that he ever told anybody that I was a communist. He said he didn't know whether I was or not. They interrogated him very carefully, and they brought out that he had been found guilty of perjury in one or two trials that he had participated in, and that he was an informer for the government, and that he had gone to a number of Communist Party meetings. He said that he was the only one who ever went to a meeting in this area who wasn't a communist. Then they asked him if he had ever seen me at a meeting, and he said no, that I had never attended a meeting. But then he sort of insinuated that I was close to the Communist Party. Finally he said that he thought I was a loyal and patriotic person that had used bad judgment in fraternizing with some of these people.

There was testimony and statements that in the Oregon Commonwealth Federation, I was the leader of that faction that fought the Communists. There were newspaper articles that were introduced which commented upon my attack against those people who wanted to support the Soviet Union, and my criticism of them on what happened in Finland and their attack. In spite of all these statements in my support, the committee did ask a number of critical statements, critical in that they weren't friendly. Maybe they were just acting as a devil's advocate in many of their statements.

Lloyd Davies made an excellent statement about me, and my integrity, and my loyalty. Then Senator Morse made a very good statement on my behalf. Senator Kefauver, whom I knew slightly, made a very nice statement; he did it at the request of Senator Morse. Ralph Cake made also a statement, but admitted that he didn't know me

as well as some of his partners did. But each one of those people testified that when they spoke, they spoke not only for themselves, but they spoke for their entire office. That was impressive to me at least because these were the most important offices, some of them, in the city, and they had dealt with me over a period of time, and could testify as to my good character and also my legal ability.

Then they called on me, and I read a statement which I had prepared. Then they asked me about my participation in these various organizations, and of my friendship towards Monroe Sweetland. Of course, I told them Monroe Sweetland was one of my very good friends, and he was the one who got me into the Oregon Commonwealth Federation, and I told them about my participation in that and about my participation in the American Civil Liberties Union. I told them that I had never gone to the meeting for Ford. I might have been in the railroad station on that day, but not to see him. I don't recall ever having been there. Now, I went to lot of meetings, but I never went to a meeting for Ford or for any communist speaker. Although I did speak at a meeting at Lincoln High School protesting the action of the Standard Oil Company in hiring *agents provocateurs* to commit acts of violence. But that was a matter of common knowledge, and the California legislature had criticized Standard Oil very severely for having done that.

Then I told about my relationships to Irvin Goodman, and then the reason I left. But I also pointed out that in spite of what Major Millner had said, I had only talked to him twice in my life, once in the office about something not connected with politics at all, and the second time when I had sued him for a bill [Laughs] on behalf of one of the leading stores in the city. I used to handle some work for them, and I sued him, but we had not become unfriendly as a result of it.

RH: You had sued Irvin Goodman?

SOLOMON: No. Major Millner.

RH: Oh, Millner. Okay.

SOLOMON: He said he didn't hold it against me, and I said I didn't hold it against him. I knew who he was, but I never talked to him. At the end of the session, both Senator Withers and the chairman said that I had a very distinguished group of people testify on my behalf. I think one of them said that never in his experience had he seen a more distinguished group of people ever testify for a judicial candidate. That's the way the meeting ended. Later on, there was a recess after that for Congress, and I recall that in less than a month my nomination was approved without a dissenting vote. There were no dissents. I was unanimously approved, and I was sworn in on July 5th, 1950.

RH: Did you ever have any knowledge of an individual or a group of individuals that was coordinating some opposition to your nomination?

SOLOMON: Yeah. There were a group of people. There was a man who was formerly with the F.B.I. who – I think he's still alive, but he had helped coordinate it. And there were two or three others who were critical of me, some of them in the labor movement. The A.F. of L. was not supporting me. C.I.O. didn't support me, they were for Henry Hess, who was the United States attorney. But most of those people were not unfriendly toward me. In fact, one of the men who was not very friendly, he made a statement in the paper, he said "It's ridiculous to say that [Solomon] was a communist because he was the leader of the group that opposed them." And he said, "I say that even though I didn't like the guy."

Those were kind of rough times, and even though you know that the allegations are false, you are concerned about not only how the committee members would react, but it was in the newspapers. For example, the *Journal*, which had never been friendly towards me, had a big headline the day after the first hearing in Washington, D.C. It said, "Solomon – Communist?" with a little question mark over there. They didn't mention the fact that I had been confirmed by the United States Senate for quite a while until some

letters to the editor were sent, and then they finally – although they never did come out with the story that I had been confirmed, they did take a picture of me in a makeshift courtroom, and said that I had been sworn in.

[End of Tape 7, Side 1]

Tape 7, Side 2
1984 September 13

RH: This is an interview with Gus Solomon. This is Tape 7, Side 2.

[Tape stops]

SOLOMON: I will supply some of the names when I look at my records, and I'll do it in footnotes for you.

RH: Okay.

What exactly was Mr. Mahoney's position, and did you ever really have an idea of what the motivations were for Mahoney and Millner?

SOLOMON: I don't know. Dan Mahoney, I think, was angry because I had not supported his father. But I don't really know. He had clerked for Judge McCulloch, who was my colleague. He announced that he came back on his own, and that he took money out of an account that belonged to him and his father, and that his father had told him not to do it, that there was no proof of what he was saying. But when he came back [to Portland], Judge McCulloch let him go. I don't know what he ever did, how he ever got a job. He had been admitted to the practice in the State of Washington, but I think he flunked the bar here and never was admitted to the bar in Oregon. He tried to get admitted later on, and he was turned down. I don't really know his motivation.

RH: During this . . .

SOLOMON: I think it might have been because Judge McCulloch was not very supportive of my nomination.

RH: During this period when you were being attacked, especially in the hearings in Washington, and you had some additional people come to your defense, was there an individual who was sort of coordinating the support for you, or was all this done spontaneously?

SOLOMON: I think the man who did more than any was Senator Morse. He did it in Washington. I know that Lloyd Davies called me, and I think he had called my former partners and talked to them. But I think there was no coordinated effort because I think he was the only one that came back [to Washington] at my suggestion, or after talk— well, he's the one who suggested it. But the others were there in Washington, D.C. at the time. I'm talking about the second hearing. The first hearing, that was done by Gunther Krause, who was a very close friend of mine. He had been a close friend of mine ever since I started to practice law, and I was a close friend until he died [inaudible]. But I used to see him constantly.

RH: Were there some committee members that were more hostile than others?

SOLOMON: No, the committee members were friendly, I thought. Although they interrogated me, and acted as a devil's advocate. And they all voted for me, and they filed a unanimous report favoring my confirmation.

RH: No noticeable difference between the Republicans and the Democrats in the way they questioned you?

SOLOMON: No. Senator Langer wanted to know what his nephew thought about me. His nephew was practicing in Lloyd Davies' office. He wrote a very nice letter for me, then. That was Cleveland Corey. I know Cleveland Corey, and he's a very nice person. We're friends.

RH: Did you ever have any doubt about the outcome during all this?

SOLOMON: Oh, certainly. Nobody who was attacked this way in that period of time wouldn't have serious doubts, when people – well, some of the people who McCarthy attacked committed suicide, and others were let out of their office. But even Senator McCarthy didn't oppose my nomination, because as I said, I went through without a dissenting vote.

RH: Did the proceedings ever get so uncomfortable that you actually regretted having made the decision to –?

SOLOMON: No, it didn't. I had faith that everything was going to be all right because when these attacks were made, they were made without any substance or any support. Then, the other remarks that were made by friends of mine were clear and concise, and just contradicted everything [the attackers] said.

RH: Well, I'd like you now, if you could, to . . .

[Tape stops]

SOLOMON: Go ahead.

RH: I'd like you now to describe the first couple or three years of your experience as a district court judge, and just how that transition was between being a lawyer and being a judge.

SOLOMON: Well, the transition was much easier than I had expected. The only thing I can say is that for the first couple of months, I didn't get too much work. Then I began getting a tremendous amount of work: jury cases, court cases, motions. I was working

then in court six days a week. Not only because we were busy, but because the crier wouldn't get paid unless we opened court on a particular day, you know. He was paid by the day! So, I'd come down on Saturdays and open court, even though sometimes we didn't have any business on that day.

So, I started in to work seven days a week, and I was pleased at the response I got from the lawyers. But then the work became so burdensome, I was working seven days a week, then. This was largely due to the fact that Judge McCulloch was ill, and he was spending a great deal of his time in Arizona. I think he found it more comfortable over there. The weather was more pleasant in winter, and he had friends in Tucson. And Judge Fee was spending a great deal of time in other courts. He would take assignments in Washington, D.C. and in New York, and he tried Judge Johnson in Pennsylvania. He was traveling around a great deal. So, I was home alone [(that was important?)], and I was getting further and further behind.

After about two or three years, I recall that I reported a number of cases under advisement for six months that I couldn't get to. And I got a call from the chief judge of the circuit, and he said, "Why are you so behind?" I told him, "What can I do? I've been holding court six days a week, and I've been working seven days a week, and I'm all alone." And he said, "Where is Judge McCulloch?" And I said, "He's down in Arizona."

"And where's Judge Fee?" I said, "Well, he just happens to be in Washington, D.C. now." He said, "I want you to get off that calendar and get your work out. I'll see that you get help." About an hour later, Judge Fee called me and said, "I'll be home on Monday." [RH laughs] He came back, and I got off the calendar. It took me about four months to catch up.

I want to say that during that period, I didn't have a law clerk. I was entitled to a law clerk, but Judge Fee said that he didn't have a law clerk for about four years, and he didn't see why I should have one, and I didn't want to argue with him. So I didn't have one until the chief judge of the circuit suggested it, and I got a law clerk then. My first law clerk was Jerry Kohlberg, who turned out to be my most famous law clerk. [Laughs] I also didn't have a courtroom for the first year. I sat in a commissioner's room, and I didn't have

a private office. I didn't have a reception room. My secretary sat in the same room. This lasted for quite a while until two men from the Court of Appeals came in and they saw where I was sitting, and they said, "Why don't you use the Circuit Courtroom?" And I said "Well, I'd like to, but I was told that I couldn't use it." So they said to me, "You'll be able to use it." The chief judge then called me and said I could use it, but then Judge Fee said that he would take that, and he gave me these quarters which were even better. But he took those other quarters, and I had this.

RH: Who was the chief judge of the circuit at that time? Do you recall?

SOLOMON: Denman.

RH: So, it seems like he kind of came to your service in a couple of instances.

SOLOMON: Yes, he did.

RH: On this occasion when he called you to find out why the court was so backed up, did you interpret what happened there as him calling Judge Fee and telling him to get back to Oregon, and . . . ?

SOLOMON: Oh, I'm sure he did that. But, I don't know how he happened to call me in the first place. Someone must have told him that I was behind, because other people weren't there.

RH: Does the chief circuit judge have that kind of authority over the . . . ?

SOLOMON: Well, he's the administrative head of the circuit. But I don't know. The only thing is, I know is that he called me; I didn't call him. I also know that within a few days, Judge Fee was here.

I might tell you that Fee was really a tough guy, and he ran a tough courtroom. But he really was a friend of mine; I have no complaints about his act of friendship. He was a friend of mine. But that was just his character. He was very supportive of me all along, and he was glad to see me nominated for the job. He welcomed me. He swore me in, he came back from Philadelphia to do it. So, I don't want you to think that these remarks I make were really critical of him, or that they were based upon any animosity that he had against me, because he didn't have [any]. I often ate with him at lunch, we used to be together. Judge McCulloch seldom ate with us. Judge McCulloch seldom ate with Judge Fee. But Judge Fee and I, we saw each other a great deal.

RH: These instances, though, where you didn't have a law clerk for a while and you didn't have proper chambers, on the surface it seems a little disrespectful or something.

SOLOMON: Well, he had his own ideas, and I wasn't about to start getting in any fights with him.

RH: Did you find this transition to becoming a judge intellectually challenging? Did you take to it intellectually?

SOLOMON: Yes. I enjoyed it very much, and very soon I began to prepare written opinions. For a while I used to talk things over with Judge Fee, but not very much. I stopped doing it. One time, he told me how he thought a case ought to be decided, and I looked it over, and I decided it ought to be decided the other way. I didn't say anything to him about it, but two weeks later he showed me a copy of *Law Week*, and there on the front page was this opinion that I had written, which was contrary to what he told me it should be. [Laughs] But he and I got along all right, though.

RH: How long after you became a judge did you begin to formulate what came to be an approach to trying cases that you have become known for?

SOLOMON: Judge Fee actually didn't like the new Federal Rules of Civil Procedure, which were adopted in 1938, and he didn't like the pretrial procedures at all, but he just insisted that the lawyers follow these rules. He made it so tough with the – he thought that the lawyers would rebel [Slaps desk] against the rules and be responsible for the change [Slaps desk] in the rules.

Now, he made it awfully tough for lawyers. He had the master calendar system, but every month – or every week, actually, he had [lawyers], Monday morning, come up and report on the progress of their cases. He would not tell lawyers when he would render his decisions. He would come and announce them, and the lawyers had to be there on Monday to find out how they came out on the cases that were taken under advisement.

When I took it over, then, first when he was out of town, and later when he went to the Court of Appeals, I changed all that, particularly after I became the chief. I prepared local rules. I required the lawyers to report on their cases, the status conferences, once a month, or 60 days after the case was filed. And then I would have them come up – I wouldn't require them to come up every 30 days. Sometimes I would set it over 60 days, or 90, days or 120 days, depending upon the seriousness of the case and how much work had to be done.

And then in addition to having them come up on that Monday call, I would tell them – some of them I would set for 9:00, some of them for 10:00, and some of them for 11:00. In other words, if a lawyer didn't have very many cases in the federal court, and his case was down the line, I wouldn't require him to be [Taps desk] here at 9:00. Maybe I would have him come in at 11:00. The only ones who had to be there the full time were representatives of big law offices that had a number of cases. This was a tremendous help to the lawyers.

In addition to which, I would read every file. We'd have about 100 to 150 cases, and beginning on Friday I would study the files in each case. By Sunday afternoon, I would have read all these cases, and knew what they were about. So, when the lawyers

told me that they needed more time in order to get certain witnesses, I would ask them, "What witnesses did you need?" They would tell me about the case, after I'd ask them, and I'd say "Well, that's not what the file shows." [Both laugh] You don't have to do that very often before the lawyers know that you're acquainted with the file more than they are.

So we did dispose of a great number of cases. In addition to that, we were more current. I like the master calendar system, but many lawyers don't like it and many judges don't like it.

RH: So these lawyers had become used to a system where the chief judge really didn't have that kind of familiarity with all these cases?

SOLOMON: That's right. They also regarded it as very burdensome, because they would have to come up every single month, sometimes more than [that], maybe twice a month, to report on a case. They weren't prepared, actually, and they didn't know how to prepare the cases, because they didn't know what was going to happen after they did get into court.

RH: So, it seems like, in one way you made it easier for the lawyers in that they had a specific time to be there, but you made it more difficult for them in another way, because they had to prepare.

SOLOMON: That's right. [RH laughs] I think many of the lawyers who appeared before me during that period came to like the system very much. They were satisfied, and they knew that within a reasonable time they would be able to get opposing counsel to do his work. The discovery was cut down considerably because I would meet with counsel often and find out what they could stipulate to. And they would save a lot of money in taking depositions and interrogatories.

But I think maybe at a later time, we'll go through the techniques that I used and which some courts throughout the country use. And particularly, it was used in this court, and now we use a modified system. In Oregon, I think we dispose of more cases per judge than in practically every other court in the country.

RH: So, this system that you've just described is of time saving procedures you employed as chief judge. I wonder if we could begin to talk about the procedures you use as a judge in trying individual cases, if we could just begin to talk about what that approach consists of.

SOLOMON: I had been unhappy about the length of time and the cost of trying cases. First place, I thought that the amount of time taken in discovery was out of all reason and it was too expensive. That's why within a comparatively short time after a case was filed, I would have a conference with counsel to find out what they needed and what they intended to prove. Then I would call on opposing counsel to answer them.

Many times we could dispense with a lot discovery. For example, if a lawyer said "I'm going to show that at the time of the accident it was dark, and it was raining, and that it had been raining for two days or so." Well, I would turn to opposing counsel and I said, "Does he need any discovery or put on testimony?" "Oh," he said, "No, I'll admit that." So I said, "Well, we just dispose of that particular issue." There were many issues of that kind that we would dispose of without engaging in any discovery or without calling a witness to testify to that.

So then, we would try to get as many facts as we could disposed of by stipulation. This was helpful in cases involving condemnation, where you would get experts about the value of property, and what the future of this area was. Many times, we got cases disposed of very quickly.

Let me tell you of a couple of instances. There was a case that was given to me not too long ago, maybe ten years ago, involving Weyerhauser Timber Company. Weyerhauser Timber Company had sued another for installing certain equipment in five

of its plants, Combustion Engineers [was the company they were suing]. I was told that the case would take three or four months to try. So I talked to counsel, and told them that that's an awful long time, and found out what they needed. They had taken quite a few depositions before I talked to them, so we adopted a plan whereby the lawyers would take the depositions, and they would underline – [inaudible] the plaintiff's lawyer would underline in black ink that portion of the deposition that he wanted to introduce in evidence.

Now, there's a lot of hocus pocus and a lot of extraneous material that goes into a deposition. "What is your name?"

"My name is Robert Schmidt."

"How do you spell Schmidt?" "Will you please talk a little louder because there is noise outside?" all this stuff. Then finally, the man says, "It's S-C-H-M-I-D-T." You cut all of that. "What's your name?" and you cut out everything until – and this is not unusual, this is the ordinary course of events in the taking of a deposition.

So then, if the other side thinks that you haven't put in something that he thinks is important, he underlines it with red ink, for example. Now, if not all the questions have been asked that he thinks he wants to develop in the plaintiff's case, then he writes out a narrative statement of the other testimony. Now you can do that in a court case very well, and sometimes you do it in a jury case.

We tried that [Weyerhauser] case using that technique in less than two days. Actually, it covered two and half days, but we didn't go full time. Another case . . .

[End of Tape 7, Side 2]

Tape 8, Side 1
1984 September 14

RH: This is an interview with U.S. District Court Judge Gus Solomon in his chambers in the U.S. District Courthouse in Southwest Portland. The date is September 14th, 1984. The interviewer is Rick Harmon for the Oregon Historical Society. This is Tape 8, Side 1.

[Tape stops]

Judge, I wanted to begin this morning just by giving you some more opportunity to further elaborate on your approach to trying cases that has resulted in some significant time saving here in the Oregon District Court.

SOLOMON: Yes. I mentioned the fact that we used to have a rule which provided that when an action is filed, it's automatically placed on the call calendar for the first regular call day, which is at least 60 days after the date of filing. All calls were heard on the third Monday of the month. That would reduce the number of court appearances that an attorney was required to make. I told you that we would start at 9:00, and then we had other calls at 10:00 and 11:00 so that the lawyer who didn't have very many cases on that call day wouldn't have to spend a great deal of time waiting. Now, when the case was called, and the counsel announced that they needed additional time either for discovery or for some other reason, I would give them a new call date either one month, or two months, or three months in the future depending upon the nature of the case. I would try to find out what the case was about, and why they needed the additional time for discovery.

Ordinarily, these calls are disposed of very quickly, from one to three minutes, and then the parties don't have to come back for 30 or 60 days. But when they do come back, we expect them to have completed their discovery. When they haven't, we find out why they haven't, and then we give them maybe another additional 30 days to do it.

When they announce that their discovery has completed, we set it down for 30 or 60 days in the future for the purpose of presenting their pretrial order. Now, if they don't do it on that date, we might give them another month within which to get it in. Once the pretrial order is filed, then we set it down for trial. We did set it down for trial in 30, but very seldom in 30, but mostly 60 or 90 days in advance.

Then, prior to the time of the trial, we would set it for a hearing with the judge, and counsel would be there, and we would notify them in advance – we wanted to hear certain things. We wanted to know what claims or defenses listed in the pretrial order that they intended to abandon, because ordinarily that's done, and what facts they will stipulate to in addition to those set forth in the pretrial order. We wanted to know not only the names of their witnesses, but also summary of their testimony. We asked for the qualifications of their experts, if experts were required, and a full statement of the testimony that their experts intended to give. We would ask them for the depositions they intended to use, with all extraneous matter deleted, as I explained to you before.

Ordinarily, we would set these hearings a week or ten days before the trial, because at that time, ordinarily the lawyers have started to prepare their cases, and in addition to that, they have settlement authority. Now, in Oregon, we have never used a pretrial conference for the purpose of forcing the lawyers to get together to talk settlement and to have the judge put pressure on the lawyers to settle. We think that that's the function of a lawyer, not a judge. But we give them the opportunity to settle if they want to. Once they know the full statement of what the opponent has, they're more likely to settle a case. We did that, and I found out that [that method] was very effective. We not only got a lot of admissions and stipulations as to fact, but we narrowed the issues considerably. And I found that that's a very good method of proceeding.

I want to say, however, that four or five years ago, after I had been out as chief for a number of years – I've been senior status now for about 13 years, and about five years ago, they prepared some new rules. The rules now provide that when a case is filed, it is automatically given a date for the completion of discovery, and that's five months after date of filing, it goes on a central calendar, and six months for the filing of a pretrial order.

Now, counsel is supposed to comply with that rule, but if they don't, then they have to ask for additional time. They come before the judge and tell why he can't get it in at that time, and why he needs additional time. They discuss it at that time. Then, when discovery is completed, they ordinarily take it from the central calendar and give it to an individual judge, who then oversees the filing of a pretrial order and the conference in advance of [trial] – he sets it for trial, and then he sets it for a conference at about ten days before the trial, just like I did. But that's a little different technique. I think it takes a little longer, but I have been told that they are getting cases promptly tried. At the present time, I think the average time from filing to disposition (if there is [Taps desk] a trial) is about 17 to 18 months. Overall, including those [cases] that are default judgments or confessions of judgments and dismissals, run about seven months from date of filing to date of disposition.

RH: How do those figures compare?

SOLOMON: I think that they were a little longer than what we took.

RH: When you say, "They made these new rules" . . .

SOLOMON: That's the people who took over after I took senior status. You see, I do not participate in the procedures anymore. They assign me cases, and I handle those cases, and I do other things, and although I have the privilege of participating in those discussions, ordinarily I don't. They determine whether they are to change the rules and how the rules are to be changed.

RH: And by "they," that's essentially the new chief judge.

SOLOMON: The new chief judge and the new active judges. The chief judge doesn't do it by himself. They are some very able people there. I think we have about the ablest group of judges of any court in the country for that size.

Now – let me turn it off for a second.

[Tape stops]

Some of the procedures that I put into effect are used. For example, in a court case where the case is going to last for quite a while, the judge requires the lawyers – usually tries to get a stipulation, but if they don't get a stipulation, then he directs them to prepare all of the direct testimony of an expert witness in writing. And that document must be given to opposing counsel between five and ten days before trial, so he can see whether he's going to cross-examine that witness and how much. That takes a lot less time. For example, in an anti-trust case when an economist is going to talk about conditions in the industry and what the effect of [inaudible]

[Tape stops]

[One?] of the effect of anti-competitive practices, the testimony may last two or three days, sometimes even longer. But when it's written out in a narrative statement, it ordinarily wouldn't last more than an hour or two hours. You can do that very well for a court case, and sometimes it's done in a jury case. The way I handled it was, when a witness was sworn, I would tell the jury that Mr. So-and-so is an economist. He's a professor of economics at Stanford University. He has a PhD degree and he has written a number of books, and his qualifications are admitted, and at my insistence, he and the attorney for the plaintiff got together and prepared this narrative statement of his direct testimony. Then I ask the witness, "When is the last time you saw that statement?" He usually said, "I read it last night or this morning when I read it." I said, "Would you like to make any changes?"

"No," he ordinarily said, "No," except – I said, "In the light of the testimony of other witnesses you heard, would you like to add anything?" and sometimes they do. Then I ask his attorney if he has any additional questions. He could ask one or two additional questions if he wants to. Then [the witness] goes head and reads that statement, and it's a coherent statement of his position. I also tell the jury that there's no surprises here, because the counsel for the defendants have had the statement for five days, and there won't be any delay, because they'll be able to cross-examine immediately, and that's what happens. We sometimes dispose of a witness in a half a day or less, that would take maybe four or five days or a week to dispose of.

Now, it's even less time when we don't have a jury case. This is very common. Many times, however, the depositions are admitted in lieu of the direct testimony of a witness. And there, oftentimes, the presence of that witness is waived because both sides have had the opportunity of cross-examining or examining that witness. Usually the deposition is taken by opposing counsel, who brings out all the facts, and plaintiff's counsel doesn't need to ask some of those questions. If he does, he can either ask it directly of the witness, or many times he prepares a written statement in advance of the trial to supplement the deposition testimony. It's very common for all parties to waive the presence of the witness at the trial and use the statement or the purged deposition in lieu of his testimony at the trial. Now, I've used that to very good advantage, and in a few minutes I'll explain to you about some of the cases where it was used. Now –.

RH: Well, in a non-jury trial, then, there is really no need for the expert witness to read his own narrative account, because it's already taken for granted and known by the relevant people in the case.

SOLOMON: That's right. And then, in that kind of a case, I say to counsel, "I've read your statement. Is there anything else you want to add to it?" Then the cross-examination is made with the knowledge that I've already read his statement.

RH: What are some of the arguments that have been used against this procedure?

SOLOMON: Argument is that oftentimes it's up to the judge to determine the credibility of a witness, and if a witness is hesitant, or doesn't look at the lawyer, the judge can take that into consideration. The old statement that a judge has the opportunity to look the witness in the eye and that will determine whether he's credible or not. Well, I have found that that only happens very rarely, and when a party thinks that the witness is lying, he can ask him to be present in court, if it's a very critical witness. But I find the nature of the testimony is more indicative of whether the man is lying or telling the truth. In most instances, it's not a question of credibility, a man deliberately attempting to lie. When you ask a person whether it was dark or light when the action occurred, there's very little opportunity for lying. You can tell by the other evidence in the case whether a man is lying. Many times I've not believed a witness even though I've never seen him, but from the written testimony, I can determine that.

RH: And in cases where there's cross-examination, you have the opportunity to witness the answer anyway.

SOLOMON: Oh, yes. If a lawyer thinks that a witness is going to lie, he's going to insist that that witness be present, and he has all the opportunities to cross-examine him there, and to impeach him and do anything else that a lawyer does to discredit a witness.

I also, in these conferences, I determine how long the opening statement is going to be. Many lawyers, they try to win their case on the opening statement, even though the opening statement is designed to let the jury know what the case is about, it's not an argument. So we usually get lawyers to agree to a 10 or 15-minute statement, unless the case is complicated, a 20-minute statement before the jury.

One of the other techniques that I've used is, when a witness is getting off the stand, then the lawyer says, "I would like to call Mr. Brown," and Mr. Brown may not be in the courtroom; he's outside waiting, and they have to stop and look for him. I have a rule

that they have to give the crier a list of the witnesses and the order in which they're going to be called, and as one witness is getting off the stand, the other witness is walking in the courtroom.

The same thing is true during a recess. I always take a recess for a definite period. If it's 11:00 o'clock, I say "We'll take a recess to 11:10." Then I require the lawyers to ask their questions immediately, without asking the reporter, "Will you please read the last question and answer of this witness." No, if they don't know what the witness has testified to, I insist that they ask the reporter before, during the recess, just before they resume: "What question did I ask, and how did he answer it?" Then so when the witness is on the stand again, he goes ahead with his examination.

Now one of the techniques that lawyers often use is to ask a question which is obviously improper (or maybe he doesn't know it's improper), and then there's an objection, and the judge sustains the objection, and [the lawyer] wants to make an offer of proof. What he wants is to make the offer of proof on, is he wants to tell the judge that if this witness was permitted to answer the question, he would testify this, thus and so. Well, he gets it before the jury, even though it's not admissible. But they don't do that in my court. What I do is to say, "Go ahead with another issue, and we'll hold the witness here. And at the next recess, you can make your offer of proof by this witness, and you'll have to ask the questions of the witness, and have the witness answer." Because many times the lawyer will make the testimony much more favorable than the witness would ever testify to. Nine-tenths of the time, when you hold the witness there, and you give them the opportunity to make the offer of proof, they waive it. It's just a device that not only wastes time, but is calculated to get an unfair advantage of the opponent, and I don't let them do that.

To carry this a little further, I think I mentioned the fact that when I was in Los Angeles a number of years ago (it's 1965), I was walking back from lunch with a newly-appointed judge from Alaska, and he was telling me that he was trying a case that was supposed to take two weeks, and the government lawyer had just told him that morning that they only called half their witnesses, and he thought that they would need two more

weeks within which to complete their case. This judge from Alaska was disturbed about the thing, because in one week he was to start trying a very important case back in Alaska. So he said, "What should I do about the thing?" So I told him, and he said, "Will you please dictate it?" So, I went back to my office and I dictated a note which I sent to him. In the note I said that I suggest that when he starts the session that afternoon, he tell the jury that the case is taking longer than he expected, and beginning on the following day he would have to start a half an hour earlier and quit a half an hour later, and if the case didn't go on as rapidly as he thought, he would have to have sessions on Saturdays and Sundays. Then, when a counsel for either the government or the defendants was taking too much time or was unduly repetitious, he should remind the lawyer that he ought to be less repetitious. And if he doesn't get any success, he ought to say, "This question has been asked and answered at least twice before. Please go to something else." If he persists in asking the same question, I would caution him again. Ordinarily the lawyers will stop that.

When a lawyer asks a question which appears to be irrelevant, he would say to counsel, "How is this question relevant?" and, "How would the answer prove or disprove any issue in the case?" And ordinarily you get one of three answers: First one is, "I don't think it is relevant." With that answer, you ask him to proceed to another subject. The second [is], "It's merely background." With that answer, you remind the lawyer that the case has lasted a long time and suggest that he get to the point. Or the third, "I'll connect it up later," he said. [RH laughs] Well, insist that he connect it up immediately. Then, as I told you, if he wants to make an offer of proof, you can do it in a recess.

Now, in that particular case, I saw my friend at lunch the following day. I said, "How are you getting along?" He said, "The government ran out of witnesses at 3:00" [Laughs] (from 1:30 to 3:00). So I suggested that he go back to court and tell the counsel, "The next time you run out of witnesses, you close your case. So be sure you have all your witnesses there." I talked to that judge after that, about a week later, and he had completed the case. He completed the case in five days, the whole thing, [by?] using this technique.

I have tried this – wait a minute. [Inaudible]

[Tape stops]

You can save a lot amount of time in jury cases by using narrative statements of their expert witnesses, and this is particularly true where you get an expert in economics or even in physics or chemistry, or some field of that kind. The judge should insist that the qualifications of the witness be set out in writing, and the judge tells the jury what those qualifications are. Many times [a lawyer will] take 10 to 15 minutes to tell all about the qualifications of this particular witness.

Many times, you'll find that if a witness is examined in the ordinary method, he would take a day or two, or even a week in a very complicated case, to set forth the facts and his conclusion, and there are many interruptions during that time. Sometimes [the testimony] isn't clear. So what I do is to require that the statement of that expert be set forth in writing, and many times it's a very complicated thing, but he sets it out, and it's usually clearer and much more concise, and the story is told in an orderly way. Even in a complicated case, a witness can read his statement, even with interruptions from time to time [if it becomes?] necessary, in less than half a day. Then, when he testifies from this written statement, the opposing counsel knows exactly what he's going to testify to, and he has the opportunity to read it over and to study it and prepare for his cross-examination, he knows what questions to ask him. Therefore, a jury gets the story in a coherent manner, and there's good cross- examination, and prepared cross-examination.

Now, I've tried this technique many times, and it works. I think I mentioned the Weyerhauser case before. That was a case in which Weyerhauser Company sued Combustion Equipment Associates for improperly designing, installing, and starting up five high-performance steam plants that would burn sawmill waste. The installations were unsatisfactory, and Weyerhauser sued for damages for the amount it spent on design and construction, and also damages for delay. Another company, Williams Patent Crusher & Pulverizer, was joined as a third-party defendant.

Now in the course of discovery of this case, the parties took 24 separate depositions, and they had 4,850 exhibits. At least these were the number that were remarked, and this did not include 922 deposition exhibits. The pretrial order was 173 pages long, but there was only six pages of admitted facts, but the contentions of the plaintiff took 33 pages to set out. The defendants' contentions took 20 pages, and the third-party defendant four.

Now, we had narrative statement in this case. The plaintiff submitted 950 pages of statements. That was the direct testimony of their witnesses.

[End of Tape 8, Side 1]

Tape 8, Side 2
1984 September 14

RH: This is an interview with Judge Gus Solomon. This is Tape 8, Side 2.

[Tape stops]

SOLOMON: The defendant prepared 37 statements, and that took more than 450 pages. The third-party [defendant] submitted four statements. There were all kinds of depositions and many of the exhibits were introduced, and there were some witnesses who testified live. There were four witnesses, I believe. All the rest of them were by depositions or statements. The case took less than two and a half days to try. After the trial, the plaintiff submitted eight separate briefs which totaled in excess of 1,000 pages, and the defendants submitted seven briefs totaling approximately 500 pages, and the third-party defendant submitted two briefs totaling –.

[Tape stops]

I mentioned before that the plaintiff submitted eight briefs totaling 1,000 pages, and the defendants submitted seven briefs totaling 500 pages, and the third-party defendant submitted two briefs totaling 100 pages.

Now I granted the plaintiff judgement for approximately \$3 million dollars in damages. My opinion was 84 pages long, and that was one of the longest opinions I ever wrote. The defendant appealed, and he asserted many claims of error. He also contended that I, as the trial judge, had decided many issues of fact incorrectly, and that because almost all of the testimony had been submitted in narrative form, the clearly erroneous rule should not apply.

The whole opinion affirming [my decision, made by the Court of Appeals] took 24 lines. Of that 24, I'd like to read you 13 lines, which says, "The trial judge, sitting without a jury and dealing largely with documentary evidence and narrative statements of what the

witnesses would have testified if they had appeared in person, made exhaustive and comprehensive findings of fact which fully satisfy the standard of review under Federal Rules of Civil Procedure 52. The credibility of those witnesses who appeared as well as those whose testimony was produced in documentary form was a matter for the trial judge to decide. Accordingly, the judgment is affirmed." I was very pleased with that reference because it established the validity of the techniques which I used there.

There was a recent case, entitled Carson-Truckee Water Conservancy District v. Clark, in which the lawyers made the same contention. I tried the case the same way. This case was supposed to last for about four months, and it lasted one day and one hour. I wrote an opinion, and then they appealed and contended that [Reading] "although the district court's factual determinations are usually reviewed under a clearly erroneous standard, the nature of the hearing conducted by the district court in this case warrants a less deferential standard of review." They contended that the hearing before the district court was a paper hearing, in which the demeanor and credibility of the expert witnesses was not involved. The [Court of Appeals] rejected that contention and said, "Although the district court required the expert testimony be submitted in writing, the experts were cross-examined in the court's presence. Even if we were to employ a less deferential standard of review, we nonetheless would affirm the district court on its overall holding that the Secretary did not abuse his discretion." I was happy that this was written, because it adds credence to the prior statement of the court that this technique is satisfactory.

Now, I might add that a similar case to the Weyerhauser case was tried in Texas. The case was against the same defendant and involved similar issues. The Texas case, like the one before me, was a non-jury case, but it was tried in the traditional manner. The Texas case, which only involved one plant as opposed to five plants, took 32 trial days to try. The Oregon case, which involved five plants, as I pointed out, took only two and a half days to try.

I think that the techniques which I'm using are worthwhile, and I think you get the same results as you do if you take all the extra time, but [the traditional way] clutters up

the calendar. I'm amazed that more judges don't use these techniques that I do. I'm glad to say that we in Oregon follow this practice, and we have one of the highest rate of dispositions in the country. It merely goes to confirm what I've said many times, that adding judges is no solution to the problem of court congestion. I think that these other courts have to change their method of trying cases. It's not only going to cut down the number of judges that are actually needed, but it's going to cut down the cost of litigation.

RH: To what extent can this variety of time-saving techniques that you've described be imposed by the chief judge of a court, or are a lot of these methods entirely at the discretion of each trial judge?

SOLOMON: I think that they are. The Ninth Circuit now, the Court of Appeals has spoken on two separate occasions approving this technique. I think that it's a matter of discretion for the court. Lawyers oftentimes resist new techniques, but once they've tried them, they usually like them.

I could tell you a story about a case that I tried. There were two judges in this court, many years ago, to whom two cases were to be assigned. I let the other man choose which case he wanted. They were both supposed to take around six weeks, a jury case. We had to schedule them at different times because there was one lawyer who was in both cases. It was a well-known lawyer from Salem, Oregon. We tried our case first, and the case took about eight days to try. [The lawyer] had complained to me about some of the techniques which I used to speed up the trial, and the jury brought a verdict of guilty against his client, and some of the other clients.

I saw him about five months later. He came into my office, and he was practically tearing his hair. He was in the other case before the other judge, and the case had already gone for more than eight weeks. He said, "My God, I'll never complain about you again." [RH laughs] He said, "I don't know when we'll ever finish this case. I'm going broke." Because of course, unless you represent General Motors or a very large

corporation, when you're in court a long time, it's hard to get paid for all the additional time that you're working. He was just exasperated by the length of time that it was taking to try the other case.

And I know many times after I finish these cases, the lawyers are grateful they are that I did use these techniques, even though on occasion when they lose the case, they raise it in the Court of Appeals.

RH: Well, as a matter of fact, I was interested in asking whether in the Weverhauser case they raised in court their opposition to your judgment about the erroneous . . .

SOLOMON: The clearly erroneous rule?

RH: Clearly erroneous rule.

SOLOMON: No, they couldn't raise that until they went to the Court of Appeals. But they never objected before me to the use of narrative statements. There was never any objection. Apparently they were satisfied, but this was just one other method by which they could raise the question of the clearly erroneous rule, and they raised it, but I don't think they were very sincere in what they did. In fact, that office has tried a number of cases before me, and they have never objected to the use of narrative statements.

RH: Also in the Weverhauser case, what is your explanation for the length and detailed nature of your opinion, given the short length of the trial?

SOLOMON: Well, a judge tries a case not only on the basis of the witnesses who testified live, but he has to consider all of the exhibits and, of course, he has to consider the testimony of all of the other witnesses who testified by narrative statements and by depositions. Many times we try cases where there are no witnesses, and it takes a long time. But, there were many issues in this case, and in my opinion, I had to discuss each

one of the issues that were raised. I did it on the basis of the pretrial order, which contained the contentions of fact, and I also did it on the basis of the exhibits, the narrative statements, and the testimony of the witnesses. It took a long time.

RH: Were you also anticipating the procedures you used in that trial being, in essence, judged by the appeals court when that case was appealed?

SOLOMON: No, I didn't think about that. I've used this technique all over the United States, so it wasn't anything new with me. Many judges on the Court of Appeals know that I try cases that way. I recall that I tried a number of Title VII cases in California, and each of those cases was scheduled to take four days. I heard one case on the record without any testimony, and the other two took less than one half a day each. I wrote an opinion in each of these cases. There were no appeals in any of the cases. I said that both cases were to last four days, I think one the cases was to last a lot longer, because they had depositions that were taken in Boston and in various other places, and there were hundreds and hundreds of pages of depositions in that case. I disposed of it in less than a half a day.

RH: But was the Weyerhauser case the first case where you used these techniques on a wide scale that was appealed to the Ninth Circuit, and therefore gave you an opportunity to have your procedures vindicated by the appeals court?

SOLOMON: No, I don't think so. In the other cases, I don't think they raised it. I used that technique in Florida many times, and it wasn't raised. And I've used it in the Second Circuit in New York, and it wasn't objected to on appeal.

I do want to say that narrative statements are not new. They had been used many, many times over a period of many years in administrative procedures, before the federal agencies. They'd been used also in court cases. I know two judges that have used it frequently in connection with expert witnesses. That's the way I got started on it, in

expert witnesses, after hearing these judges. One of the judges was Ed Robson of Chicago, and the other was Hugh Will also from Chicago. They both used that technique, and it sounded good to me. That's how I happened to start using it. I first started to use it in connection with expert witnesses, and I found it so effective, that I expanded it and used it for lay witnesses as well.

RH: So these time-saving procedures seem to break down really into a category of procedures that you use in essentially a pretrial context, and then another category of techniques that you use during the trial itself.

SOLOMON: That's right.

RH: In the pretrial category where you're using methods to minimize discovery by stipulation, you mentioned earlier that it isn't the approach of the Oregon District Court to force pretrial agreements as a way of disposing of the case . . .

SOLOMON: Of achieving settlements.

RH: Of achieving settlements, yes, but do your techniques sometimes amount to essentially arbitrating in the pretrial?

SOLOMON: No, I don't think so. But it amounts to encouraging settlements without forcing settlements. See, there is a difference, because when counsel, particularly if their clients are there, sees what facts the opposing counsel is arguing, and what facts [Knocks on desk] he has, hard facts, he's more likely to settle. Another thing is, many times during these pretrial conferences, there's an issue of law that comes up that hasn't been raised before. I sometimes rule on those questions of law, and sometimes I raise questions of law myself. As a result of which, the lawyers find often that it's to their advantage to settle rather than take a chance on an adverse legal ruling.

RH: You mentioned that many of your techniques have at least been accepted, following your taking senior status, in at least a modified form here in the Oregon District Court.

SOLOMON: Yes. I think most of them.

RH: What about in other district courts? Do you have any sense of that?

SOLOMON: Yes. I've mentioned it a number of times. I think that many judges in all parts of the country are using some of the techniques: narrative statements, other things of that kind. There was a man, I forgot his name – Richey, I believe his name is, Judge Richey from Washington, D.C., that wrote an article recently, in which he described this technique. Then, there's an office – let's see, what the . . .

[Tape stops]

I saw this article and I ran into Leo Levin, who is the director of the Federal Judicial Center in Washington, D.C. I told him about that article, and he knew that I had written another article and made a speech on the subject. He asked me if I would send him a copy, which I did. Then he had a member of his staff put out a bulletin. They put out a bulletin called *Chambers to Chambers*, and this issue was devoted to this technique. And it gave some examples that both Judge Richey and I had used.

Now one of the uses of this technique which was very valuable, involves people who testify in a foreign language and who need interpreters. If it's a jury case, the lawyer asks the witness the question in English, and then the interpreter translates it into, say, Spanish. And then the witness then answers in Spanish, and then the interpreter translates it into English, which is a very burdensome thing, it takes a lot of time. You save most of that if the witness testifies from a narrative statement. All the translation is

done prior to that time, and then [the lawyer] reads it. All the direct testimony can be cut down considerably.

I was in Puerto Rico once when I saw a trial where the professors in a university were complaining about something, and they refused to testify in English. I'm sure all of these people knew how to talk English very well, but the question had to be asked in English and then translated into Spanish. They answered in Spanish, and it was translated from Spanish into English. The case went on endlessly. That could have been avoided if this technique had been used. The probabilities are that these men would have all talked in English.

Well, there are many other uses, and I think that judges who hear about this technique, and who are willing to try it, find it will be useful. And I hope that more and more judges will use this technique.

RH: I want to back up a little bit chronologically and take you back to the 1950s and your first five years or so on the district court, and ask you a little bit about your recollections of the McCarthy era and your perceptions of what was going on in our country at that time while you were a judge, and just some of your feelings about it.

SOLOMON: I'd rather have an opportunity to think about it, and we'll cover it on the next session.

RH: Okay.

[End of Tape 8, Side 2]

Tape 9, Side 1
1984 September 21

RH: [This is an interview with U.S. District] Court Judge Gus Solomon in his chambers in the U.S. District Courthouse in Southwest Portland. The date is September 21st, 1984. The interviewer is Rick Harmon for the Oregon Historical Society. This is Tape 9, Side 1.

[Tape stops]

Judge, before we go on to the McCarthy era and some of the observations of that period that you recall, I just wanted to follow up on a point that you mentioned off-tape last time. That was where you talked about your time-saving approaches to trying cases, and you made the distinction between time saved in court and total amount of time saved. I'd like you to elaborate on that a little bit.

SOLOMON: Well, when I talked about cases that were scheduled for ten weeks, and I tried the case in two and a half days, that doesn't mean there was that much difference, that was just trial time. The lawyers often spent a considerable amount of time in preparation because they had to set forth in narrative form the testimony of each of their witnesses. They had to go through the depositions that they took of witnesses, mostly adverse witnesses, to cut out all of the irrelevancies. So, trial preparation was longer, but on total time spent, my technique saved a great deal of time, because the preparation for trial, although longer, did not equal the great amount of time that it would have taken them in court.

The same thing is true with me. I tried some of these cases in a day or two, but the amount of time that we spent in chambers both before and after the trial was much greater because I had to read all these documents. But, I did save a lot of time, because many times the clerks would read some of the documents, and let me know which were

important for me to read myself. I thought that on balance, looking at the whole thing in its totality, the methods which I used were great time-saving devices.

RH: And it seems they certainly would have saved money for the federal government, too, by reducing court time.

SOLOMON: That's right, and it saved a great deal of money for the litigants also. I'm sorry that more judges don't use that technique, although I find that more and more, judges throughout the country are using the same or similar techniques.

RH: Are you familiar with cases where a judge in a given district court might want to use some of your techniques but would be prohibited from doing so because the senior judge in that court might not favor those methods? Are there cases like that?

SOLOMON: Well, I don't know. But I do believe that in many districts, judges are reluctant to put them in because they ask for stipulations from the lawyers, and if the lawyers have never tried this technique, they are reluctant to stipulate. But here, whether the lawyers like it or not, we do it. In most cases, the lawyers are enthusiastic about it, because it saves them so much time and because they're able to present their case in an orderly fashion.

RH: Seems like you almost have to go through a period where you essentially train the lawyers . . .

SOLOMON: That's right.

RH: . . . in your district to use these.

SOLOMON: Well, I've spoken before the local bar association on many occasions about these techniques, and once you try it with some lawyers, of course the rest of the people in his office learn about it, and it gets around. So in Portland, most of the lawyers know [about] the technique we use in this court.

RH: In another instance off-tape, I think I recall you saying that the *New York Times* had called you "the Fastest Gavel in the West." What was that in relation to, that comment?

SOLOMON: Well, let me cover that a little later, when I talk about some of the districts to which I've gone.

RH: Oh, okay. Fine.

Now, at the end of the last session, I started to ask you about the McCarthy era, and you wanted to collect some of your thoughts about that. So, let's kind of go back in time a little bit, and review what some of your perceptions were about that period from the vantage point of a federal judge.

SOLOMON: As far as I can recall, the McCarthy period had no effect upon this court. We weren't influenced in any way by McCarthy's attacks on people in public and private life. I can recall no case in Oregon during the time that I was a judge in which public employees were terminated because of charges made as the result of the hysteria that was rampant during the McCarthy era.

But I do recall that in 1948, and 1949, a number of employees from the Bonneville Power Administration were forced out of office because of attacks against them. I represented a few of these people before [the committee], and I won all of their cases before the committee which was set up by Bonneville and by other agencies to listen to the testimony against them. But in spite of the fact that I won all of the cases, many of the

employees were forced out of employment. I knew many of these people personally, and I thought that all of the attacks against them were without foundation. It was a terrible period, and a terrible situation for them. I remember one man in particular who took it so hard that he had a heart attack and died a short time later. And I was convinced that there was just no merit in the attack against him.

RH: These attacks were essentially that these people were communists? Is that what the attacks were?

SOLOMON: Yes. There were very few incidents of recent origin. There were attacks against them [about] when they were going to college, and shortly after they came out of college, that they fraternized with people who were known communists, and some of them, that they belonged to the American Civil Liberties Union, or they belonged to the Spanish –

RH: Abraham Lincoln Brigade?

SOLOMON: Yeah. The Spanish Committee to Aid Spanish Democracy. But they were not communists, and they were not communist sympathizers.

RH: But as for your years in the district court, you don't recall cases in Oregon, particularly, where people were harassed or hounded?

SOLOMON: No. I don't know of any case of that kind.

RH: What about your perceptions of these proceedings outside of Oregon, the House Un-American Activities Committee, and later the Army McCarthy hearings? What were your feelings in response to those?

SOLOMON: I thought that that was a very unfair thing to do. They had committee meetings all over the United States where they attempted to blacken the characters of a lot of people. They would get certain people who foolishly joined the Communist Party for a short time, and then when they realized what the organization was really about, they withdrew. But they were called before the committee, and they were forced to name names. "Whose house were you at? What did you do over there? Who was there? What did you say?" Then, if they refused to answer, they were – some of them refused to answer on the ground that it might incriminate them, and nothing could be done, except they lost their jobs. This was particularly true in the motion picture industry. In other cases, they did name names, and they caused a lot of people a tremendous amount of grief. I thought it was very unfair.

One of my good friends,²⁵ who once had a client who came to him and told him about the fact that he had been a member of the Communist Party for a short time and that he regretted it. My friend called J. Edgar Hoover and told him about that thing, and it was supposed to be absolutely confidential. Well, then later on, when these committee meetings were held, his man was subpoenaed to testify. It caused him no end of grief and problems, and it caused the lawyer a great deal of problems, too. Hoover had violated his agreement with my friend.

Now, I might say to you that Hoover was supposed to be sympathetic with the McCarthy tactics, and was supposed to be anti-communist, and he was, but the American Civil Liberties Union was one of the organizations that was falsely accused of being a communist organization. And yet J. Edgar Hoover's personal lawyer was the general counsel of the A.C.L.U. [Laughs] This is a sad commentary on him.

RH: What sort of restraints were on you as a federal judge, as far as reacting to what was going on and commenting on it or speaking out against it? Were [inaudible] . . . ?

²⁵ Solomon is referring here to Martin Gang.

SOLOMON: No, I didn't experience any feelings that I shouldn't speak out. But ordinarily, as a judge you don't speak out on political matters anyway . . .

RH: Yeah, well that's what I was wondering.

SOLOMON: I wasn't influenced one bit by what was going on in my public life, but in my private life, I felt that this was a sad thing, and I was glad when the Senate of the United States censured McCarthy for his activities. I think this was one of the first times that they'd ever censured a member of their body.

RH: Well, you had experienced a good amount of red-baiting through your entire adult life off and on. I wonder . . .

SOLOMON: No, I . . .

RH: Did this period seem qualitatively different from earlier periods of communist accusations and so on?

SOLOMON: Actually, it was only sporadically that I was ever accused of being friendly to the communists. That's when I was active in the A.C.L.U. And then a few people attacked me, said I was a communist sympathizer because I believed that public power, the distribution of electric energy, should be done by public agencies, just like water systems. But some people thought that if a city had a municipal water system or a municipal power system that they were socialistically or communistically inclined. That's the kind of attack that I had. And I was accused of being a communist because I didn't believe that American citizens of Japanese ancestry should be put in concentration camps without having charges filed against them.

RH: I wanted to just establish when it was that you actually became senior judge of the Oregon District Court. Approximately.

SOLOMON: I became a senior judge when I was 65 years and two days. So about 196–65 [years old] is 1971, I became a senior judge.

RH: That's when you took senior status. What I'm referring to is when you became . . .

SOLOMON: An active judge?

RH: . . . the senior judge of the Oregon District Court, the position of senior judge, that allowed you to . . .

SOLOMON: That was on – that allowed me to do what?

RH: Well, that gives you prerogatives for scheduling the . . .

SOLOMON: Oh, that was in 1971, when I became a senior judge. I gave up my active status and became a senior judge. I'll talk about that in a few minutes, if you want me to.

RH: Okay.

SOLOMON: I think you mentioned something about the Cheryl James case.

RH: Right. Yeah, you want to –?

SOLOMON: I had almost forgotten about that case until I looked it up. I recall that she was tried before me as a juvenile because of her attacks on F.B.I. agents. The agents had come to her house looking for her brother, who was a military deserter. They saw a man

who answered her brother's description, and they entered the house, and they arrested him. It turned out to be her brother. Her brother and the family dog attacked these agents, and then Cheryl James hit one agent over the head with a rolling pin. When he was down, her brother kicked this agent in the face. She came before me, and I sentenced her to 18 months. She was sent to Terminal Island in San Diego. I recall that I delayed the beginning of her sentence to permit her to graduate from Jefferson High School.

Now as a result of this sentence, a number of different organizations, particularly black organizations, began to demonstrate and protest that she was unjustly convicted. They falsified the facts, and they used her, really, to stir up controversy between the races.

Shortly after she was incarcerated, she was released by an order of a circuit judge, pending appeal. This judge, apparently, was of the opinion that the trial was improper because she was entitled to a jury trial even though she was tried under the federal Juvenile Delinquency Act. I had given her the choice between a trial as an adult and a trial as a juvenile, and she chose to be tried as a juvenile and waived a trial by jury. This judge thought that she was not required to make this choice.

Now, Cheryl James came back when she was released during the pendency of [her?] appeal, and said that while she was a Terminal Island she was impregnated by a male guard. She didn't claim that she was raped, but she was just impregnated. Sometime later, her conviction was affirmed by a two to one decision. The judge who let her out on bail was the dissenter.

But this didn't stop the turmoil. For example, I was invited to speak before a group at the Portland State College on "A Lawyer as a Social Engineer." The room was packed. I learned later that many of the members in the audience were members of Cheryl James' Defense Committee. Shortly after I began to talk, I was interrupted and asked a number of questions, not about lawyers as social engineers, but about Cheryl James. Cheryl James was in the room, and she began to ask me questions, and to scream and

shout, and so did a man by the name of Kent Ford, who was the leader of the Portland Black Panthers.²⁶

Now, I don't know what happened to Cheryl James after her conviction was affirmed, but I do know that there were a number of groups who were using her case to stir up trouble. I remember one time the Cheryl James [Defense] Committee held a Solidarity Day Meeting. They marched at the Malcolm X Park to honor Malcolm X's birthday and to proclaim their solidarity to their sister, Cheryl James, who they claimed was victimized by the FBI. That's about all I remember about the case.

RH: Well, my reading of some of the newspaper clippings surrounding this case and the file that you lent to me revealed that the case, which was in 1971 I think, generated a lot of controversy in Portland. It even got some national attention, I think. And certainly it was something that caught the attention of certain elements of the white community in addition to the black community. You set out the facts of the case and the crime . . .

[Tape stops]

SOLOMON: Go ahead.

RH: [You set out the facts of the case and the crime] as you recall them, but there was a great amount of dispute about the facts of the crime in the case, namely, that the entire James family accused the FBI of really provoking the violence that took place and also . . .

SOLOMON: Well, that was the publicity put out by the Defense Committee and by the Black Panthers. As I said, I listened to the facts, and I heard the testimony. None of those statements were correct.

²⁶ For more information about this incident and the Cheryl James case in general, see Jane Cigarran, "The Case of Cheryl D. James: Institutionalized Racism and Police Violence Against Black Women in Portland, Oregon (1968-1974)," *Oregon Historical Quarterly* 121, no. 1 (Spring 2020): 40-63.

RH: How did you determine – you simply believed what the F.B.I. agent said, as opposed to what the opposing testimony [said]?

SOLOMON: Certainly. But the statements that were in the press went far beyond what Cheryl James even contended at the hearing. I heard the testimony, and since that time I read the F.B.I. reports which carefully delineated all the circumstances under which they went into the house. Her brother was a deserter. They came in and they wanted to arrest him, and they had the right to arrest him. She then hit the man over the head with a [rolling pin].

RH: Well, it was claimed in the trial also that the F.B.I. agents referred to her brother as "boy" or [said], "Come along, boy," or – was that testimony you just [ended up?] . . . ?

SOLOMON: I don't remember that.

You were asking me what I did after I became a senior judge?

RH: Yes.

SOLOMON: Well, I became a senior judge, as I told you, in 1971. My activities and duties were the same as I had as an active judge. Now, I became a senior judge because we needed another judge in this district. We were busy. Congress had not created this other position, and I thought that the best way to get another judge was to take senior status. As a result, there was another judge selected in my place, that's Judge James Burns. In addition, they did create another position, and that was – Otto Skopil was selected at that time.

But even with the two new judges, they needed my services, and I continued to try all kinds of cases. I tried jury cases, criminal cases, and I carried about the same load

as I did as an active judge, except that I took more out-of-state assignments. A few years later, however, I made certain changes. I avoided criminal cases wherever possible, and I tried very few jury cases. I also had the luxury of selecting my cases, or at least not trying cases that I didn't want. For example, where the lawyers were known to be difficult or incompetent, I would avoid that case. In other words, I attempted, wherever possible, to try cases that had good lawyers.

I also tried to handle cases that had difficult legal problems, and particularly cases that could be submitted on narrative statements and depositions and exhibits, rather than to sit in court and listen for days to the testimony of witnesses.

RH: So, it seems that your selection was, in part, based on cases that would conform easily to the time-saving methods that you had innovated.

SOLOMON: That's right. And which would make it unnecessary for me to sit in court for days and weeks listening to things that I could read much more quickly.

I might say that even before I became the senior judge, I was invited to other districts frequently to try cases, because they knew that I disposed of cases quickly, and because they needed help. The first district to which I went was the San Deigo [District], which was then a part of the [Southern] District of California, with the headquarters in Los Angeles. I tried a number of cases there, but the principal one I tried was one of the most famous cases I ever tried, was the Bird Case, as [it's] called. It involved a conspiracy to import parrots and parakeets and other exotic birds. That case was scheduled for, oh, four or five weeks, but I tried it in 16 trial days, which was, incidentally, the longest case I ever tried in court.

We disposed of that case, but everything that's possible to happen in a case happened there. For example, we had defendant that would throw fits in court. For the first couple of times, we had to take him to the hospital until he "recovered." (I use recovered in quotes.) Then I told him that any more times that he threw a fit, we're going

to go on without him. Then, there were about nine or ten defendants, and they told of all kinds of things that happened. There were murders in Mexico of witnesses who might have testified in the case. There was jury tampering. One of the lawyers was accused of threatening witnesses. As I said, everything that could happen in a case did happen there. Finally, the case was concluded in about 16 days. It got a lot of publicity, and [my guilty verdict] was affirmed on appeal.

[End of Tape 9, Side 1]

Tape 9, Side 2
1984 September 21

RH: This is an interview with Judge Gus Solomon. The date is September 21st, 1984.

[Tape stops]

SOLOMON: Thereafter, on many occasions I was invited to go to Los Angeles. I sat there many times. I took over the calendars of several judges. I recall that one time Judge Pierson Hall was not feeling very well, and he had trying the airplane crash cases. I took those cases over from him, and also other cases, and we disposed of a great number of those cases. When Judge Thurman Clark died, he [had] been the chief judge, and he had about 150 cases pending at that time, some of which were serious and some of which were not so serious. I took them over, and I disposed of practically all of them in two months' time. Then, there were a number of admiralty cases, I think about 140 cases. Maybe it was 240, but I [know I had?] quite a number, and so I pretried those cases for a month, and then I brought Judge William Beeks, who was a friend of mine from Seattle, and he came for the second month. We disposed of that entire calendar of admiralty cases in Los Angeles.

I also tried a number of other cases. Title VII cases, which were employment discrimination cases. These cases were supposed to last a minimum of five days, and I tried a number of them, and I never took more than a day to try any case, and most of them I disposed of in a half a day. I did try those cases, but I haven't been back for a number of years to Los Angeles.

RH: Do you recall trying any other cases with any of the sorts of political overtones that the Cheryl James took on, either in the Oregon District or in California? Or anywhere else? For example, draft cases and . . . ?

SOLOMON: Oh, yes. I tried some of the early draft cases in the United States. I recall one draft case which got a lot of publicity. It was a case – I forgot the young man's name,²⁷ but he was going to Harvard, and he didn't register. Actually, he was going to be a minister, but he hadn't entered theological seminary at that time. He came to Portland. He was represented by a young lawyer who asked him to – who refused to plead, but he remained silent. So I entered a plea of not guilty for him.

A few days later, a more experienced lawyer, one who was very experienced in draft cases, came in and said that he wanted to plead him guilty. I accepted the plea. I heard the facts, and the facts were that this young man, who was a real conscientious objector, he wanted to become a minister. He presented a number of letters from professors and other people he knew at Harvard, and one of the professors was a man who had a Distinguished Service Award [Laughs] from the military, and he thought that this young man was a very fine man, and urged me to put him on probation. And I did. I put him on probation.

I might say that I sentenced him much sooner than I had expected, because I learned that his father had kicked him out of the house on the ground that he didn't want a coward in his family. His mother would go down to the United States Attorney's Office and sit there from about 9:00 [Laughs] in the morning until the afternoon, crying all day. They had to get rid of her. Then, Harvard University gave him a full scholarship and paid not only for his tuition, but also for his living expenses.

I put him on probation for a period of five years because I was fearful that if I put him on probation for a year, that then the Selective Service would have him rearrested after his [probation] for not registering. So I did put him on probation for that five years, and about a year or so later, I got a letter asking if he could go to France because he was given a Fulbright Scholarship. I granted that [inaudible] to him. Then he entered the Episcopal seminary in Berkeley, California and studied for the Episcopal Ministry. I read about him some years later, that he went to New York, and he was an assistant minister at a church on about 3rd and Broadway in New York City in the poorer districts. Then I

²⁷ The defendant in question was Edward Allen French.

got a letter from the White House, from the clemency attorney, asking if I had any objection to his being pardoned, because he wanted to participate in political life. I told him that I certainly had no objection, and he was pardoned by the White House.

RH: In whose administration?

SOLOMON: He received the first pardon that was given by the Nixon Administration.

Now, I did handle a lot of other Selective Service cases. I remember one case, in which a – oh.

[Tape stops]

Well, I handled a number a number of cases in San Francisco. I went down there to handle their calendar of Selective Service cases. There was one young man who was about 18 years old, and he refused to register. He had gotten some publicity because he had marched something. His mother didn't want him to register. But he was pleased at the publicity he was getting, and he got a lawyer who was a real radical. I think he had been a member of the Communist Party. He was his attorney, and they were going to – when the case came up, the attorney said that it would take around five days to try. I said, "What are the issues?" He began to talk, and I said, "Well, let's pick a jury and we'll start in." Then they decided to waive a jury, and I said, "Where are your witnesses?" He said, "Well, I thought the case would take five days, and so I didn't call him." They were calling a professor at Stanford University and others. Well I found him guilty, and I sentenced him under the Youth Correction Act.

Then about a couple of weeks later, he wrote me a letter in which he said that he realized he had made a terrible mistake. [Laughs] Then he told the circumstances under which he refused to register, and he had some remarks about his mother. I then decided to hold a hearing, and I did hold a hearing at which we read the letter. In the meantime, he had gotten new attorneys. I let him out, and then he entered college. I heard later that

he had made a very good record in college. But he did register, and that got quite a bit of publicity.

RH: In this previous case, the defendant refused to register on the basis of his religious convictions. Is that right?

SOLOMON: That's right. No, he just refused to register, he didn't mention anything. The first case, you're talking about?

RH: Yeah, right, the first case.

SOLOMON: I think now that he might not have been required to register, or to – [he'd be?] required to register, but he would've been exempt because he was going to become a minister. But he hadn't actually entered theological seminary at that time.

RH: It seems like, on the surface of it, if he had registered, he could have pretty easily gotten conscientious objector status, which leads me to believe that there's some aspect of his religious conviction that wouldn't even permit him to register.

SOLOMON: That might be true. I don't know why it was done.

I had another case in which a man had been born in Poland. He was an orphan, and he didn't have any place to go, and so he was "adopted" by the American Armed Forces. They brought him with them to the United States. And when he was in the United States, he joined the army. And then, just before he was to be released from the army, he applied for American citizenship. His application was granted, and he was to be sworn in. When he went to court to be sworn in, he told the clerk that he did not want to swear, he wanted to affirm, because he didn't believe in God. When they told that to the judge, the judge refused to permit him to swear him in on the ground that to be an American citizen you had to swear, which wasn't the law. That was in Hawaii at the time. So he was not

made a citizen, and when he came to San Francisco, he called the American Civil Liberties Union, I believe it was, and they appealed the case, and the Department of Justice confessed error, and said he was entitled to become a citizen.

In the meantime, he had moved to Oregon, where he was attending Oregon State University. When was there, he filed an application for a transfer [of his citizenship application]. In the application – it was done before a notary public, and the notary had said, "Subscribed and sworn to before me." So, when it went to the judge in Hawaii, the judge was outraged, and he asked the F.B.I. to examine, said that this man was perjurer and a liar and wasn't sincere because he had sworn. Well, they talked to the notary public, and the notary public says, "I never ask anybody to swear. He never swore before me." So then the judge wrote to the governor to have the man's [notatarian?] commission revoked. Well, I don't know what happened to that, I don't think anything happened.

The case finally came before me, and this man, I admitted him [to citizenship]. I got a tremendous amount of publicity. A lot of people wrote and told me that you have to believe in God in order to be a citizen. He had testified that what he saw in Poland with the murder of all these people, he just couldn't believe that there would be a God, because a God wouldn't have permitted the murder of innocent people in such great numbers by the Nazis.

RH: Under what circumstances did the case come to you?

SOLOMON: Because he had to be sworn in as a citizen. He was denied that right to be sworn in after his application had been approved, and so they transferred the case from Hawaii to Oregon, where he was located.

RH: Again, going back to that first case that you mentioned, that registration case: I just wanted to substantiate where that case was located. Was that an Oregon case?

SOLOMON: Well the man was supposed to have registered in Oregon, but he was a student at Harvard University.

RH: But you tried the case here in Oregon.

SOLOMON: That's right. I forgot the young man's name. I'll find it sometime.

RH: And then that second group of cases involved a series of draft cases that you tried down in San Francisco?

SOLOMON: Yes, and Judge Belloni came with me for a while. We tried a lot of those cases. Now, I was supposed to be a lenient sentencer, and I guess I was, because *New York Times* had a little squib, "If you don't want to go to jail, go west young man, go west to Oregon." But I was not as lenient as they were in San Francisco in later years, where they didn't send anybody to jail.

Now I got a lot of conscientious objectors, or a lot of cases involving Jehovah's Witnesses. Did I tell you about the techniques that I developed about the —? [Inaudible]

[Tape stops]

RH: Judge, I wondered if we could just establish when you became chief judge of the Oregon District Court.

SOLOMON: I became chief judge in 1959 when Judge McCulloch gave up his chief judgeship. Judge East was one of the other judges, and then we got Judge Kilkenny. I was chief judge from 1959 to 1971, a period of around 12 years. During that time, I handled most of the calendars for the court. I developed some of the techniques about

which I talked to you. In addition, I wrote the local rules for this court. I think the first local rules was in 1962 or 1965.

I also changed the rules that had previously been enforced on calendar control. Judge Fee had required the lawyers to come up constantly to report on their cases. I didn't. I provided that on the third Monday of the month after 60 days, a case would go on the calendar. And then the lawyers would report about the status of the case, let me know what were issues were involved, what additional time they needed in discovery, when they could get their pretrial order in, and when they thought they would be available for trial. If they needed more time, then we would set the case over 30 days to the next third Monday calendar, or maybe two months, but always on the third Monday of the month. As a result, it helped the lawyers considerably, and then it kept our calendar moving.

This required a great deal of time on my part, because I would look – there was about 100 to 150 cases, and I would read the files in all those cases. I would start in on Friday morning, and I'd finish usually about Sunday night, and Monday morning, I would know what was in those cases. I was sometimes unhappy that the lawyers didn't know as much about their own cases as I knew, but I needed that information in order to determine how much time they needed in order to complete their discovery, present the pretrial, and then we provided in our rules what the pretrial order should include. I think that during those early days, we changed the rules to such an extent, and the practices, that we were able to dispose of cases in just a fraction of the time that we did before, and we were able to cut down the time that elapsed between the filing of a case and its disposition.

RH: Well, in addition to those duties as chief judge, or those initiatives as chief judge that you've talked about, I believe that the chief judge also has the responsibility of requesting assignments from visiting judges in outside district courts. What were the considerations that you used as chief judge?

SOLOMON: Well, we did not get very many outside judges coming into Oregon, because we were able to take care of our own work. Actually, within a comparatively short time, we were able to not only dispose of our own work, but we were able to help out other districts. All of us did it.

Now, the amount of time that being chief judge took during my administration was much less than the present chief judge has to spend. They do a lot of work that I didn't do. And there's all kinds of meetings all over the United States for chief judge of metropolitan districts that we didn't have during our time. So being chief judge was a simple task during the time that I held the office, and it didn't interfere with the load that I was carrying. I was still carrying, I believe, the largest load of any judge in the court at that time, in addition to my duties as chief judge.

RH: When you did make a request for an outside assignment, what kind of considerations did you use in choosing somebody to come in to try a case?

SOLOMON: Well, at that time, I would try to get a good judge to come in. I had a friend at that time by the name of William Mathis, who was a very able man, and who –.

[Tape stops]

SOLOMON: This isn't so important.

I tried to get the best man I could. It was sometimes difficult to get a person. As I said, we ordinarily didn't ask for any outside help. You ask for a person to come here when all of the local judges are disqualified, and we didn't have any of those cases as I recall. Sometimes a judge is called in because he has special expertise in a field. Well, we thought we could handle the work.

I called Judge Mathis in a case known as "The Moist Cold Case," because I had tried the case. It was a patent case, one of the first patent cases tried here with a jury. I didn't want to retry the case because I had been reversed. I had set aside a \$2 million

verdict, which I thought was patently improper. It went up, and I was reversed on a very small technicality. It was to be tried again before a jury. We got Judge Mathis, who was a very good trial judge, to come here. He tried the case, and the jury brought in a verdict of no infringement, denied plaintiff any recovery on the case.

But I don't recall very many outside judges. There were outside judges here, and I'll tell you why: after I came back from San Diego, I was ill, I had a heart attack. I had been working 15-20 hours a day many times, and I had my first heart attack.

RH: When was that?

SOLOMON: That was in 1955. I had this heart attack, and I needed some help. I recall that I got help from Judge Lindberg in Seattle, and Judge – turn that off for a second.

[Tape stops]

I had some help, then I worked for a few years, and I went down to Arizona to try some cases there. While I was there, I had another heart attack. I came back to Portland, and I needed help. Various friends of mine around the circuit did come in. I was out for a month or six weeks when I went back to try cases. I decided to take it easier [Laughs] as a result of these experiences, but I still continued to do quite a bit of work.

RH: Throughout your judicial career, would you say that your services have been fairly frequently requested from outside districts as compared to the normal judge?

SOLOMON: I think that I tried more cases in other districts than any other judge in the system. Judge Boldt tried a lot of cases (from Tacoma). But I tried cases in New Orleans; and in Miami, Florida; and in Tampa, Florida; and New York City; and Boston; and Idaho; and Alaska; and Seattle on many occasions; and even Nevada on many occasions. I also

tried them in Los Angeles and San Francisco. So I did try cases all over the country many times, and I turned down a lot requests.

Later on, I was put on the Intercircuit Assignment Committee, I then I began to get many more requests. But I didn't take very many after that time. I would go in my own circuit, but I seldom tried a case outside my own circuit. Except in New York City. I used to go there every few years, I would go there for about a month. I liked being in New York. It was an exciting and interesting place to work. The judges were good. I liked the types of cases they gave me. And so I went there more often than I did most other places.

RH: And . . .²⁸

SOLOMON: But I haven't been there for at least ten years. I also sat on the Court of Appeals in both the Seventh Circuit and the D. C. Circuit. I enjoyed those experiences.

[End of Tape 9, Side 2]

²⁸ The audio stops at this point, so the remainder of Tape 9, Side 2 could not be audit/edited.

Tape 10, Side 1
1984 September 26

RH: [This is] an interview with U.S. District Court Judge Gus Solomon in his chambers in the U.S. District Courthouse in Southwest Portland. The date is September 26th, 1984. The interviewer is Rick Harmon for the Oregon Historical Society. This is Tape 10, Side 1.

[Tape stops]

Judge, you told me about several interesting cases last time, and I want to establish a few details just for the record on those cases, so I'm going to bring a couple of them up again. The first one that I'd like to ask you about is the exotic bird case in San Diego that I think you tried sometime in the 1950s. What was the name of that case, or the relevant names involved in that case? Do you recall?

SOLOMON: Yeah. I got the [file] open.

[Tape stops]

[Leafing through papers] Let's see, I think –.

The case was entitled United States v. Fred W. Steiner. He was one of the principal defendants, but there were others: Nicholas Spicuza and Olive Spicuza, John Hagama, Chester W. Bosberg, Charles Walker; George Todd, Roy Percelleri, Louis Ballard, George Monalias, and Samuel Sagobia. Then there were a number of unindicted conspirators.

Now, this case involved the importation of birds, mainly parrots and parakeets. The defendants were charged with a conspiracy to illegally import these birds into the United States. I tried the case, I think, in 1954, but they were indicted in about 1952.

RH: What was your finding in this case?

SOLOMON: Well, the jury brought in a verdict of guilty as to all of these defendants. Then later, the lawyer and the bailsbondsmen and one other person were tried for illegal actions in connection with these cases. One of the men sentenced was Clifford L. Duke. He was a former deputy district attorney who appeared in our case, and when he was tried in a very long case – his case and that of two co-defendants took much longer than the original case. In fact, it took 35 days. I think mine took 16 days, and there were all these defendants and all these causes of action. He got 11 years, Duke did. And then there was a bird dealer by the name of Louis Ballard, and he was given nine years in the penitentiary. Then there's Victor Bueno. He was a bailsbondman and former police detective. He was given a suspended sentence of four years, but he had to pay a fine of \$5,000. He got that leniency because he was very ill at the time.

RH: Did this case gain such widespread attention just because of all the bizarre things that happened during the course of the trial, or did it have some significance in terms of law?

SOLOMON: Oh, I don't think there were any real legal problems involved [in the thing?]. It was an exotic bird case, and there was a motion picture made after it. I think that the birds were first sent over, I think from Holland to Brazil, and then they were brought to San Diego. The defense was that they didn't import any birds, that they were backyard growers, and that there was no illegal conduct. But of course that wasn't true, and the jury found it wasn't true.

RH: I wanted to refer to another case we talked about last time, and that was the case of a defendant who was going to become a Harvard theology student, and he refused to register for the draft in an early draft case that you tried. First of all, do you remember what year that was?

SOLOMON: I think it was 19- – wait a minute, hold this.

[Tape stops]

That was 1953, early on. I sentenced him to – well, I gave him probation, five years probation. He went back to Harvard, I believe on a full scholarship, because I told you, his father disowned him. After he was there for a while, he got a Fulbright Scholarship. I agreed that he could leave the country, and he went to France, came back and he went to an Episcopal seminary down in Berkeley, California. Then I believe he became an assistant minister at St. Mark's Episcopal Church in New York City.

RH: Let's get his name for the record here.

SOLOMON: His name was Edward Allen French. Subsequently, I believe I mentioned that he was pardoned. He received the first pardon that President Nixon gave after he became president.

RH: What year did you go to San Francisco to handle that calendar of Selective Service cases?

SOLOMON: I think that was 1969.

RH: So right in the midst, really, of the Vietnam War and a lot of the conflict about it.

SOLOMON: Yes. There was a tremendous amount of conflict. We tried a number of the cases, and I remember we had a number of prominent people testify. Among them, I think it was Jane Fonda and her husband I think both testified, or one of them testified.

They had arranged to have some people from Stanford come, but I don't think they ever came.

RH: Did you have an emotional response to these cases completely aside from your legalistic approach to them?

SOLOMON: No. I thought that the draft was proper, as I told you, but I was not enthusiastic about the war. But I thought as long as the law was on the books, it was up to everyone to abide by the law. Now, I wasn't the toughest sentencer. I think I mentioned, as far as the Jehovah's Witnesses were concerned . . .

RH: Yeah, I'll ask you about that one later, too.

SOLOMON: . . . that I didn't send them to jail. I did not give these young men the sentences that other judges gave them. I sentenced them to about [a] year, 18 months, two years maximum, but other judges were giving them five years. I later discovered that it didn't make any difference whether you got a year, or two, or five, you'd serve about the same time.

RH: Why was it that this whole group of cases, or this whole calendar of cases, was there waiting for you to come down and try?

SOLOMON: They didn't wait for me specifically. The Northern District of California had a lot of cases, different kind of cases, and I think they believed that some of those cases were more important than others. They knew that I had had a lot of experience in Selective Service cases, and they had a lot of them piled up. They asked me if I wouldn't come down, and when I heard the number of cases that they had, I said, "Yes, but I'd have to bring somebody with me," and Judge Belloni came with me at that time. He was a fairly newly-appointed judge. We went down there, and we tried a number of them. I

think we disposed of a lot of cases by trial, and many of the people pleaded guilty. Among the cases that I tried was that Whitehorn – I think the name was Whitehorn. What is his name?

RH: Eric Whitehorn, I believe.

SOLOMON: Yeah. His name was Eric Whitehorn, and he was a young man, 18 years old, who lived in Palo Alto. Would you like for me to tell you what the case was about?

RH: Yes.

SOLOMON: Well, Whitehorn was a young man, and he says he had been arrested for picketing one day in connection with the draft evasion case. He got a lot of publicity, and he enjoyed it, and he was in the limelight. So, shortly before he became 18 years old, he talked to his mother, who was very strong in the organization of draft resisters. He told her that in view of the fact that he was a minor, he didn't think that he would be permitted to register unless she authorized it. Well, the minute he told her that, she just was ecstatic. This was a very good defense.

So, they went and talked to a lawyer by the name of Aubrey Grossman, who was the attorney for a draft-resistant organization. He was enthusiastic about it. He said to this boy, "You'll get national publicity." That's all this boy needed, was a little encouragement. So, the day he became 18, he went to the draft headquarters and he announced that he was 18 years old and he wasn't going to register because his mother told him not to. And the mother was there, and she confirmed that. They took pictures, and they had publicity. Well, then later on, after the F.B.I. investigated the case, they indicted him. That was one of the cases that came before me.

Well, the case came before me, and morning of the trial, Mr. Grossman announced that he thought it would take about three days or four to pick a jury, that he had a lot of witnesses, and it was going to take at least three weeks to try. So I said, "I don't think it's

going to take that much time, and you better have your witnesses here this afternoon, because you'll have to put on your case about 10:00 this morning," or 10:00-11:00.

"Oh, no," he couldn't do that. So, I picked the jury in about a half an hour. The government put on its case. It lasted about three minutes: they find out the name of the boy, the age, and whether he registered or not, and that was all. Then, it was time came for [Grossman] to put on his case. Well, his case didn't last very long, and they didn't bring all those witnesses. I instructed the jury, and jury brought in a verdict a short time later. I sentenced the boy under the Youth Correction Act to an indeterminate sentence.

Well, this was something that he didn't expect. After he was in Lompoc or wherever he was sent, he wrote me a letter. He said he's reflected on what he did, and he wrote how he came to be involved in this case, and how he wanted this publicity, and how he wanted to be the center of attention, and the encouragement he received from his mother, and the encouragement he received from his lawyer, Grossman. He said that he now is still opposed to the draft, but he recognizes that it's the law and that he has to comply with the law. He asked me if I wouldn't release him (or maybe he didn't even ask that). So I set it down for a hearing. I regarded [the letter] as a motion for reduction of sentence. In the meantime, he got himself another lawyer.

This boy, in his letter, had been very critical of his mother. I guess he wasn't talking to her at that time. We had this hearing in which the boy told in court what he had set forth in his letter. I granted his request. There was no opposition from the government. We let him out on condition that he would register for the draft, but I made it clear that if he was ever called up, he would still have the privilege of raising the defense of conscientious objector.

The mother held a press conference right after and made some statements. In my remarks, I pointed out that I felt the mother was largely responsible for [her son's predicament], and she was a woman who needed this publicity, and needed this attention. Then I criticized the lawyer for not telling him of the various possibilities, that he might go to jail, and what his alternatives were to not registering, if you registered, claim conscientious objection. Well, anyway, the case got much publicity, and I got many

letters, both friendly and unfriendly. Many unfriendly letters from the draft-resistant groups.

But I think on balance it was very good because many young people who weren't going to register did register because they realized that they might go to jail. Incidentally, it might be interesting to note that this boy had a brother, and just before the hearing, his brother was found guilty and sentenced to two years in the penitentiary for refusing to register for the draft.

RH: Well, if the lawyer, Mr. Grossman, had been really prepared to present his case on that original day instead of stalling and not being prepared, do you think the case really had any potential for being a test case?

SOLOMON: No, none at all. Because the issues were very narrow. Hold it for . . .

[Tape stops]

The only issues in the case was: Was the defendant 18 years of age? Did he register for the draft? And did he refuse to register for the draft knowingly and willfully? Those were the only issues before me. I don't see what you needed any expert testimony on.

RH: So, the point about the minor needing his mother's permission was a spurious one in your mind.

SOLOMON: Yes. I didn't give that instruction, and I wouldn't have given it.

RH: Did you observe during this period other instances where bad or irresponsible advice was given to draft-age young men by parents or lawyers or other professionals? Did that seem widespread to you?

SOLOMON: No. The only thing that I recall is, and I think I mentioned it, there was one young man who came here and he was with an Evangelical sect. I don't remember the sect. He came from Lebanon, Oregon, I remember. I was going to put him on probation, and he pleaded with me not to put him on probation because if he came home, he would be shunned by the members of his religious order. He was afraid to go home. But that was the only public pressure that I know of.

RH: Well, that brings us to this group of cases involving Jehovah's Witnesses that you devised a judicial approach toward trying. I'd like you to explain that approach, if you could.

SOLOMON: I tried a number of Jehovah's Witnesses, and I was not happy with the fact that some of them were indicted and others went to jail, when I didn't think they should be going to jail. For example, in Jehovah's Witnesses there are an amount of young people who don't meet the minimum standards for being in Armed Services. They could neither read nor write, some of them couldn't. Even though they had gone to school, and graduated from grade school, and some of them were in high school, they just couldn't read, and their writing was even worse. So I would find out from the defendant whether he could read or write, and if he couldn't read or write, then I wouldn't sentence him to jail, and I would dismiss the case.

There were others, of course, who could read and write, and who refused to perform work of national importance under civilian direction as required of conscientious objectors. In other words, their status as conscientious objector was recognized, but they wouldn't go to the hospitals and other institutions where they were ordered to go to work in noncombatant service. This happened many times.

One day, there was a young man appeared before me. He had a bible in his hand, and I asked him if he was willing to work in the hospital, and he said, "No." And I said, "Well, suppose that the warden of the penitentiary tells you to cut the lawn. Are you

going to cut the lawn?" He said, "Yes." And I said, "Suppose he tells you to work in the infirmary, are you going to work in the infirmary?" He said, "Yes, I will." I said, "Why?" He said, "Romans 13 and [First] Peter Two," I think, verses 12-14, or something like that. So I said, "Just a moment." I took a recess, and I called the minister of the Unitarian Church here, whom I knew. I said, "What's Romans 13?" He said, "Don't you know?" And I said, "No." He said, "Romans 13 says that the orders of civilian authorities must be obeyed," and either that part, or [First] Peter [Three or?], the section in the – was that the word of the civilian authorities is the word of God.

Well, then I went out to the courtroom, and reconvened the court, and I said to this young man, "Now I want you to know that I'm not part of the military. I'm a civilian employee, and I work for the United States government. And I'm ordering you, and I'm directing you, to go to the hospital in" (I think Kansas City, Missouri [inaudible]) "and to stay there for a period of two years." And then I also said, for the purposes of carrying out this order, I put him on probation for a period of two years.

So he says, "Do I have to go?" And I said, "You certainly do have to go. You're required to go by law, and also by the very section of the Bible that you referred me to, Romans 13." He seemed satisfied, and he went. Well, within a few days, I began getting letters and calls [Laughs] from all parts of the United States from judges there. "How did you do it?" Because I found that many judges didn't want to send these people to the penitentiary. I told them what I did, and then I sent them a transcript of what I said. A number of judges throughout the United States began to use that technique.

One day I got a letter from a young man in Seattle, Washington. He was working in the hospital there, and he wanted to get married, and one of the elders of the church told him that he wouldn't perform the ceremony because he didn't have to [work in a hospital]. He wanted to know if my order required him to go. I wrote back and told him that the elder was wrong, he had absolutely no choice. I ordered him to go and perform that work. And I think he got married [after that?].

I used to try to avoid having a conviction on some of them. They'd come before me, and I'd tell them, "I'm ordering you to go." One young man said, "Well, I haven't pleaded guilty yet." [Laughs] So, then I had to find him guilty before I sentenced him.

But it really was helpful. And most judges thought it was a good idea. There was one man who got up in a meeting where I was discussing this, and he reminded me that the 13th Amendment abolished slavery, and what I was doing was making slaves out of these people. [Laughs] But I don't think the other judges agreed with him.

RH: What puzzles me, is that before you sort of beat them at their own biblical game, in court, why is it that they regarded the instructions of the court or the sentence of the court as instruction from a military authority?

SOLOMON: They didn't. You see – well, the people who ordered them to go were the Selective Service, and they regarded the Selective Service System as part of the military. They didn't want to comply with what the military told them. They didn't make the distinction between the court and the Selective Service, and I guess they assumed that we were just sentencing them because they didn't comply with the order of the Selective Service. Now, I made the distinction, saying that Selective Service is one thing, but I'm ordering you to go, and I'm a civilian employee.

[End of Tape 10, Side 1]

Tape 10, Side 2
1984 September 26

RH: This is an interview with Judge Gus Solomon. This is Tape 10, Side 2.

[Tape stops]

Didn't you get some positive response from military authorities, too, on your handling of these cases?

SOLOMON: Yes. From the Selective Service, in other words? Yes. I think that the Selective Service System was generally pleased with what I was doing. I know that the head of the Selective Service in Oregon was satisfied with my handling of the cases. I enforced the orders of the Selective Service, except in those instances where I believed that there was a religious reason for not doing it or where a man was a conscientious objector, and then I required them to perform alternate service. But if a man was a straight out-and-out draft evader, I would impose what I regarded as a reasonable sentence on him.

I was invited to speak to the Selective Service people on several occasions. One of them was at a banquet they had after the Selective Service was winding down [after the end of American involvement in Vietnam] in which I complimented them on the work that they did under very difficult circumstances. I went ahead and told them about the history of selective service, and also what had happened in the Civil War, and the Spanish-American War, and World War I, and World War II, the number of people who had been arrested and what happened to them. I told them that they had done a much better job than their predecessors had done years before.

RH: What sort of response did you get from some of your friends and colleagues on the left with whom you'd had contacts in the 1930s and the 1940s, before you became a federal judge, to your active and sort of enthusiastic support of the Selective Service

during the Vietnam Years? Did you have any response from those sorts of people or fallings out or anything like that?

SOLOMON: No. I think I mentioned that some of the religious groups were unhappy. I had spoken at the Rose City Methodist Church, and they were leading a group of conscientious objectors. But I don't recall ever having talked to anybody about it. Most of my acquaintances, and certainly most of my friends in this period, in 1969 and even earlier, were not – I didn't see them, so I can't tell you how they felt. But I would imagine that most of them were pleased with my views on the sentencing of these people.

RH: Although many people outside of the federal judicial system felt so strongly about the impropriety of the war, that that became an overwhelming sort of consideration.

SOLOMON: But see, I wouldn't come in contact with those people. Those were the young people in colleges in the 1960s that were causing this difficulty. Now, I don't know how radical they really were on economic and political issues or religious issues. They were just against the war. They were demonstrating in various places and having difficulties with the police and the military. I didn't know any of those people, and I didn't come in contact with them.

I don't think I ever handled – yes, I did. I had a case where a group of people destroyed, or attempted to destroy, the Selective Service headquarters in the Federal Building that's occupied by the Bonneville Power Administration now. There was a man by the name of Yaepel who tried to destroy that building. He bombed it. Luckily, nobody was killed. I don't know whether anybody was injured or not. There were two or three people of that kind who assisted him. I sentenced him, I think, to seven years in the penitentiary. [He was paroled a year later.] Then we heard that he was on his way to Portland with intent to kill me. He wanted to kill me and the chief of police, but he never got to Portland. I think he was dissuaded from coming. Luckily, I think that the F.B.I. found out about it, and they were watching him all the time.

RH: Well, I guess I was wondering in particular about a couple of your old friends, such as Monroe Sweetland and Allan Hart, and whether on that particular issue of the war and your handling of draft cases you would have parted company with people like that.

SOLOMON: I don't think so. Allan Hart certainly not, because he was not a conscientious objector, and he fought. He enlisted as a private in the army when he was the general counsel at Bonneville. He started as a private, and then he became an officer later on.

RH: This was the Second World War?

SOLOMON: Yes. Monroe Sweetland, while he wasn't in the military, was in the Red Cross and was over in the Far East, I think in the Solomon Islands. And he was right in the thick of it.

RH: Yeah. Well, there were a lot of people that opposed the Vietnam War who were involved in the Second World War and who were not pacifists, but thought there was something distinct and special about the Vietnam War.

SOLOMON: I think there's a distinction between those people who were against the war in Vietnam and those people who believed in picketing and violence and in the violation of the law. I don't think either of those men who you mentioned were in the latter category.

RH: Could you say something a little bit more about your support of selective service as opposed to a volunteer kind of scheme?

SOLOMON: Well, I thought I mentioned the fact that as a young man, I saw the effects of voluntary enlistments. My brother had been one of the first people to enlist in the army, and I had another brother who was in the S.A.T.C. at Oregon State College (he was going to college at that time). Both of them then were in the military. My oldest brother was in France for about 35 months, I think one of the longest persons in France. My parents were very supportive of their activities. But we lived in a neighborhood where some of the people were opposed to the war. There were Germans who lived in the area and some Italians, and I recall that they had children, sons. And on at least one house, I remember that the neighbors or someone else put a wide yellow stripe down in front of the house. That kind of shocked me.

And then I recall that young women were enlisted to help the people who were getting volunteers' enlistment. They would see a young man of troop age, and they would sort of drag him into the office there, where the military people would try to sign him up for the military. I thought that was very bad because they were pulling them in and trying to get them to join the army without any regard to their physical condition. They might have had a heart trouble or diabetes or something else which would disqualify them, and also without any consideration to other talents that they might have which were useful to the government, scientists and technicians, [which?] the government needed, and also without regard to their family situation. They might be supporting fathers and mothers and children. This is a terrible way to select an army.

RH: So you saw the Selective Service System as being a mode that was more democratic and rational.

SOLOMON: Yes. I think I may have mentioned that fact that in many states, financial aid was withheld from families because they had children of troop age. Now, when you have a selective service system, and when you see a man walking down the street in civilian clothes, you don't think that he's a slacker, because you recognize that if he was able to serve, that they would have him in the army.

RH: Of course, in the case of the Germans that you mentioned earlier who had the yellow stripe painted on their house, if there had been a selective service system then and they were opposed to the war, they very well might have refused to fight anyway and the yellow stripe would have still been painted.

SOLOMON: Oh, yes. Well, they would be in jail, though. They would take care of those people. Of course there were some people, like the Japanese, who were willing to serve in World War II, but who were deprived of that opportunity.

RH: We've talked about several of your visiting judicial assignments, but I did want to ask about one in particular that provoked a comment from the *New York Times* . . .

SOLOMON: Oh, [one sec, hello?].

RH: . . . a case that provoked the *New York Times* to characterize you as "the Fastest Gavel in the West." I wondered if you could give me the context of that.

SOLOMON: When Governor Roosevelt became the vice president of the United States, he . . .

RH: Rockefeller?

SOLOMON: Yeah, Rockefeller. He was followed by a man by the name of Wilson, who I think had been the lieutenant governor of New York. There were some people, or at least one person, who was very much opposed to him in his reelection, and filed an action on the ground that he had done certain things for insurance companies when he was a lawyer, I believe it was. I was serving in New York at that time in the Southern

District of New York, and the judges there thought that this case should be handled by an outside judge, and they assigned it to me.

I looked at the file, and I came to the conclusion that the federal courts did not have jurisdiction. So when this lawyer, who was appearing for himself and was who opposing Governor Wilson, began to talk, I said to him, "On what theory are you bringing this case in this court?" And he said, "On diversity of citizenship." I said, "Where do you live?" and he said, "I live in New York." And I said, "Where does Governor Wilson live?" And he said, "New York." And I said, "Well, how can you get diversity of citizenship there?" And he said, "Well, that's simple. I've sued a number of insurance companies who are outside of New York." So I said, "Don't you have to have complete diversity?" [RH laughs]

"Oh," he said, "No." I said, "Have you ever appeared in a federal court before?"

"Oh yeah, but –" But I said, "Well, that's not the rule." I wanted to dismiss the case then, but some of the attorneys for the insurance company, they wanted to talk, too, because they were getting paid for it. But anyway, after they talked for but a few minutes, I said, "I've heard enough," and I dismissed the case.

Well there was a lot of newspapermen there, reporters. They came to my bench after, and one of them said, "Say, aren't you the man that they call 'the Fastest Gavel in the West?'" And I said, "I've been so characterized." That whole trial had lasted about, oh, six or seven minutes, maybe as much as ten minutes. So, the *New York Times* had a story about Governor Wilson and my dismissal of the case, and they pointed out that I was known as "the Fastest Gavel in the West."

But they're not the ones who really gave me the name; it was Judge Ross of Nevada who gave me that moniker. That was because – I think I told you the facts of that case: There was a case involving a young soldier who had driven his car down the streets of Reno [at] 108 miles an hour, and he struck another car. But miraculously, nobody was injured. The only thing that happened was the car was destroyed. [The other driver] didn't go to the hospital, but he was examined there. He sued this soldier for a lot of money, and I was assigned the case [because Judge Ross was ill].

Well, I started the case about 9:30 in the morning. We picked a jury right away. We heard the testimony. There wasn't very much testimony; most of the facts were admitted. I didn't know why they figured it was going to take six days to try. They did want to bring in some irrelevancies, but [inaudible] I wouldn't let them do it. And then I submitted it to the jury, and the jury came back with a verdict about 11:30, it was before noon. So here was a case that was supposed to be tried six full days, a whole week, or a week and a half, it'd be, and I disposed of it in a half a day with a jury. So Judge Ross said, "You're the fastest gavel in the West."

RH: Well, it seems to me that the geographical, and political, and economic characteristics of a region like Oregon would, to some extent, have an impact on the kinds of cases that would be tried in the district court of such a region. I wonder if you've ever thought about that connection at all, or thought about groups of cases that have stood out in your years on the court because of the characteristics of the region.

SOLOMON: Well, I assume that we might have more fishing cases than they do in Montana [RH laughs] or Utah, and we've had more Indian cases than they have in certain parts of the country, but I don't think that discrimination cases against people of different color, or age, or women, are indigenous to any region. I really don't know, and I haven't experienced any particular kind of case which we have more of, other than admiralty cases. Well, there are many states, like California, Washington, New York, Florida, that have a lot of admiralty cases. But you don't get admiralty cases in Illinois. Not very many of them, anyway.

RH: Well, last time you talked about your decision to take senior status, and you explained it as a way that you could essentially add another judge to the district court here in Oregon. I just wanted to ask whether that was a decision that you made on your own, or if that was a decision you made in consultation with some of your colleagues here, or – how did you decide to do that?

SOLOMON: I announced that to my colleagues. There was nobody who [was] pushing me out, and they were pleased that I would do that because we needed additional judges. Now, the only thing that they did was, [they] insisted that we adopt a rule here that when a man takes senior status, he keeps his own quarters and his own courtroom. They did that. Therefore, even after I took senior status, I continued to have this office, these chambers. As far as the courtroom is concerned, everybody uses everyone else's courtroom, you know. When I had a jury case, of course, if I did, I would use this one.

In many districts when a man takes senior status, he loses his chambers and his courtroom if it's connected with the chambers, and he's treated somewhat like a step-child. But we don't have that situation in Oregon. All of the judges are friendly with each other whether they're senior judges, or active judges, or whether they're circuit judges, or district judges, or magistrates. We have a very collegial court here; one of the in the country.

RH: Did you come up with that arrangement to keep your chambers because you made explicit the fact that you were going to keep essentially the same caseload? Is that why?

SOLOMON: No, we didn't discuss that. I think when I decided to take senior status, my colleagues then said, "Well, you better keep your courtroom no matter what happens, and keep your chambers." They knew I was going to continue doing the same character of work that I did before, and practically the same quantity. I continued that for several years.

RH: Now, Judge Burns succeeded you as chief judge?

SOLOMON: No. Judge Belloni succeeded me as chief judge. Judge Burns succeeded me as a judge. You see, the vacancy created by my taking senior status was filled by Judge Burns.

RH: I see. Is the spot of chief judge just a function of seniority among the active judges?

SOLOMON: That's right. It doesn't indicate any particular aptitude towards administrative work. It's determined solely on the basis of seniority. Now, Judge Belloni announced that he was going to keep that chief judgeship for only five years. I could have kept it. I had it about ten years, maybe a little longer. I could have kept it for five more years until I was 70, but I took senior status and I gave up the chief judgeship because, as I said, we needed another judge.

Judge Belloni gave up the chief judgeship after five years, when he was not eligible to take senior status. His spot was taken over by Judge Skopil, who had the spot for two or three years until he went on the Court of Appeals. Then Judge Burns took it over, and Judge Burns has announced that come October, next month, he's going to give up the Chief Judgeship after having served for five years. And then Judge Panner is going to become the chief judge.

RH: And is Judge Burns going to take senior status?

SOLOMON: No. He's not eligible for senior status.

RH: Is that unusual among district courts to your knowledge?

SOLOMON: I think so. In fact, I haven't heard of it being done anyplace else. Usually hold onto the job.

RH: This current arrangement that you have of being able to pick and choose, somewhat, the cases that you take, is that sort of an agreement you've worked out with the current Chief Judge to be able to do that? Because isn't he technically supposed to – ?

SOLOMON: To be head of the administration?

RH: Yeah. To give cases to senior status . . .

SOLOMON: Well actually, here we have an assignment committee that determines that. Of course, they can't force me to take any case I don't want to take. But everything's done here on the basis of mutual agreement and consent. We don't have anything in writing on that, but I handle a lot of cases. In fact, some of the judges think that I handle too many cases. They think I work too hard.

RH: Work too hard for your own good?

SOLOMON: Yeah, that's right.

I don't like to handle the cases in which the lawyers are difficult or impossible, but sometimes I do. In fact, I just disposed of a case for another judge here, when that lawyer was just impossible. I got the case settled. [Laughs] Then, I normally don't handle criminal cases anymore. I used to handle a lot of criminal cases. Then, I ordinarily don't handle jury cases. Once in a while I do, and when I go to other districts, sometimes I have to, because they're stuck. Normally I handle difficult, non-jury, civil cases.

RH: Your choice to not handle criminal cases and jury cases as much as possible, is that just because they don't interest you as much at this stage of your career?

SOLOMON: That's right. It's not pleasant to handle criminal cases. It's not pleasant to send people to the penitentiary. There a lot of other things most judges would prefer doing.

[End of Tape 10, Side 2]

Tape 11, Side 1
1984 October 4

RH: [This] is an interview with U.S. District Court Judge Gus Solomon in his chambers in the U.S. District Courthouse in Southwest Portland. The date is October 4th, 1984. The interviewer is Rick Harmon for the Oregon Historical Society. This is Tape 11, Side 1.

[Tape stops]

Judge, I'd like to begin this morning by asking you about some of the law clerks that you've had, and what sorts of things they've gone on to in their careers.

SOLOMON: My first law clerk was Jerome Kohlberg, who has achieved national prominence in connection with leverage buyouts. He came to me in 1953, I believe it was. I had been on the court for about three to four years before that time, but the chief judge didn't think that I should have a law clerk for at least four years because he didn't have one the first four years he was on the court, and rather than have any arguments with him, I acceded. But then I was very, very busy. I got this application from Jerome Kohlberg, who had been in a New York law office, and who wanted to come west. His real good friend [Verne Newcomb] was clerking for Judge Fee at the time. I thought [Kohlberg's] application indicated he was a man of great ability.

He came out, and it was a very good experience for him as well as for me. He worked with me for about a year, during which time he came with me to San Diego when I tried the bird cases.

Now, Jerry Kohlberg went back to New York and worked in a law office for a while, and then he went into the investment business, and he went with a firm called Bear Stearns and Company, which is a big New York investment banking firm. He was interested in mergers and acquiring corporations. He became an expert in that, and finally went out for himself. Hold it. Say . . .

[Tape stops]

[They organized Kohlberg, Kravis and Roberts. They specialize in leverage buyouts. That is] a deal by which a public corporation is sold to a group of persons or to a company that pays for it with money he has borrowed from other sources, or a great part of it.

Now, Kohlberg has been very successful because many of the lenders feel kindly towards him, because he puts up his own money also. For instance, if the deal is for \$100 million, Jerry Kohlberg's company might put up two or three million dollars of their own money. Then they go out and borrow large amounts from outfits like Prudential Life Insurance Company. Recently, when they bought Fred Meyer's, they got about a \$100 dollars or more from the retirement fund for public employees for the State of Oregon. The investors have done well, and he has done well. He is now regarded as the leading exponent of the leverage buyouts. He's taken in by many of the large investment firms including Morgan Stanley and Company, and Merrill Lynch. He comes out here from time to time, and I still see him frequently.

RH: He lives in New York, though?

SOLOMON: He lives in New York.

Now, the other man who has gotten as much, if not more publicity has been Mike Pertschuk, who was about the third or fourth law clerks that I had. He was with me a year. He was very bright. He went with me when I went to Hawaii. He got a job with one of the big offices in Portland.

One day, my secretary got a call from Maurine Neuberger, who was the United States senator, and asked if we had anybody to recommend as one of her clerks in charge, I think, of legal matters. So my secretary (who was Helen Bradley, who had been

with me for a number of years) talked to me; I was in California at the time. We both agreed that Mike Pertschuk would be one of the best persons, or the best person, because it would give him exposure to administrative proceedings. He was with the old firm of Hart, Spencer, McCulloch, Rockwood & Davies, which is the largest firm in the city.

So we talked to him, and he was enthusiastic about going. I said, "Don't resign. Just take a leave of absence, and then you can come back in two years. It will be a valuable experience for you, and it will be very helpful for the firm." On the following day, we talked to him again. I asked him what he did, and he said, well he talked to some of the leading partners in the firm, and they said, "If you quit, you quit," and they aren't going to guarantee him a job if he came back. So I said, "What did you do?" He said, "I quit." [Laughs] So he went back as a clerk to Senator Neuberger, and then he became the general counsel to the Senate Commerce Committee through another senator.

Then, I saw him sometime later. I asked him what he's going to do, and he said well, he didn't know. He had a number of offers to go to big offices, but he was enjoying this so much, he said that he hopes to get on some board or commission. The next thing I knew, he was the chairman of the Federal Trade Commission. He held that job for about four or five years and really made a great impact. Within the last week, he left the commission. He wasn't reappointed by President Reagan, because President Reagan and the majority of the commission didn't agree with his policies of having an aggressive commission.

He has now taken an assignment as a professor in charge of consumer problems for one of the universities in Washington, D.C. And then he is organizing, or has already organized, a consumer group. He has been one of the most important persons in consumer problems in the United States. Esther Peterson told me that he is regarded as the outstanding exponent of [consumer] rights. Over a period of time he has been – even before he became chairman of the Federal Trade Commission, he was one of the witnesses and great supporters for Ralph Nader. Ralph Nader, of course, thinks that he is just tops in that field. He has made a real name for himself. He's written several books and is well known all over the country.

RH: I've seen him interviewed a couple of times recently on the *MacNeil Lehrer News Hour*.

SOLOMON: We got along fine. He was one of the people who came out, Kohlberg was one [other] – that surprise party [my former law clerks] gave me after having been on the court for 30 years.

Now, there's the third man that has a lot of publicity is Stephen Gillers, who is a professor of law at N.Y.U. (New York University). He is a consumer advocate, but more important, he's interested in problems like the death penalty. During the first ten years [after] he left me, he had written eight books. One of the books he wrote while he was with me. He used to work for six days a week, Monday through Friday and then Saturday morning, and then on his spare time, he wrote another book, which is called *Getting Justice*, which went through two editions and now is in a paperback. Then he's also written books on law schools, and on – and I said the death penalty, and – oh, a number of different subjects. I'll look over a list of books that he's written.

He writes a great deal for the op-ed page of the *New York Times* and the *Village Voice* in New York, and also writes for the *Nation* and *New Republic*. He's a prolific writer, and he's well known and highly regarded. He was one of the men who testified for Sandra O'Connor when her nomination was up for the Supreme Court. He testified on behalf of women getting a job of that kind.

RH: [Laughs] A little ironic in light of her conservative stance on the court.

SOLOMON: Yeah. He knew that.

Now, there are other [former law clerks] who have made good records. The present city attorney, who's resigning as of the first of the year, Chris Thomas, was one of my law clerks, and a very nice fellow, and a very bright person. I think that he has raised

the standard for the city on honesty and integrity, and that's what he requires of the people in the City Attorney's Office. He lets that be known. No dirty tricks in that office.

Then there is Clifford Alterman, [who] is a leading attorney in Portland. He was my second law clerk, and he had clerked for a judge in New York before he came to me. Then after he left me, he went with my old office, with Ray Kell. He represents people in [the] financial world and internationally. They represent the Japanese consul and the Korean consul – well, his partner [Ray Kell], is the honorary Korean consul. They represent outfits like the Bank of Tokyo, and there's a new outfit that [has] just come into Portland, and he represents them also. So he does a lot of international work. Prior to the time [he came with me], he was in a New York law office which does admiralty work, but he doesn't do much admiralty work now.

Now, I have another man by the name of Richard Emery, who got quite a bit of publicity representing social workers and nuns who were mistaken for prostitutes in New York, and they were picked up. [Laughs] So he sued the police, and he got a number of judgments against the police for picking up people who were trying to eradicate prostitution in New York: nuns, and social workers, and religious workers. No, but he is, I think, either the general counsel or one of them of the New York Civil Liberties Union. He is quite well known in the civil liberties area.

In fact, I was in New York a short time ago and had a meeting with my ex-law clerks. I learned that the A.C.L.U. had published about four or five pamphlets or maybe a little bit more, and more than half of them were written by ex-law clerks of mine, in the whole United States. One of persons, who I think was Dick Adelman, wrote one; and Wayne Outten wrote another one; and I think Richard Emery wrote one; and Steve Gillers wrote one. So a number of the books and pamphlets put out by the A.C.L.U. are from ex-law clerks of mine.

Now, I had an interesting experience [in New York]. There were, I believe, 11 ex-law clerks who were at this dinner that we had. Each one got up and told what he had done, and the work that he was doing. It appeared that nine of them were either teaching

law or had taught law since leaving me. Most of them had taught legal writing at least one year. They told a number of interesting stories about that.

RH: Does that reflect some of the impact that you were able to have on them?

SOLOMON: Yes. Because one of the things that I've stressed is clear and concise writing, writing with nouns and verbs, using the active rather than the passive, the short rather than the long. I've gone over their work with them, from the time they come, line-by-line and word-by-word. That's the best way to learn how to write. So they pass it on.

One of the men was saying that he was teaching legal writing at Cornell University, and he'd tell [his students], "Now, you just make believe that Judge Solomon is standing right behind you, and everything you write he's going to go over and criticize. That's the way you should write." Then he tells the story of a young man who brought in a piece of legal writing that he had done, and showed it to this professor (or he was an instructor at that time), and this fellow said – his name is Mark Silverstein, and he said, "My God, didn't you hear what I told you about writing? To write using the short rather than the long, the familiar rather than the unfamiliar, the direct rather than the indirect?" The [student] said, "Yes, I did, but I've been reading the opinions of judges and the briefs of lawyers, and that's not the way they write. You're only an instructor, and I want to be a lawyer. I want to write the way lawyers write." [Both laugh] Well, that's why we have the kind of legal writing that we do have, and that's the reason why some of the opinions look the way they do.

Now, this man Mark Silverstein has just written a book which is an analysis of the legal philosophy of Justice Frankfurter and Justice Black. It came out this year. I think I showed you the book.

RH: Yes.

SOLOMON: He wrote that book.

RH: Well, what other ways do you think you've had an opportunity to influence the clerks that have worked for you?

SOLOMON: Well, I got some of them jobs, but more important I –

[Tape stops]

The best compliment that was ever paid to me was by the former chief of the Tenth Circuit, Judge Al Murrah. He later became the head of the Administrative Office of the United States. He once said to a group of judges, "If I had a son who was just graduating law school, I would want him to clerk for Judge Solomon, because he not only teaches them how to write and how to read the law, but he teaches them how to become men." I thought that was a very nice thing for him to say, because he knew what I'd been trying to do. When a person comes to me, I talk to him about civic responsibility. They soon learn that I contribute quite a bit of money to the charitable causes and to United Fund and federal drives, and we go over that. Now, I don't see what they give, I make a point not to, but I tell them that that's part of their responsibility to do that, to participate. Now that they're in Portland, they ought to do something like that for Portland. They do, and for many years our office has contributed more than any other judicial office in the state, and one year, I noticed we gave more money out of this office than the whole F.B.I. [office] gave, which is about 30 people.

So, the people do feel a responsibility to the community. I think that that's one of the reasons why so many of my ex-law clerks have gone into public employment, legal aid societies, city attorneys, government, teaching. Those are the things in which they have . . .

RH: Consumer affairs?

SOLOMON: Yes.

RH: From a more technical legal point of view, what are the qualities that you think make a good law clerk?

SOLOMON: I never tried to get the top man in the class. I didn't, I'm sure of that. But I think I got some of the brightest in the country. One of the things that I look for more than anything else is good common sense and judgment. That's so important. The most important qualities of a lawyer [are] common sense and judgment. And then, I think, honesty and integrity. I don't like people who go close to the line. I think that it's important that a person has honesty and integrity, and doesn't lie, and doesn't try to excuse everything that's wrong. And I've had some of those law clerks. Every time you call their attention to something, oh they all just have an excuse for it. Well that doesn't go over with me, and they are not among my favorite ex-law clerks.

Now nobody can go through as many law clerks as I have without having some bad ones, and I've had my share, I believe. But by and large, I've had more than my share of outstanding people.

RH: Let's move on and talk about some of the changes that you made in the naturalization proceedings here.

SOLOMON: I just wanted to say that I should mention that among my law clerks was Delos Putz, who was dean of the University of San Francisco Law School; and Henry Richmond, who is the director of 1,000 Friends of Oregon; I mentioned Paul Francis already. I've had a young man by the name of Jack Kerr, who [has] been a very able man, and he's with one of the big New York law offices. He is a man of highest integrity. He reads Greek and Latin. He has been writing a book, I don't know if he's still writing it, on human sacrifice during the first century. They're somewhat typical of some of the people that I've had.

Now, you want to know about naturalization. Before I came to this court, I was concerned about the treatment of the applicants for citizenship. I learned that one of the judges here insisted that he examine each applicant individually, because he said that that's *res adjudicata* as to their qualities to become a citizen. He wanted to find out whether they were ever a member of a fascist or more important, a communist group, or who they were and where they came from. He was stricter on the applicants who came from Eastern Europe than he was on those who came from England and France and Scotland and Sweden. At that time, we had very few applicants from Asia or Africa, or even Mexico. They were mainly from Europe.

I told him that I didn't agree with his views, and so I was never given the opportunity to admit anyone to citizenship. I think they had a director [of the Immigration and Naturalization Service in Portland] who felt the same way as this judge.

RH: Was this Judge Fee?

SOLOMON: Well, one of them, yeah. So, I didn't handle any naturalizations for about three or four years. When [one judge] didn't handle them, the other judge handled them. There were three of us. But one day, one judge was out of the state, and the other one was not feeling very well, and they asked me if I wouldn't preside over the naturalization [ceremony]. So I said, "Yeah, I'd be glad to." That night, I wrote out the talk that I have been giving for more than 30 years, practically the same. I came down early the next morning, had it typed out, and about 9:00 the director of Immigration and Naturalization came into the office. He said, "This is not going to take you more than about two or three minutes, because we'll have them all lined up in the courtroom, and as soon as they're all ready, you come out, and the clerk will read the oath to them, and they'll say 'I do,' and then you say, 'You're admitted to citizenship,' and then you can leave."

I said to him, "It just so happens that my case for this morning was settled, and I've got some time. I think I would like to do it a little differently. I would like to have each one of the applicants tell us about who they are, and what country they came from. And then I

think that I would like to have them repeat the oath after the clerk. And then when they do that, I've read somewhere that in some of the jurisdictions, they have them pledge allegiance to the flag, and I think that would be a good idea. And then I'd like to talk to them." Well, he says, "It's never been done like that here." So I said, "Well, let's try it anyway."

Well, that morning we did try it. We didn't have a marine band or anything, [Laughs] but they did what I suggested. It took about 20 minutes or half an hour, and then we had another session at 2:00. When I came back at 2:00, this same man who had been so much opposed to what I had done, when I called upon him to present the motion to admit the [applicants], he made a speech for about five minutes, telling that it gives him a great deal of pleasure to have this opportunity to present these people for naturalization, that some of them have spent a great deal of time or years learning the [English] language and preparing for this great day, which is really a great day in their lives. He made a wonderful talk. Then we went through the program.²⁹ There were at least 20 other people from his staff, from the Clerk's Office, and from some of the other offices who had heard about the morning ceremony.

[End of Tape 11, Side 1]

²⁹ The audio stops at this point, so the remainder of Tape 11, Side 1 could not be audit/edited.

Tape 11, Side 2
1984 October 4

RH: This is an interview with Judge Gus Solomon. This is Tape 11, Side 2.

[Tape stops]

SOLOMON: All of which demonstrates, or proves, that it's the judge who must take the lead. These people [in the naturalization office] really weren't so tough, and they weren't opposed to these applicants for citizenship, or the immigrants. Once I did this, it changed the whole attitude of the people in the Immigration and Naturalization [Department]. Prior to that time, they regarded these immigrants and applicants for citizenship as interlopers, trying to get things for nothing. I didn't change their attitude right away, but when I displayed a different attitude towards these people, they were willing to change. Actually, I once told one of these people, "Really, your job depends upon these people. If you didn't have any immigrants to this country, or any applicants for citizenship, you wouldn't have a job." [RH laughs]

I've had wonderful cooperation from the people in Naturalization. For a long time we used to have outside speakers here talking to them, but it really took too much time. But we still have the procedure that I talked to you about. But now we get very few applicants from Europe, either Western or Eastern Europe. Most of them come from Southeast Asia, or Mexico, or South America. South America not as much as we do from Asia. Philippine Islands, Indonesia, Thailand, Korea: those are the places we get the applicants from.

RH: Were there repercussions from the other judges after you had inaugurated this new way of doing things?

SOLOMON: No. In fact, after a while, they let me preside at the ceremony at which these people were admitted to citizenship.

RH: So it seems like you kind of convinced them otherwise.

SOLOMON: I don't know. I didn't talk to them about it.

RH: I see.

Okay, let's talk a little bit about your opposition to discriminatory policies that existed in local private clubs here. I'd like to know first of all what brought this problem to your attention initially, and when that was.

SOLOMON: Well early on, I realized that there was a correlation between social acceptability and job opportunities or economic opportunities, and that many young people were not getting jobs in law offices and other places because they were either Jews, or Catholics, or black. During the war, I was interested in getting job opportunities for everyone. I learned something during that period, and that is, once you get a black man into a job, into a factory, you stop the "nigger" jokes. Once you get a Jew as a director of a bank or an insurance company (two places that traditionally discriminated against Jews), you stop the "Jew" jokes.

I also learned that many of the real business transactions occur not in offices but in the social clubs. I found out that many of the people who otherwise would be given jobs are not given jobs [in] law offices, insurance companies as I mentioned, and also industry, unless they could meet the people in that industry on social occasions.

Well, I made up my mind very early that I would not go to any club that discriminates against Jews, and that I would go to only those places where Jews are generally accepted.

RH: Would this be in the 1950s then, that you are talking about as being . . . ?

SOLOMON: As a lawyer, I . . .

RH: Oh, as a lawyer.

SOLOMON: Yes, I did that. My friends knew about it. It didn't bother me a great deal from a business point of view because I didn't represent big industry anyway. I represented labor, public power groups, Jewish merchants. So it really didn't make any difference whether I was invited to the Arlington Club or the University Club. And I wasn't playing golf anyway. [Both laugh] But I spoke out against it on a number of occasions at meetings of Jewish organizations and other organizations. I recall one time that I was opposed to having Isaac Stern go to the University Club for a luncheon, and I sent word to him that that place discriminates against Jews, and he didn't go.

Then after I became a judge, I continued my policy. I think I mentioned to you earlier that I was somewhat responsible in opening up the law offices to Jewish lawyers, but I realized that they were not going to be made partners in the firm as long as they are discriminated against in connection with belonging to the University Club and to the Arlington Club and the golf clubs, which is the place where many of those people were getting their business.

One time, I made a speech before a Jewish organization in which I spelled all this thing out, and told them that I wasn't really interested in the wealthy Jews who were trying to get into these fancy clubs, but I was interested in the people who needed a job. I told them, as long as these companies pay for the initiation fees and dues of some of their top officers to go to these various clubs, as long as Jews are not permitted to enter them, or join them at least, that we weren't going to have any directors of banks and insurance companies. Well, that got quite a bit of publicity in the newspaper.

Then one time, Hubert Humphrey came to Portland when he was vice president. I noticed that he was going to speak at the [Waverly Country] Club and going to have lunch there with a group of supporters. So, I sent word back to his staff that I thought that

that was wrong, that Hubert Humphrey shouldn't go to any place of that kind, and he should follow in the footsteps of Mrs. Roosevelt, who wouldn't go to a club that discriminated against Jews and blacks and others. I didn't get anyplace with them.

So then I had some of my people get ahold of some of Hubert Humphrey's big contributors and the big Jewish organizations. Then a man came to me who was a Catholic, and he told me that things are changing now and he was in that club. I said, "Fine. Are there Jews in there?" No, there weren't. Then I called a Jewish fellow who was going to there. He was a very wealthy man, and I told him about that, and I told him I didn't think he ought to go. He said, "Do you want me to give up my job, too?" I said, "You don't have to give up your job [to] keep your dignity. That's all I am asking you to do."

Well, the time came for Hubert Humphrey to go to that luncheon. I was out to lunch with my wife, and as I came back to the office, my secretary said, "Did you hear the news?" And I said, "No, what is it?" She said, "Well, Hubert Humphrey didn't go to the Waverly Country Club." This got national publicity. I was asked by the newscasters about that, but I wouldn't say anything, I didn't talk.

But that became generally known. For example one time, the Northwest College of Law got a new dean. So they were inviting lawyers and judges and alumni to go to the Waverly Country Club for a reception, the [college] president was calling them. I refused to go, and wrote him a letter why I was refusing to go. My wife did the same thing – no, not on that one [occasion]. But I got a number of other people, alumni of the college, to write to him and to call him. And they cancelled. Then they called me up and asked if I would go to the reception for this new dean if it was held in the home of the president. I said, "Yes, I would," so that's what was done.

Well, we had a number of incidents of that kind, and then one day, a friend of mine – then, someone had applied for membership [at the University Club], a well-known man. In fact, the man who asked me if he ought to give up his job on the Hubert Humphrey incident . . .

RH: Do you want to tell his name?

SOLOMON: No, no, no. And he was blackballed. Eight people objected to his membership. One of my friends came over to the house, and he told me about it. He said to me, "I don't know what a person can do about that." And I mentioned the fact that one of the people who works in the courthouse had been going over there for lunch, and they gave him a room and he napped; he wasn't very well. And that was going to extend his life, and I said, "It's just too bad that the Jews don't have any place [Laughs] to go to lengthen their lives." This fellow became kind of embarrassed by it, and he said "Well, maybe I should do something about it." And I said, "Well, that would be fine, if you would."

So he was the one who introduced the motion to change the bylaws at the University Club. Then during that period, however, I was told that some of the people –

[Tape stops]

During the discussion on this motion to change the bylaws and change their attitude, several of the members got up and they said that the reason why so many lawyers were getting up in support of the motion was that they were afraid of Judge Solomon, who was a district judge over here, and that the only reason he wants the rules changed is he wants to apply for membership, and he wants to come here and eat and participate. I heard about it, so I sent word back that I think that they ought to change their rules, but whether they change the rules or don't change the rules, I'll never go into the University Club. I sent that word.

Well, they did change the rules. They did accept some Jewish people, but I've never been there. I've never walked into the University Club, nor the Arlington Club, nor the Waverly Country Club at any time since that time. I only went once or twice before that time, in the early days when I didn't think I could help myself, but I changed my mind. See, I never believed that these private clubs are an extension of one's living room, because it's a place where if you don't belong, you're going to miss out on certain

economic opportunities that you otherwise would have. Of course I'm not looking for economic opportunities now, nor then. I regard it as a matter of principle with me.

Now, all the clubs have opened up, I believe, in Portland now. I notice there's a story about a man³⁰ who belonged to all three, and he's given credit for opening up the clubs. But that doesn't make any difference, he used to go before. I have always felt that it's important that other people go. And people have asked me, "What about these new members? A lot of them are just Uncle Jakes and lukewarm Jews. They're not very active in Jewish affairs." I said, "Well, that doesn't really make any difference, because if you're a Jew, even though convert to Catholicism, in the eyes of most of the members you're still a Jew. And it doesn't make any difference whether you're an active or a lukewarm Jew, or a fierce Jew. The results are the same." I think that that's the same thing as far as blacks and Italians are concerned.

RH: So you feel the battle has basically been won for Jews in these clubs?

SOLOMON: Yes, basically. Of course there is discrimination in these places, but nothing like it was before. I'm pleased to see that in many of the law offices, a substantial portion of the young law clerks, and in some instances partners, are Jews, and some blacks.

Now, I had equally a hard time, or almost as hard a time, as far as women are concerned. Did I mention that situation to you?

RH: Yeah. Are you aware of the status of blacks and Hispanics and other minorities as far as their entrance into these clubs, aside from your knowledge of the situation with Jews?

SOLOMON: Well, I know that there are blacks at the Multnomah Club. I know that the Multnomah Club excluded for many years, and were practically excluding [blacks] from the Multnomah Club for many years. I think that the blacks are having a tougher time, not

³⁰ Solomon is referring to Moe Tonkon.

only in the social clubs, but also in industry, although you do see some inroads. I noticed that Pac West has a manager of a branch bank who is a black man, and I think he's not alone, but that there are others who have been admitted to jobs of that kind. But it's more difficult. Actually, however, some companies have black employees as window dressings. For instance, I see these ads in the paper about women who have new coats and things of that kind. Well, they always have a black woman in there. That's window dressing. They probably wouldn't have her, except for the fact that they have to appeal to the black customers.

RH: Why is this problem more persistent among blacks than among Jews?

SOLOMON: Well, they're easier to observe. The color, I think, is much more important to the general public than it is to – many people are Jewish that you never know of, never know they're Jews. In government, for example, there are plenty of people who are born Jews who are no longer Jewish.

RH: A moment ago, in talking about this Humphrey affair, you mentioned that when the publicity began to mushroom afterwards, you wouldn't talk to the reporters. Did you mean that you wouldn't tell them about what you had done as far as talking to Humphrey's people and trying to . . . ?

SOLOMON: Yeah, that's right. I didn't think that that was good. Actually, I didn't talk to very many people myself. Friends of mine talked to them.

RH: Friends just in town who had contact with Humphrey's . . . ?

SOLOMON: [Humphrey's people], yes. People in the Democratic Party, people who knew Hubert Humphrey. I knew Hubert Humphrey. Hubert Humphrey was a friend of mine. In fact, I went to a breakfast on the following morning. I said to Hubert, "I hope I

didn't cause you too much trouble." He said, "Oh, no. My father told me that when somebody invites me to lunch, not to ask where he's taking me," [RH laughs] which was a damn fool statement to make, but I supported him anyway. [Both laugh]

RH: There was some speculation in the aftermath of that that your role in that might have cost you an appeals court appointment.

SOLOMON: Oh, I don't know. I don't think there's any truth to it. I would have taken an appeals court appointment if it was given to me at that time. At first I wasn't interested, and then I would [take it] because I was interested more about the things I could have done if I were in Los Angeles or San Francisco than I was able to do in Portland. But I don't think it – if it did [cost me an appointment], I don't know anything about that.

RH: What kinds of things are you talking about that you could have done in California?

SOLOMON: Well, like in San Francisco, I could have helped open up the clubs as far as people in that community. I helped do it anyway.

But no, I'm satisfied with my job as a district judge, and I was never avidly seeking that job.

RH: Well, you have had many visiting appeals court assignments.

SOLOMON: Oh, yes, I have, and it was interesting. An appeals court job is better as you grow older, you see. It's not as exciting as a district court judgeship.

RH: Could you talk a little bit about the contrast between the two kinds of judging, and what makes one more interesting at one stage of life, and what makes one more interesting at an earlier stage?

SOLOMON: I don't want to do it now.

[Tape stops]

Being on an appeals court, you lead a very isolated existence. As a district judge, you're isolated to some extent, but you're living in a community where you know quite a few people. You see a lot of lawyers. You run the courtroom the way you think it should be run. Some of the trials, particularly the jury trials, are very interesting and exciting. On the Court of Appeals, you lead a very cloistered life. And then you're sitting with two people at least, and sometimes more. But you don't see the lawyers very much, because the argument, if there is an argument, seldom lasts more than a half an hour on a side, and then most of the work you do is in chambers, when you're writing things. Much of the work in a district court, you never do write an opinion. You rule from the bench, or you write a small opinion.

Actually I have, in the the last few years, I have not handled jury cases or criminal cases. I've handled primarily civil cases, non-jury cases, which did not require very many factual determinations, or if they did, I would ask that they submit the testimony of some of the witnesses at least, or all of the witnesses, in writing or in purged depositions. So, my experiences have been such as to make it necessary for me to lead a cloistered life over here. So it wouldn't have made very much difference if I was working on the Court of Appeals or in this court doing the kind of work that I do.

RH: It seems like you've sort of tried to approximate the appeals court experience in choosing your cases here.

SOLOMON: Well, I never had that in mind, but I do the types of work that I can complete in my chambers and not spend a great deal of time in the courtroom. I do think that having the testimony of a witness in writing, direct testimony in narrative form, is an important development. I'm sorry that more judges don't use it. I think that if more of that

was done by all of the judges, we could dispose of cases much more quickly than we are now. I think I've mentioned to you, I've preached this gospel for a long time, that adding judges is no solution to the problem of court congestion. You have to do other things.

RH: Right.

[End of Tape 11, Side 2]

Tape 12, Side 1
1984 October 4

RH: This is an interview with Judge Gus Solomon. This is Tape 12, Side 1.

[Tape stops]

SOLOMON: I often tell the story of a physician who was involved in some litigation. He was telling me about it, and he said that he didn't know whether his lawyer was tough enough to adequately represent him. Over a period of years, I've heard many people talk that way, and I've heard people say, "I got a great lawyer. He's a real fighter. He never gives an inch. He's shrewd and sharp, and he's got plenty of influence with the judges." And that's the type of lawyers that many people are looking for.

Now, I have been very much impressed with a statement that [was made by] Professor Calamandrei of the University of Florence [Italy]. He was asked, "What constitutes a great lawyer?" He said, "He's a man who helps the judge reach a just decision and helps his client present his case. Such a lawyer speaks no more than is necessary. He writes clearly and to the point. He does not encumber the courtroom with his personality. He does not bore the judges with his prolixity, nor raise their suspicions with his subtlety." For all practical purposes then, he's the opposite of that type who many laymen consider to be a great lawyer. A client says of the lawyer that he has chosen, "A smooth talker. Knows all the tricks; a first-rate lawyer." And the judge says, in deciding against the client "A windy little shyster; the worst kind of a lawyer."

I think that the lawyers and judges in Italy must have the same propensities that they have in the United States. In my work as a judge of course, I've often seen how costly it is for clients of the lawyers who "never give an inch," particularly in recent years in these class action cases, where these lawyers who "never give an inch" and who make the opposition fight for everything they get. Now when they lose the case, they lose the case and [the clients] have to pay for the attorney fees of the opposition. You can

imagine how much they have to pay to these lawyers when they make the lawyers fight for everything they get. I've seen cases where the attorney fees should certainly not run over \$10,000, but the judge allows \$50,000 or \$75,000 because of the amount of time that these lawyers have had to put in on these cases.

I often see lawyers make such tremendous demands for attorney fees. When the judge has discretion to allow fees that are appropriate, I think a lawyer's much better off if they ask for reasonable fees, which [they're] more likely to get even more than the people who ask for these tremendous fees that are very excessive.

I talk to young lawyers a great deal, and speak to them when they're admitted to practice. I talk about the necessity of honesty and integrity, and I tell them that those are the most essential ingredients of a lawyer. A lawyer should never deliberately misstate the facts, and he should never attempt to mislead the judge or opposing counsel. A lot of lawyers think that's necessary, to mislead opposing counsel, but candor is a part of honesty and integrity.

It's folly for a lawyer to misstate the facts or to omit a part of an excerpt from a decision. And it's done all the time. A lawyer may get away with it once or twice, but after that he's in trouble with not only with the judge, but the other judges on the court and with opposing counsel, because he's earned for himself a bad reputation. A bad reputation often spills over to the other people in the office.

What are the [other] attributes of a lawyer? Industry. It doesn't make any difference how bright you are, or what a great legal education you have, there's no substitute for hard work. I tell these lawyers to prepare their motions carefully and make their pleadings short and simple. Yet in spite of my admonitions, they often don't do it, but they look in these form books where they have all these verbose pleadings. I have said to lawyers, "You know, some of these pleadings are from form books, and they're adjudicated forms." What does an adjudicated form mean? It often means a form that was so ambiguous that it took an appellate court decision to determine what it really meant. [RH laughs] And then they use it! So I tell them, "Always look at these forms, I but have in mind the particular facts of your case, and cut out all this verbosity."

Then I tell them, don't try to overwhelm the judge with string citations, particularly of cases which are not in point, and some of which were not relevant. Lawyers often look at encyclopedias of law to get a statement of the law, but that's seldom helpful. It's helpful to let you know generally what the law is, and maybe they'll cite a case, and you go and read the case, and then cite that. One of the other things I think is so foolish for a lawyer to do is to get belligerent with the other lawyer, or with the court. There's an old saying that violence begets violence, and the same thing is true with belligerence.

Sometimes eloquence can best be expressed in silence. Calamandrei says that, and it's so true. I have seen, not only in this court, but even more in the Court of Appeals, where a lawyer for the appellant gets up and he argues his case, and there's just no merit [Knocks on desk] in it, and lawyers should know it from the questions that are asked, and instead of saying, "I'm here to answer any question that you might have. I don't think there's anything to answer," and sit down, a lawyer starts to argue. And sometimes he raises a matter which the other side didn't raise, and which calls to mind a very difficult problem, and I've seen a case or two (not too frequently, but I've seen it) in which as a result of the argument of a respondent, he has raised questions, which causes him to lose a case that he otherwise would win.

One of the worst things I saw was one time a lawyer who still gives courses on how to try cases, [RH laughs] he was arguing a case, and he had some of the younger associates in the office watching him. He was a respondent, he had won the case in the court below. The appellant made certain remarks, and they were not impressive at all, and then he got up. During the argument of his opponent, one of the judges had asked a couple of questions. And when this lawyer got up to speak, he began to ridicule the judge. I don't know who he was trying to impress. And then a judge said, "Go on with your argument," and then he came back to it, and he ridiculed the judge again (not the judge who was presiding, but another judge). He got the chief judge pretty angry, and he said, "Now, you just go ahead, and talk about something else." It was so foolish. He won the case, but he would've won the case anyway. He didn't help himself one bit.

One of the things that a lawyer does oftentimes is vilify his opponent, or when he doesn't do that, he misstates the facts. Well, I think that that's a terrible thing for anyone to do. A lawyer oftentimes is unhappy with a letter or a statement that an opposing counsel has written to him, and he sits down and dictates an answer. Well, I often talk about that to young lawyers, and I say, "That idea of dictating an answer is just wonderful. But don't send the letter. [RH laughs] And never send any kind of a letter that's critical unless you have kept the letter at least a day, and preferably two or three days. Then you read the letter, and then you and delete all the offensive remarks. Still better, just tear the letter up. [RH laughs] You've gotten it out of your system, and you've accomplished everything you should want to accomplish, and you're better off to do that."

Of course, these aren't some of the things that young lawyers learn in law school. I tell these young people, "Prepare your letters and your pleadings and your memoranda carefully. Write clearly and concisely. The [reader] should have no doubt of a meaning of your letter or your article or your brief, and be able to understand it, every sentence, the first time he reads it." I read something today in a law school bulletin, and I couldn't understand it. I've read to or three times [slaps desk] and they have these long words and difficult phrases, and it's just awful.

A judge actually usually gets his first impression of a lawyer from his written work. These lawyers, not only the young lawyers but the older ones, they have the legalese and long and complicated words. Now some lawyers, they always have to start in with the word "that." And they want to get legal, they "advised" somebody – they "contact" somebody first, and then they "advise" them. Well, "contact" is one of the worst words that you can use. [It's?] much better to be more specific: "I wrote them," or, "I telephoned them," or, "I spoke to him" rather than "contact." And then, instead of "advise" – see, most times, they don't mean that at all, they mean, "I told them," or, "I informed them." "Advise" has a special meaning. And then – in the law, you see this, they "claim" this and that. "Claim" has a specific meaning. It's not a synonym for "assert" or "allege" or "charge," but it's to be used only in the sense of "lay claim to." I "claim" that you owe me \$100, but I wouldn't "claim" that you hit me in the nose, you see. [Laughs]

But there's some use of words that we're losing the battle [for]. One of them is "anticipate." Now, "anticipate" is constantly used instead of "expect." "Anticipate" has a particular meaning. It means that when you expect something and do something else in anticipation of what's going to happen, that's the proper use of the word. But now, most people use the word "anticipate" as a synonym for "expect."

Now, let's see, wait a minute, I didn't do [inaudible].

Now, some lawyers think that I'm pretty tough on them, and I guess I am. But I'm very seldom tough on an older lawyer. I'm usually tough on a young lawyer. When a young lawyer gives me a document, or makes an argument, even, that's lousy, I call his attention to it. Sometimes I have the young lawyer come into my chambers, and I look at his proposed order, and I cross it off, and I show him how it should be done. [Taps desk] But I don't do it for him. I give it back to him, and I say, "Go. You prepare the order and give it to me." They do, and sometimes they give me a very good order, and sometimes they follow that up in future times, and they have it correct. And sometimes they come back with all the mistakes they made previously, and that's discouraging. And after I've done that for a lawyer two or three times, I don't do it anymore, because it is just like beating a dead horse. [RH laughs] And that's the reason why I don't do it for an older lawyer. You're not going to change him (or it's going to be very difficult to change [him]); it's so much easier for me to prepare a new order than to have the fellow come in, show him [Knocks on desk] what to do, and I do that to help him become a good lawyer. But if I'm not going to accomplish anything, I might as well do it myself.

Well, I speak to the young lawyers when they are admitted. I try to tell them some of the things that they ought to do in order to become a good lawyer, in order to practice in this court. Then I close usually with a statement that I know that they won't remember everything I told them, but I just ask them to remember four things: First, that integrity is the most essential ingredient of a lawyer. Second is, be prepared; there's no substitute for hard work. Then the third is, learn the rules and practices of the court in which you're practicing, and know the propensities of the judge before whom you will appear. I know that many of the great lawyers, when they're going to try an important case, come and

listen to the judge, and stay there a day or two just to see how he reacts to certain things. And that's important. The last thing, and certainly not the least important however, is write clearly, and concisely, and simply. If they do those things, they'll be much better off. You'd be surprised how quickly a good law clerk learns if you sit down with him the first few times and cross off the surplus words and these words like "interrogate" instead of "ask," and use the active rather than the passive. Within a very short time, the improvement in their work, it becomes so apparent.

RH: Who are some of the standout lawyers with whom you've had contact here in Oregon?

SOLOMON: Well, there are a lot of good lawyers over here. I'm having lunch with two of them today: Manley Strayer and Hugh Biggs. Now, Manley Strayer is a man who went to Willamette University and Willamette University Law School. He never got a degree from Willamette University, [but] he's a very good lawyer. Hugh Biggs graduated from University of Oregon, and he's a very good lawyer. Now there are plenty of lawyers here in Portland who graduated from Harvard, and Yale, and Chicago, and Michigan, and Stanford, and U.C. [University of California] Berkeley, who just don't compare with these people, because these two lawyers are people of integrity and honesty. They are hard-working, and they have good common sense and judgment. When you get that combination, it doesn't make a damn bit of difference whether you went to Oxford or whether you studied law by yourself, you're a good lawyer.

I always remember that one of the best lawyers in the state was a man – [there] were two men. One of them was Charles Hart, who was the head of that office they're in, used to be Hart, Spencer, McCulloch, Rockwood & Davies. Did I tell you the story of how I met the chief justice and we talked about Mr. Hart?

RH: No, I don't think so.

SOLOMON: Mr. Hart was a very able lawyer, he was a leading lawyer in Portland. And one day I was talking to Warren Burger, we were at a meeting, Ninth Circuit Judicial Conference. We were talking about law schools, and he said, well, he wasn't fortunate enough to have gone to one of the big law schools. He went to the John Mitchell Law School, which was then the old – I think it was St. Paul Law School, which was a night law school. And I said, "Do you know that the most distinguished lawyer in Oregon [Knocks on desk] came from that law school?" And he says, "Are you talking about Mr. Hart?" And I said, "Yes, I am." He said, "Well I never met him, but he was a tradition over there." From this little law school, a man who went to night school, he became the leading lawyer in Portland.

There was another man, who I don't think ever went to a law school, by the name of Dan Malarkey, who was a fine trial lawyer. The third one was a man by the name of Roy Shields. Roy Shields went to Willamette Law School when they – I think the old school was either a year or two [in length], and he was really a great lawyer. Not the trial lawyer that some of the other – but a real fine lawyer, one of the best I've ever seen. And [he] came from Willamette Law School.

RH: Did you have much contact over the years with the recently deceased Moe Tonkon?

SOLOMON: Yeah. He made a real contribution here. He wasn't very much of a lawyer, but he had the ability to meet people and get things done, and he was well-motivated. He had tremendous business. He sort of was kicked around as a young man, he never forgot that. I had respect for Moe Tonkin. I grew up with him, see. We went to grade school and high school. He was a little ahead of me. And then we knew each other at Reed College. Then, when I came back from Stanford, 1929, he had been practicing for a year or two before that time. While from a technical point of view he wasn't very good, he had a lot of common sense and judgment. And it's amazing the amount of money that he was able to get for the institutions which he was friendly with, for [instance] Reed

College, St. Vincent's Hospital, all these organizations. And I think he got some money for Lewis & Clark [College].

RH: Another very famous legal name in this town is Wood. What was your experience with C. . . . ?

SOLOMON: I never knew C.E.S. Wood.³¹ I knew about him. But the things I've read about him indicate that he was a person of great talent. Although he represented the wealthy and the well-born, he never lost the common touch. And he fought for the rights of individuals, no matter what they espoused. He was one of the great First Amendment lawyers in the country.

RH: What about his son? Did you have contact with him [as well]?

SOLOMON: I had a lot of contact with his son, Erskine Wood, who died a few years ago, he was 103 years old. He was nothing like his father. Good lawyer. He was an admiralty lawyer. He was a tough man to be against. I didn't have that much work with him, but he was a man of talent. And [his] office was a good office.

But there are a number of other lawyers in Portland who were much better known in the legal profession. I used to like a man by the name of Gunther Krause. He used to be in [Erskine Wood's] office, and then he had his own office. I thought he was just a fine person, and he was a good lawyer. He tried cases well, and he was honest. Then there was a man by the name of Roscoe Nelson, who was a well-known, highly respected lawyer. [His firm] used to be Dey, Hampson & Nelson. They represented Southern Pacific. But there was a lot of good lawyers.

[End of Tape 12, Side 1]

³¹ Charles Erskine Scott Wood (1852-1944).

Tape 12, Side 2
1984 October 12

RH: [This is an interview with] Judge Gus Solomon in his chambers in the U.S. District Courthouse in Southwest Portland. The date is October 12th, 1984. The interviewer is Rick Harmon for the Oregon Historical Society. This is Tape 12, Side 2.

[Tape stops]

Judge, you talked in a previous session about some of the qualities of good legal writing, but I wanted to ask you more specifically this morning about some of the keys to a very good or a great published legal opinion, one that might have lasting impact over the years.

SOLOMON: District judges publish very few of their opinions. But I believe that if the issue is important, that the judge should devote a great deal of time to it, and not rely too much on his clerk's work, but should go over the opinion carefully, and it should be written clearly and concisely and directly. I believe that the first paragraph should set forth the nature of the case. All of the cases should be carefully briefed to see that there are no mistakes in them.

In Oregon we're very fortunate, because we have a practice in which before [an] opinion is released to the parties, and before the opinion is filed, we circulate the opinion among all of the judges and magistrates for a period of two days prior to the time we want to file it. If during that period of time anyone has a suggestion or a criticism, he makes it. You'd be surprised the number of times that there are slips in the language, that one of the judges to whom the case is circulated doesn't believe the case stands for the proposition for which it was cited. Sometimes they believe that the result is incorrect. Not very often, but sometimes. This is of great help to the author of the opinion because he can then go over the opinion to see whether the corrections should be made or

whether results should be changed. I've had that experience myself a number of times, and so have many of the other judges.

I recall one time – well, I think I've mentioned an incident that happened many years ago. I don't believe that all judges should write in the same way. Every person has his own style of writing. My opinions are usually short, but sometimes it's necessary to write a long opinion, particularly when the opinion incorporates findings of fact and conclusions of law. If they do, then it's not necessary to file separate findings and conclusions. I wrote an opinion some time ago I think was more than 80 pages. I think I mentioned that, that was the Weyerhauser case. I took up each claims of the parties and discussed them, and made a finding.

RH: Where did this system [of circulating opinions] originate? When did it originate?

SOLOMON: It originated about ten years ago. I think I was the one who originated it, because I thought that we should get the input of the other judges.

RH: Under a system like that, is there any possibility of one judge sort of getting a reputation of being dominant, and another judge maybe always having his opinions criticized or changed?

SOLOMON: We haven't had that experience here, and I don't think that that's true, particularly because the suggestions are merely suggestions. The author of the opinion need not change either the language or the result. Many times I wished I had circulated a speech that I was going to make. Recently, I gave a talk on "Alternative Methods of Dispute Resolution." That's the way it was titled, but what I really meant was, "An Alternate Method of Dispute Resolution." This morning I got a copy of my speech, which was published in a book, and there it's called "Alternative Methods of Dispute Resolution," which means every other [method], which is incorrect. I didn't catch it until much later, and I'm embarrassed by it.

RH: You mentioned a minute ago the importance of having a key issue of law to work with in order to produce a published opinion that might have some lasting impact. I think Judge Learned Hand, though, had the reputation of being someone who could sometimes take what appeared to be a fairly mundane issue of law, and draw out its implications in a maybe more ingenious way than the average judge. Was that at all your perception of his capacities?

SOLOMON: No. I don't recall that about Judge Learned Hand. I knew Judge Hand. I knew he was a great judge, and he wrote beautifully. But I didn't understand that he took routine matters and extracted from them fundamental changes in the law.

RH: I wanted to ask you about your – for lack of a better word, your style as a trial judge. And I mean by that, sort of the reputation that you have for managing the courtroom, and dealing with lawyers, and dealing with juries and witnesses. Could you talk about that a little bit?

SOLOMON: Yeah. Well, I think most lawyers know that I like to get to the heart of a matter at the earliest possible time. Now, I think that the judge must determine the tempo of a trial. For that reason, I start trials at 9:00 or 9:30 in the morning, and when that time arrives, [Slaps desk] I go out on the bench, regardless of whether the parties are there or not. If you do that, and if you have a reputation for doing that, then the parties are there on time, because it's embarrassing for them not to be there on time. Now sometimes they have a valid excuse, but usually the lawyers just mosey in when it's convenient for them regardless of the time.

For example, I start them out when I admit lawyers to practice. I tell them that the proceedings will start at 9:30. [Knocks on desk] If they're not there at 9:30, we don't admit them. They get the point, and then your reputation becomes well-known in the community.

Much of the work that I do in a case is done before the case starts. For example, I meet with the lawyers at least once before the trial. Usually the last [meeting is] about a week before the trial starts. I go over the witnesses that they're going to call, and find out what each witness is going to say. Many times you can dispose of a lot of witnesses because the opposing counsel will say, "That's not contested. We'll admit that." If something is admitted, then we dispense with that witness, and I tell the jury that this fact is conceded or it's in a stipulated fact.

Many times most of the testimony of a witness can be reduced to writing. [As to the] objection that a person ought to have the opportunity to look the witness in the eye and find out whether he's lying or not, well, it seems to me that most of the testimony of witnesses are not deliberate lies. For example, if a man says that an accident happened at 7:00 in the evening and it was still light, ordinarily there's no controversy about that. If he wants to introduce a weather report or something of that kind, he can, but it's not necessary, because the opposing counsel will know whether it was light or dark. Even if it was dark, and he didn't know about it, the report of the Weather Bureau would demonstrate that.

There are many other things that you don't have to have contradictory testimony on. When you [eliminate those witnesses], you cut down the size of the trial. Now, many times these expert witnesses will talk for four or five hours, or maybe a day, maybe two days. But if they reduce their statement to writing, a lot of times you can take a two days' testimony and put it in two hours if they do it in a narrative form. And they don't repeat constantly what their testimony is in response to repetitive questioning, because a lawyer should not argue his case with his witness.

Now, I have disposed of many cases that were supposed to last for weeks and months within a few days by using that technique. First, we have the narrative statements of the witnesses set forth in writing, the direct testimony. Now, this helps everybody because in the first place, the witnesses talk in a coherent manner [Pounds desk]. There's no vagueness. Then, the opposing counsel has had a copy of that direct testimony, and he knows how to cross-examine. I think it helps both sides. First, because the direct

testimony is clear and coherent as far as the plaintiff is concerned (or the one who called [the witness]), and on the cross-examiner, he knows exactly what to ask him, and he doesn't have to ask him a lot of extraneous questions.

The same thing is true with exhibits. Before the trial, the parties are required to set forth their objections to each of the exhibits that the other proposes to introduce. For example, if say, a document entered in the regular course of business [is offered and the other party plans to object], we can remedy that situation, or give the other party an opportunity to do that. Or if he says it's not relevant, then I can pass upon that, or many times I can't pass upon it until I have heard the testimony. But you'd be surprised the few objections to exhibits that are made when you require the parties to set forth in advance of the trial the basis upon which they object.

Now we also require them, if it's a jury case, to submit their instructions before the trial. It gives us all an opportunity to determine which instructions to give. Now, there are two kinds of cases, of course: there's the court cases, and there's the jury cases. In the court cases, you can use that system [of relying on written testimony] much better, and many cases are submitted primarily on these written statements. But everyone has the opportunity of calling the witness if he so desires. Now in a jury case, ordinarily the direct testimony of a lay witness is not set forth in writing, but we do make a distinction between a lay witness and an expert witness. The only differences are that if the expert witness is a physician, we ordinarily don't require the direct testimony be in writing, but we do require that his reports be given to opposing counsel in advance of the trial. It's amazing how much quicker a trial can be concluded with this technique.

Another thing is, and I think I've explained this to you, many times a witness is called, and then [the lawyer] asks the witness a question, and there's an objection, and the court sustains the objection, and then [the lawyer] says, "I'd like to make an offer of proof." Then he goes into a long statement, sometimes without asking the witness a question. He's really arguing his case to the jury and trying to bring in something that he is not able to bring in by the witness, see. So what I do is to say, "All right, go on to something else, and during the next recess, I'm going to hold this witness, and during the

next recess, we'll permit you to make your offer of proof with the witness. Then if I find that the testimony is admissible, we'll call the witness back and present it to the jury." Well, I want to say that not one time in ten does the lawyer ever ask these questions during the recess. It's obvious that he was merely asking the question for the purpose of getting something to which he's not entitled over the jury.

Then there's other things that happen in a case. For example, when a witness gets off the stand, and then I say, "Call your next witness," [the lawyer says,] "Well, I'd like to call Mr. Brown. Is Mr. Brown in the audience?" Then he looks around, and he says, "I asked him to be here." Then they go and look in the halls, and it wastes a lot of time. I don't do that. When a man proposes to call certain witnesses during a morning session or during the [afternoon], he gives a list of those witnesses to the crier, and that crier then lines up those witnesses, so as a witness is getting off the witness stand, the new witness is coming into the courtroom.

Another thing is, suppose you take a recess at 10:30. I give them a definite time. I said, [Knocks repeatedly on desk] "We'll resume at 10:40, or 10:45. Be there." Then, many times, a lawyer will come in [and say], "Will the court reporter please read the last question and answer that I asked [for] the jury?" Well we don't do that in my court, because I require that they have the reporter read the question to him during the recess, just before the conclusion of the recess, so he knows what they said, and he can ask a relevant question immediately, and not be repetitious.

Now, it's up to the judge to determine the tempo of a case. If you follow these rules, it's going to seep down to the lawyers, and they're going to speed up their case. I usually do that, and I don't permit repetitious questioning. If a man asks a question, and he gets an answer, I don't permit him to ask that question over again. Well, usually, if he does it once [I won't stop him], but many times lawyers will do it three or four times. I usually stop them, but if they continually abuse that privilege of asking a [question a second time], I often say, "Mr. So-and-so, I find that the jurors are very bright, and you don't have to ask the same question four or five times for the jury to understand what you're talking about. Just ask it once, they'll understand it." If they persist in that, you

don't have to say very much, because the lawyer then is deprecating the jury, and he doesn't want to do that, make the jury think that he believes that they're all stupid.

You'd be surprised how these techniques that I use have speeded up the trial.

RH: How about your handling of disturbances or misbehavior in the courtroom and your use of the gavel as opposed to your voice in responding to such things?

SOLOMON: Well, I've never had a gavel, [Laughs] and I don't recall many occasions where I have had any disturbances. I've had one or two. I remember when a defendant during a sentencing began to scream and shout, and another one who didn't like the sentence made a number of vile statements, but that's all. And they were taken out of the courtroom immediately.

I tell, if the lawyers know how you run a courtroom, that you run a tight courtroom and don't [countenance?] anything like that, you're going to have less controversy, and you're going to have less abuse of what the rules are.

RH: How would you describe your sentencing philosophy, and how it may have or may have not evolved over the years?

SOLOMON: Well, it all depends on what kind of a case it is. I don't believe in long sentences, and you have to take into consideration the propensities of the individual. For example, if the defendant is a lawyer, or a physician, or a banker, and occupies an important place in the community (even if he's not), I seldom impose a long sentence. Because I know that once you find such a person guilty, you're not really accomplishing anything after he serves for either one or two days. Because once they close that door and lock him in, you've made your point as far as that defendant is concerned, and keeping him in jail for six months is going to teach him more of a lesson than he's already been taught.

The only time you have to put someone in jail, and sometimes you have to give them a sentence longer than you believe is necessary to teach them a lesson, is when you believe that the general public won't understand. This is particularly true if a man is the manager of a bank in a small community. While you may get lot of letters from that community saying what a wonderful man he is, if you should put him on probation, the community would be outraged. [Laughs] They don't believe what they're writing to you. And if you had put him in jail for two days, they would be outraged, too. So, you've got to give him a sentence of at least 30 days. Sometimes I've even given them six months, and after a week or so, I reduce the sentence in there.

But, if a man has been [found guilty] of a crime of violence, and he has been a repeater, I believe in a long sentence in order to protect society from this individual. Your only hope is that as he grows older he's going to learn. Sometimes I've been disappointed in that. I'm reluctant to send young people to jail. Sometimes it's very difficult to send a young boy who's of slight build to a penal institution where there are older men, because you know that he's going to have a hell of a time. He's going to be raped and attacked and all that by some of the older people. So you have to be careful where you're going to send somebody like that. Now sometimes you have got to send some of the younger people to jail. They're sociopaths. Maybe it's going to help, and maybe it isn't going to help.

I don't think I have been very tough on people. I don't believe that merely because a man would write ten checks instead of one, or the amount was \$300 instead of \$30, should make any difference in the sentences. I know of judges who've added up the amount of the bad checks to determine how long they should be in jail. I don't believe that. I think you have to take all the factors into consideration.

Now, we have a wonderful system in Oregon. And that is – we don't have too many judges here, five active judges, and we hold sentencing conferences the morning of the sentencing. We usually sentence on Monday morning. So at 8:00 on Monday we all get together, and we've all read the presentence investigation reports, and we've considered the recommendations of the probation office. We come in there and we meet

with the probation officer, and we discuss the sentences and the philosophy behind the sentence. It's very helpful. Now, there's some sharp differences among the judges. And of course here again, the sentencing judge has the ultimate responsibility for determining the sentence that should be imposed.

We did that, and I was the one who inaugurated the system in Oregon. Not because it's my own system: I was a friend of man by the name of Theodore Levin, who developed that system and used in in Detroit, Michigan. I was impressed with it, and then I suggested it because there was some wide variations among the judges [in Oregon] on similar cases.

I don't know if I mentioned this to you at all, but one time I was hearing cases in Hawaii, and when I got there, I learned that there was a saying there, that [if] you got off the elevator, and turned right, you got at least one year in an income tax evasion case. But if you turned left, and went to another judge, you'd be put on probation. Well, that's a terrible thing, and then you give rise to judge-shopping. We wanted to avoid that. And . . .

[End of Tape 12, Side 2]

Tape 13, Side 1
1984 October 12

RH: This is an interview with Judge Gus Solomon, This is Tape 13, Side 1; October 12th, 1984.

[Tape stops]

Do you see any relationship at all between punishment and the possibility for reform, personal reform?

SOLOMON: I think in many cases that punishment is the basis for a person complying with society's norms and standards because he knows that if he doesn't conform, he's going to go back to jail, and being in jail or in prison is not a very pleasant thing to do. I think many times that's the only way you can handle a person who has been violating the law. Sometimes you never teach anybody anything.

RH: What's your opinion about the trend toward indeterminate sentencing, which some people have been critical of?

SOLOMON: Well, I think it's generally pretty good because it sort of wipes out the difference between judges. In other words, a judge may sentence a man to one year for an offense; another [judge] sentences a person for the same offense, who has the same characteristics, to five years. [Indeterminate sentencing] tends to equalize the sentences of judges. I don't know whether I mentioned the fact of my own experiences in that field. But one time I attended a conference, and we –.

[Tape stops]

On the question of the disparity of sentences, one time I attended a conference³² with the other judges. I was concerned about the fact that we were taking a great deal of time on certain cases, for instance, bank robbery cases and distribution of narcotics, on the length of sentences. We would have quite an argument on whether a man should be given 10 years or 12 years or 15 years or 16 and a half years. I talked to someone³³ on the parole commission, I asked a question, and said – there was a certain case that we were considering, and I said, "What difference [Repeatedly knocks on desk] would it make in the time the prisoner actually served if one judge gave him 10 years and the other gave him 15 years?" And he says, "Absolutely none." The judges at that conference were aghast. They didn't realize that. I think it demonstrated a point that I was trying to make, that it really doesn't make very much difference, although many times, if you give him an "A" number for example, he has to serve one-third of the time before he's eligible for parole for certain offenses at times.

I had a personal experience that bothered me. I didn't impose as severe sentence on draft evaders as some of the other judges. I thought that a year or 18 months was ample. Other judges were giving those people five years. Every offense, five years. I got a letter from a man, and he pointed out that I had given him one year, and he was practically serving the entire year, and other people who got three times as much weren't serving any longer. And he was complaining to me.

I saw the director of prisons one time, and I complained to him. I said to him, "Just treat my defendant [Knocks on desk repeatedly] in a Selective Service cases just the way you would treat a bank robber or a rapist or a gunman." One of the other judges³⁴ said, "If you don't want your man to serve that long, why didn't you cut down your sentence? Why do you put the onus on the director of prisons?" But he was sentencing on the guidelines. I mean, he was [sentencing him] to the penitentiary on the basis of the guidelines. If under my guidelines, he'd have to serve, say, 12 or 14 months to three years, it didn't really make any difference what I gave him after I gave him 18 months or two

³² The conference Solomon refers to was held in Long Beach, California.

³³ Solomon is referring to Normal Carlson here.

³⁴ Solomon is referring to Judge Browning.

years, because he'd get out at the same time as the man who was sentenced to five years, you see.

RH: Did the behavior of the director of prisons in this instance have something to do with his resentment at you for not giving longer sentences in the first place?

SOLOMON: No. Not at all. He was under tremendous pressure from the general public, that draft evaders should be put in jail a long time because their sons and their nephews were out on the fighting fronts, you see. That was the problem.

RH: I've read where you have a painting somewhere here in your chambers that you look at prior to passing a sentence. I wonder whether you would point that out to me and tell me something about the quality of the painting that makes it appropriate for contemplation.

SOLOMON: I had a good friend in New York. Judge Sylvester Ryan was a very fine man, a man with a big heart and a fine mind. I handle a lot of criminal cases, and he told me after he sentences about three people, he has a straight pin, and he takes it out of his lapel and he jabs himself to remind himself that he's human like everyone else, and that he bleeds like everyone else. And before he starts in sentencing a person to long terms, he wants to know that he too, bleeds.

Now I was impressed with that, [but] I wasn't enthusiastic about jabbing myself with a pin. [RH laughs] So I have a picture that was done by a good artist – hold it.

[Tape stops]

I have a painting by Gandy Brodie. Gandy Brodie died about eight or ten years ago, but he was a good painter. He painted, in various shades of black, a [picture of a] candelabra, which was used at funeral parlors. It was his concept of death. So I took that

painting and put it in the anteroom to the courtroom. I have to go through this anteroom in order to get into the court. I look at that picture, particularly on the days that I have to sentence anyone, just to remind myself that I'm human, too, and that I'm going out to send human beings to the penitentiary.

RH: How long have you had that painting?

SOLOMON: Oh, 15, 20 years.

RH: Have you had cases where you felt compelled to rule in one way according to law, but felt pulled in the other direction, the opposite direction, according to personal conscience or personal morality?

SOLOMON: Oh, I've done that many times. If it's a criminal case, of course I can take that into consideration in determining the sentence. I would ordinarily put a man on probation if I didn't think that the conduct justified the violation of the law.

RH: How explicit do you make that when you're setting the sentence? Do you give that explicitly as a rationale?

SOLOMON: No. Well, I might. I don't recall having that [be the] case. Sometimes I have been outraged by the fact that people have been let out of jail much too soon, rather than the other way. For example, I and most judges were upset about the fact that we sent a lot of young people to jail on these Dyer Act [offenses]. A young boy, 18 years old, steals a car for a joyride, and takes it up to Vancouver, Washington, and he's arrested for it. Well, he's violated a federal law: transportation of a stolen car in interstate commerce. Many judges were giving these young people long sentences, or sentences under the Youth Correction Act, and they'd serve at least six months or a year. Now, we don't do that anymore, we let the state handle those cases. But I recall one time that I had a man

who was having other people steal the cars for him. He was breaking up these cars, taking the parts out, selling it as a commercial enterprise, or changing the bodies of the car around. This was a deliberate attempt to – well, it was a large-scale theft. Well, I gave him about three years in the penitentiary, and I got a letter short time later saying that they thought I'd be pleased to know that they let him out after two months, I believe it was. Well, I wanted young people let out after two months who took a joyride, but I didn't want that man out of jail in two months because I was sure he's going to repeat it. I wanted him to serve at least three years.

But you're asking about who violate the law like in – Jehovah's Witnesses, for example. I think I told you that I didn't believe that a young man should be sent to jail because he concluded that it was contrary to his religion to go into the military. And they would put him in jail even though he couldn't neither read nor write and wouldn't be eligible even if he tried to enlist! Well, I didn't put those people in jail, I wouldn't do that. And even if they could read and write, I tried to avoid sending him to jail if I could really talk him into working in a hospital, or doing other work of national importance under civilian direction.

But I can't think of [any other?] cases of a person who violates the law that I didn't think should go to jail. Except many times, I found – years ago, it's no longer the case, I don't believe, that many young girls were given jobs as tellers in banks. They were just paid almost minimum wages, and here they had all this money in their hands. I had a colleague one time that said, "If a person violates [Pounds on desk repeatedly] the public trust, they've got to go to jail!" Well, good grief! You take a girl from a poor home and you give her a minimum wage. They have to dress well. And then they put all that money before them. They're going to take money, hoping that they'll be able to pay it back. Then they don't pay it back, and they're found out. Well, I wasn't going to send them to jail, even for a short time, unless there was other factors.

The same thing is true even, sometimes, of an assistant manager of a bank. He was required to join the local country club and things, and he didn't get enough money,

and he'd have to engage in certain activities in order to maintain himself. Well, I would be reluctant to send that man to a long term. That's the only examples I can think of.

RH: Do you have similar feelings in cases where somebody from an impoverished background would create a criminal act, maybe even a violent criminal act, and part of your consideration would be that this person lives in an impoverished environment, and at the same time was surrounded by a flood of consumer goods dangled before his eyes?

SOLOMON: Yeah, we take that into consideration. I think all judges do. These are one of the things that you have to consider. I thought maybe you were going to go into the question of, do I decide civil cases many times contrary to the way I would have decided them if I wasn't bound by certain court decisions and certain statutes? And I have to tell you that I decide the cases in accordance with the law, and not with any of my personal opinions, except if the decisions are ambiguous, or if the law is ambiguous, then I decide the case in accordance with my ideas of what justice is. I've been doing that. My former law clerk gave a little talk one time, and he said that, "Judge Solomon wants to decide on the side of God, and if it's appealed, and the Court of Appeals decides the contrary, then he knows [RH laughs] where the Court of Appeals stands."

RH: Have you had cases about which you felt so strongly that you've directed the jury to bring back a particular verdict, or that you've overturned a jury or stated some strong dissent to —?

SOLOMON: Oh, I think every judge does that. Many times we have set aside verdicts of juries because we think that the verdict of the jury was against the overwhelming weight of the evidence. I had that in a patent case some time ago. The jury brought in a verdict of more than two million dollars, and I was just shocked, and three days later I set it aside. I was affirmed by the Court of Appeals.

I've had cases too, where – not very many, where a jury let a man out who was obviously guilty and there was no mitigating circumstances. I couldn't understand how the jury came to the conclusion that they did. One time, I did get very angry at a jury. Shouldn't have done it. And I just told them I just couldn't understand how they arrived at that conclusion, that here was a man that was obviously guilty. That's what I did in that case. I haven't done that again.

RH: Why do you say you shouldn't have done it?

SOLOMON: Well, a jury has a right to be wrong. There was nothing that could be accomplished by telling a jury that they were a bunch of damn fools. The man couldn't be tried over. If they found him guilty when he wasn't guilty, I could take care of that. And many times if I'm convinced that a man is not guilty, or more often when I'm convinced that the government didn't prove that he was guilty, didn't meet their burden, I would direct a verdict in favor of a defendant.

RH: This brings me to a question about your opinion of the competence and effectiveness, in general, of juries in understanding complex law, and understanding the directions of a judge, and understanding and applying evidence.

SOLOMON: In most cases, I think that juries do a very good job, but there are cases where they are swayed by certain evidence more than they should be. I also find that if a jury believes that a person shouldn't be found guilty even though he committed the offense, they will decide the case on the side of God and their opinion of what should be done. The same thing is true in civil cases. If they are considering a case of a person who was badly injured in an accident, and they're suing U.S. Steel Corporation or General Motors or something of that kind, [juries are] more likely to find in favor of the plaintiff if they can possibly do so. In order for the company to win, it would really have to present a very strong case.

Now, there are other cases in which they're very technical, and there are technical defenses. Well, the jury doesn't pay very much attention to those technical defenses. Sometimes juries are just overwhelmed with figures, and they just disregard them.

Go ahead.

RH: I'm also interested in your conception of how society understands a judge's role, and how well they understand the judge's role, and just generally the image of judges and the judicial process in society.

SOLOMON: Well, those are big questions, and they take a lot of time to answer. And they're somewhat nebulous, just like some of your other questions, [recent questions?]. It's hard to determine. All I can say is that generally, people have a very high respect for judges. They believe that the judges have to maintain a very high standard. The judges get great respect from the general public, and you can see that: They tip their hats; they don't use any vile language in front of judges; and they are obsequious to them, many times. It really doesn't make any difference whether you're a municipal court judge, or a state trial judge, or [on] the state supreme court, or a federal judge of any rank; they respect judges. That's why people are outraged when they find that a judge has committed an offense, as in Chicago recently, where they accepted bribes, or in Nevada, where a federal judge failed to pay his income taxes. People are outraged by that. So I think that judges are held in high regard. Maybe that's one of the reasons why many lawyers who are making large sums of money will give up those jobs in order to take an appointment, or run for election for a judge's position, which pays much less.

RH: Well, at the same time that the judge has this image of respect in society, lawyers in general are not looked at very kindly by society at large. I think also a general feeling prevails in society that there are a lot of people getting away with things, a lot of criminals out on the street that aren't adequately punished. How do you account for that perception?

SOLOMON: Well, unfortunate, the perception of a good lawyer is a shrewd and sharp person who knows all the tricks. There's a story about a man who didn't do very well, and he went to the penitentiary for stealing. When he got out and finally got back into the private practice of law, his business increased manyfold because he got a reputation for being a shrewd and sharp lawyer. Some lawyers don't have good reputations, and I think that the general perception of the public is not good. Physicians and teachers are held in much higher esteem than lawyers.

RH: How about the perception that criminals are getting off without adequate punishment?

SOLOMON: Well, that's a wide perception, and I think it is true that a large percentage of the criminals or people who commit crimes are not apprehended, and when they are apprehended, many times they aren't adequately punished. Those that are found guilty many times walk away because there's no facilities for having them. In Multnomah County now, we've turned down – I think either Multnomah County or the city, we've turned down one election in which an amount of money was being requested to build new jail facilities. We're going to have another election now. People get all excited about the fact that criminals who are found guilty who are not put in jail, but where are you going to put them? We don't provide adequate facilities for them. So, you say the people are outraged by it? Yes, but they won't do anything about it.

Now, most people don't understand that the job of a judge is not as easy as many people think. They've said, "Oh, judges hold court from 10:00 in the morning until 5:00 in the afternoon, and have all these holidays, and only work from 10:00 to 12:00 and from 2:00 to 5:00." Well of course, that's not true. Many judges work much harder than lawyers. I know that I get down here before 8:00 in the morning, and usually work Saturdays, and often on Sundays. I've been doing it for 35 years, and I know other people who are doing it.

Actually, in spite of the high regard in which judges are held, judges lead lonely lives because they can't fraternize with a lot people, particularly lawyers. I think I mentioned that to you a few days ago. Lawyers are reluctant to be seen with judges and vice versa. One man, an old friend of mine, had lunch with me. Some of the young people in [his] office said "Oh, you're toting up to the judge." And judges are afraid to eat with [people] . . .

[End of Tape 13, Side 1]

Tape 13, Side 2
1984 October 18

RH: [This is an interview] with U.S. District Court Judge Gus Solomon in his chambers in the U.S. District Courthouse in Southwest Portland. The date is October 18th, 1984. The interviewer is Rick Harmon for the Oregon Historical Society. This is Tape 13, Side 2.

[Tape stops]

Judge, we talked in some detail a couple of sessions ago about the qualities of a good lawyer, and I'd like to start out this morning by asking you to describe your notions of some of the qualities of a good judge and good judging.

SOLOMON: I think that a good judge is one who has the ability to decide cases on the facts and on the law, and that means that he has to have the patience enough to listen to what the facts are, and not make up his mind as to how a case should be decided before he hears all of the evidence, or all the relevant evidence. But that doesn't mean that a judge has to sit down and listen to unending examination by lawyers and all kinds of irrelevancies that some lawyers try to introduce in the case.

I think that a good judge is one who, after the pleadings are in, sits down and finds out from the lawyers what the real issues are, and how they intend to prove it, and then make a determination of what are the relevant facts and what evidence he'll listen to. Now, he shouldn't do it precipitously, but he should do it after an examination of the nature of the case, and maybe even an examination of some of the legal precedents.

A good judge also should also have the ability to read a case and understand it. And as I've said many times, the essential ingredient of a good judge is common sense and judgment. Unfortunately, some judges don't have it. That's the same qualities of a good lawyer, or a good law clerk, and it's the same qualities for a physician or a public official or anybody else. There's no substitute for common sense and judgment. I think

that that is the essential ingredient of a judge. You can't have a good judge without it. That's the essential characteristic.

RH: What sort of role does resourcefulness and ingenuity play in the trying of a typical case where a judge might go outside of the resources pointed to by lawyers in the case to look at materials, either scholarly or law materials, that might somehow bear on the case but not be directly pointed out to him?

SOLOMON: I think that judges should be reluctant to go outside the record or to go outside the issues presented by the lawyers. I have on a very few occasions decided cases, or at least partially decided cases, on facts that I knew to be true, and which one of the parties or both of the parties – the lawyers, rather, didn't know. For example, many years ago there was testimony that a man went into a government office in Hood River. The man had a rain jacket, a Rain Test I think they called it. And it was of blue color. He remembered that man very well because he recalled that blue color [Rain Test jacket]. Well, I knew from the fact that my father once ran a clothing store [and sold Rain Test jackets] that they never made it in blue. It was a light green. Either the government official was colorblind, or else the man who he saw was not the man about whom he was testifying. But that doesn't happen too often.

RH: You mentioned a system here in the Oregon District Court where you look at each other's written opinions before they're made official. I wonder, do you or any of the other judges typically talk to one another prior to making a decision in a case and prior to writing an opinion, too, just while you're trying the case?

SOLOMON: We don't do that very often. Once in a great while, we discuss it. We do discuss the written opinions, particularly the drafts of opinions that one of the judges proposes to issue. I think I mentioned to you that we have a rule here that a judge who wants to issue an opinion will circulate it to the other judges, and not issue the opinion

for 48 hours to give the other judges an opportunity to comment on it. He's not required to do it, and sometimes if there's an emergency, the judge will issue his opinion immediately. But in the overwhelming majority of the cases, opinions are circulated. And you'd be surprised the number of times that a judge will comment on another judge's proposed opinion. Many times it involves questions of language, which we call "nits," and we think a wrong word was used, or it's grammatically incorrect. But many times it goes to the very heart of the decision, and we complain about it.

I think I mentioned the fact that about 15 or 18 years ago, when Judge Goodwin first came on the court, he circulated an opinion. I asked him if he had any objection if I would go over it for grammatical mistakes, and he said, "No, no," he [brushed that on?]. I made a number of corrections on every page. I gave it to him, and he was grateful for it. He didn't resent it at all.

Then, at that noontime, we were at lunch together, I told him of a draft of a memorandum that one of my law clerks had prepared, and I said, "I'm going to have to do quite a bit of work on that, because I don't believe that that result is correct." Later on, I gave Judge Goodwin a copy of my law clerk's memorandum. He was down in my office in about ten minutes, and he said, "Say, don't you ever read the Supreme Court decisions?" I said, "Once in a while I do." [RH laughs] And then he told me of a case³⁵ that had just come down directly in point, which was of great help. I liked that opinion of the Supreme Court, and that was the way I thought the case should have come out. Of course, that helped me a great deal, and it saved me from a lot of embarrassment.

RH: So this has been a very mutually beneficial system?

SOLOMON: Oh, yes. I don't know whether other courts do that very much, but I know we do it. That's one of the reasons why we have such a collegial court. I mentioned to you before about the techniques we use in determining the sentences that should be imposed. Well, this is somewhat of the same character, only about civil cases.

³⁵ The case Solomon is referring to is Coolidge v. New Hampshire.

RH: I'd like to question you about your opinion concerning the greater trend after 1960 or so toward what some people call "judicial activism" or some people call judicial "legislation."

SOLOMON: Well, I believe that at many times situations arise that haven't arisen before, and there's no law on the subject, no decisions, and the judge who's hearing the case must make a determination of how the case should be decided, and sometimes what the trend is towards that view of the law. Now, I don't believe that a judge should make decisions based solely upon his own personal views. For example, if I believe that there has been too much discrimination against blacks, when I look at a case, merely because a black man is involved, I can't go and decide a case in the favor of that black, or I shouldn't extend the decisions on discrimination to include this particular case unless the facts justify it. Now, I think some judges do.

But I do want to say that merely because a judge happens to be black and a litigant happens to be black doesn't mean that the black man is going to win. Sometimes it's better for the litigant to have a man who isn't black decide the case, because there's a tendency to lean over backward, by judges, against people of the same race or color. I think I mentioned to you before about the fact that though a man may be a friend of yours doesn't mean that he's going to get a favorable result in his case. Many lawyers would prefer to go before a judge that they don't know rather than a friend of theirs.

RH: What about the specific tendency among some federal judges on the district court level to find constitutional implications in cases? Again, this is a trend that's been especially evident after the 1960s or so.

SOLOMON: I think that that's true, and I think that that's even worse on the appellate courts, the Courts of Appeals, and maybe the Supreme Court, where many of the judges find things that were never raised by the litigants, and then they decide cases on that

basis, and sometimes without even giving the counsel the opportunity to brief or discuss those points. Sometimes they raise it on their own and issue an opinion requiring the lawyers to discuss that particular issue. But this is true, that that happens frequently, and it sometimes happens in trial courts as well.

RH: Have you ever thought about why that tendency arose, to bring in those kinds of questions in the federal court system?

SOLOMON: I think that this arose during the period where judges felt that they shouldn't be restricted by legislation, or restricted by the fact that there was no legislation, and wanted to carry out in the law the social values which they regarded as important. It was usually the more liberal of the judges who were engaging in this kind of conduct.

RH: What sort of opinion do you have about the quality of federal legislation during the years that you've been in the federal court system? Not so much from a philosophical or political point of view, but just from the point of view of its applicability as law?

SOLOMON: Well, [I don't know?].

RH: Are there specific kinds of law that are particularly vague and difficult to apply?

SOLOMON: Well, I guess there are. But there's – I have no real criticism against the Congress of the United States on the legislation they've adopted. Sometimes a particular statute could be clarified, but most of them are pretty good. They have good draftsmen that prepare them. I don't think that they are reaching out many times to legislate on matters that the government shouldn't legislate on. I know that the most right-wing of our senators and congressmen think that the government is trying to control the lives of all the citizens by legislation, and [that] we shouldn't adopt certain types of legislation, which

I think are important, for instance wage and hour laws and laws that prevent children from being hired, and things of that kind.

No, I think that social legislation that has been adopted by Congress and by the state legislatures, most are good. I have seldom seen any legislation that went too far.

RH: Some people make the criticism that the legislature seems to measure its own productivity in terms of the amount of law it makes.

SOLOMON: I don't know if that's true or not. I've never been in the legislature, so I can't tell you. But I do know that oftentimes the administrative branch of the government would do well to carry out the legislation and legislative intent of many laws that have been enacted, both by the state legislature and by the federal government. We had that situation here recently involving environment. The accusation was that the secretary [of the interior] didn't carry out the mandate of Congress. And I don't think he did.

RH: Secretary Watt?

SOLOMON: Yeah.

RH: When you're dealing with a piece of legislation, in most instances do you feel like you're applying the statute more, or interpreting the statute more, or can it be generalized at all in that way?

SOLOMON: Well, if the statute sets out clearly and concisely the purpose of the statute or what it intends to prohibit or permit, I follow that statute and don't try to interpret it in order to render the statute either invalid or narrowly.

RH: There sometimes are differences of opinion, though, in how explicit or clear a statute is.

SOLOMON: Oh, yes. Many times you have to look at the discussions before the committees of Congress on what the parties who introduced the legislation believed, and the discussion of the members of Congress on what it meant, and how far the legislation was to go. And therefore many times you have to interpret a statute in the light of that discussion.

RH: Well, in line with this issue of a literal reading of the statute versus a more liberal interpretation of it, in what ways do you feel your own judicial philosophy has evolved over the years?

SOLOMON: I don't know. [Laughs] Are you asking whether I've changed my philosophy in the 35 years I've been on the court?

RH: I would be interested in that, yeah.

SOLOMON: I don't know. The only thing is, I do know that some people say that I'm more conservative now than I was 35 years ago. I don't think so. I think I had the same philosophies then as I do now. Of course, as a result of experience, I probably do things differently now than I did before. But if you ask me on specifics, I'd have a tough time setting it out.

RH: So, do you feel your judicial philosophy has kept pretty much in keeping with your political philosophy and your political values, or have those two things diverged at all?

SOLOMON: That's difficult in this sense. I've changed my views on many things. But – this may sound boastful, but I advocated things 30 and 40 and 50 years ago that were regarded as far left or radical, which are now accepted by even the most conservative people in our society. I told you about some of the things. I believed that a poor man was

entitled to a lawyer whether he could afford it or not. That wasn't a view generally held, and I was attacked by many lawyers because I believed that.

Now, certain conservative members of the society believe that we shouldn't spend as much money on legal aid societies and legal services committees, but nobody really denies that a man who's charged with murder or with a serious crime should not be represented by a lawyer without regard to how much money he has. The attitude of the public has changed, but my attitude didn't change on that. I believed that all the time.

RH: Would you say that it's accurate to say then, that you advocated a certain amount of social policy and social change at a stage of your life at a time when you were considered liberal or left-wing, and now that those things are basically achieved, naturally you would be perceived as being more conservative because those things have been achieved?

SOLOMON: That's right. I think I mentioned to you that I thought that cities and counties and public agencies should have the right to engage in the distribution of electricity, central station service. Well, when I started to advocate those things almost 50 years ago, I was attacked on the radio at that time for being a communist, because only communists believed that. But now, nobody would make that contention, I don't think. Although some people don't like public power.

I have not always agreed with what the courts have held. You recall that I was very much opposed to putting Americans of Japanese ancestry in concentration camps, even at a time when the Supreme Court approved that. Now they wouldn't approve it. Now the government is going to pay those people for what they did to them.

Maybe I'm not keeping up as much as I should. Although I don't agree with some of the attitudes and actions of the young people, particularly in the 1960s, the college people who engaged in riots and things of that kind. Now, I think a person can protest a war. I believe that permits them to march, but not to throw rocks and do the things that these young people did. No, I was never in favor of that. In fact one time, I was picketed

– this courthouse was picketed , they were really directing at me, because they didn't like some of my rulings in connection with the Selective Service. Some of the young people – well, Reed College [students] came, picketed me. I recall, I told the father of one of the fellows, "Just have him behave himself, and he won't have him arrested." [Both laugh]

RH: At this stage of your career, do you have any thoughts or ideas about the process of appointing federal judges, and what reforms could or should be made in that process?

SOLOMON: I believe that that's one of the prerogatives of the president and the senators to select judges. They've been doing it for a long time. I don't really know whether selecting judges who were approved by a commission has been of very much help. I think theoretically it is helpful, but I have seen so many cases of injustice. I'm not going to mention any names, but one of the commissions for this area rejected the man who I thought was most qualified from the first ten that the congressman could consider.

RH: What kind of commission are you talking about?

SOLOMON: Well, President Carter appointed lawyers, prominent lawyers, to sit on a group that would consider the applicants, or the names that were suggested to them, and out of, say, 20 or 30 names, come up with ten names that they thought were particularly well-qualified. The same thing is true with the state. Well, I know cases in which the governor of the state asked the bar association committee, "Please see to it that So-and-so is put in the group [of candidates]." What happened was, he was put in, and then next day, he was nominated. But³⁶ most times, these commissions and bar committees do eliminate incompetent candidates.

[End of Tape 13, Side 2]

³⁶ The audio stops at this point, so the remainder of Tape 13, Side 2 could not be audit/edited

Tape 14, Side 1
1984 October 18

RH: This is an interview with Judge Gus Solomon. This is Tape 14, Side 1; October 18th, 1984.

[Tape stops]

SOLOMON: I recall a case in which a judge for this court was going to be selected, and somebody asked me, who do I think was going to be selected. I said I didn't have any idea. They said, "The senator has asked for the names of the first eight on the list." And I said, "Well, who was number eight?" They told me, and I said, "He's the man that's going to be appointed." [Laughs] And three days later, he was appointed. I'm sure that if the senator was going to select the fifth man, he would ask for five [reports], first five. But apparently this man wasn't in the first five, so he asked for the first eight.

That's the way it's often done. The same thing is true with the state [judges]. But that doesn't mean that that man is not a good man. It might mean he's a very good man, and in this particular case he was an excellent man. And perhaps he was better than any of the first seven.

RH: I think you started to tell me about a person whom you thought was very well qualified, but was somehow discounted by this nominating committee.

SOLOMON: Yes. I thought that he was the outstanding person. I thought he would be a good candidate for the Supreme Court of the United States. I knew he was considered for the D.C. Circuit, and then I was amazed when I heard that he wasn't even included [in the list for the Ninth Circuit]. If he had been included, I knew he was going to be selected. Apparently, at least the chairman of the commission knew that, too, because he kept him off. He kept him off because a certain other person who was favorable to another

candidate knew that if this person who I thought was so good was on the list, her suggestion would never be realized, and that was what happened. Her candidate was selected. And I don't think that her candidate was anywhere near as good as the person who I thought should have been selected. And the reasons they gave were sort of facetious.

Now, I know we don't have that now, but the American Bar Association talks about – they have a commission, and they determine whether a man was qualified or not. I recall that when my name came up many years ago, the American Bar Committee gave a report to the effect that I was not qualified, and that my appointment was solely political. Well, the fact was, of all the other people, I had the best training of anybody. I was a graduate of the University of Chicago; I had gone to Columbia University Law School; I had graduated from Stanford; I had had wide experience; I had a fine record in the Supreme Court of Oregon, I won nine out of the ten last cases that I tried up there. Then, as a result of that [report], some of the leading firms in the city objected to this remark. They withdrew it, and then when I did come up before the committee, the chairman announced, "There's no question about this man's qualifications, he has excellent qualifications. We're worried about whether he was ever a member of the Communist Party."

RH: You're talking about the Senate [Judiciary] Committee?

SOLOMON: Yeah, that's right. But they just rejected the American Bar Association doubts. In fact, I think I told you that Senator McCarren said, never in his long experience did he see a more distinguished group of people testify on behalf of any judicial candidate. There were very prominent lawyers testifying that the whole office had agreed to my qualifications. But they weren't interested in that. They were interested in whether I was guilty of trying to overthrow the government of the United States.

RH: It seems almost amusing now that the criticism would be made that your appointment was political for a process that everybody now regards as inherently political, in every case.

SOLOMON: Yeah. I think I mentioned to you earlier that no black man could join the American Bar Association without approval. And if you were a Jew, you had go through different things than non-Jews did. I think you had to have two people recommend you, or something of that kind. And no [Jew] was ever a president of the American Bar Association until Bernie Siegel was elected about 15 years ago.

RH: What had been your experience with the American Bar Association [before that]?

SOLOMON: I didn't belong.

RH: You didn't belong?

SOLOMON: No. I had to belong – another judge had done me a favor, Judge [William] Mathes, whose picture I have, who was a very good friend of mine. He took an assignment up here and took over some of my cases at a time I wanted to go [on a trip to Europe]. I said, "If you ever need a favor, I'll grant it, I'll give it to you." About a month or so later, he wrote me a letter and said, "I'm going to collect that favor, I'm enclosing an application to the American Bar Association." He was on the committee. [Both laugh] So I joined at that time.

RH: You finally joined, then. About what year was that?

SOLOMON: That was about 1965, I think, sometime like that. But he was a good friend of mine, and I did join.

RH: To kind of summarize your attitude about this Carter, ostensibly nonpartisan, nominating committee then, you kind of felt like it just didn't work the way it was supposed to?

SOLOMON: Yeah. I thought that it wasn't based upon competence alone, but I thought that the president had certain things in mind. For example, this same man that I suggested was the most competent person, had been considered by another circuit, the D.C. Circuit. He was on the approved list, but two or three days later, without ever having interviewed any of the people who were on the list, the president appointed two people. The reason he did that was that at that time, they were trying to get on the court women and minorities, and liberals. So, if you were a Caucasian male, you had a difficult time, particularly if you were a conservative. Some very good judges were selected during that period, and I might say some very lousy ones were selected at the same time. Now, I don't know whether President Reagan has appointed very many better ones, but he has appointed some very good people, since he's been president. He didn't do that, he has a group around him who makes the suggestions.

RH: He sort of returned to the more conventional way of doing it.

SOLOMON: Yes, I think so. But we have good moderates on this court, who were appointed by President Carter: Jim Redden, Owen Panner, and Helen Frye. I think that Redden was the only liberal Democrat. I don't think that Owen Panner is a Democrat. He might have been an Independent, but I think he was formerly a Republican. I think the same thing is true with Helen Frye. And Leavy, who was recently appointed by President Reagan, is a very good judge. He's a Catholic. You know, when I came on the court, there was never a Catholic who had been appointed in the history of this court, for more than 100 years. Now we have Judge Kilkenney, Judge Burns, Judge Redden, Judge Leavy, all members of the Catholic faith. I don't think that that court has deteriorated one damn bit. I think they've improved it, [RH laughs] the state of condition.

RH: As we conclude this, I'd like to move into the realm of your personal life a little bit as we wrap things up, and ask you a bit about your activities and affiliations outside of your professional life, which has taken up a good part of your life, obviously. But I know you've had some involvement with Jewish organizations.

SOLOMON: Yes. At one time I was a member of the National Board of the American Jewish Congress, an organization that I've liked for many, many years. It was a good liberal organization that believes in social justice. Then I was a member of the Civil Rights Commission of the Anti-Defamation League, connected with the B'nai B'rith. Then after I became a judge, I joined the American Jewish Committee, which is a more conservative organization. I was on their national board. I think I was the only man in America who was on the national board of three organizations, some of which didn't agree with the policies of the other. I've attended some of their meetings, but under the [federal] regulations, you can't belong to a committee of an organization which solicits money for the organization. [The Anti-Defamation League] was specifically singled out [by the Judicial Committee]. I resigned from that committee because one of the functions, they thought, was to raise money, and I think, actively attempt to change legislation. But I belong these organizations.

I've been active at Reed College. I was the president of the Alumni Association. I was on the Board of Trustees at Reed College. I have been on the Boards [of Visitors] of University of Oregon Law School, and Northwest College of Law, Stanford University, and Columbia University. For some time I was on the executive board of the Law School at Columbia University [Alumni]. While I contribute money to all those organizations, I make it a point not to personally solicit, nor permit my name to be used in connection with solicitation of funds.

Well, I belong to a lot of organizations that I believe in, and I contribute to a lot of other organizations. I think I probably get as many requests for money as anybody in the United States. I get about four or five a day, and sometimes three and four solicitations

from the same organization, because every time we [donate], we get on that list, and then we get requests for money.

I belong, for example, to Amnesty International. I belong to [U.S. English]. I believe, personally, that English should be the dominant language [Knocks on desk] taught in public schools, and my personal belief is, Spanish [Knocks on desk] should never be the dominant language taught in a public school in the United States. So I contribute money to that cause. I don't believe that religion should be taught in the schools. Now, there's a lot of litigation going on involving those subjects, and I don't know whether I would sit on a case – in fact, I'm quite sure I would recuse myself, because I feel very keenly about those subjects.

RH: I assume that you still belong to the American Civil Liberties Union.

SOLOMON: No, I quit when I came on the court. My wife belongs, and we do contribute money to the American Civil Liberties Union, but I don't believe in all the things that the American Civil Liberties Union espouses. There is a situation in which I think that I haven't kept up with what the American Civil Liberties Union is doing. In other words, I think I was much more sympathetic in all of the activities of the American Civil Liberties Union 40 and 50 years ago. But they've gone way beyond what I thought should be done. So I don't belong to the organization, although I recognize that I shouldn't deprive these organizations of my contributions and somewhat support because I don't agree with everything they do. Because I believe that they are performing a good function in getting that point of view out before the courts and the public, as long as they don't do it in an offensive manner. And they're better than many of the other organizations that resort to violence.

RH: What are some of the areas where you feel they've gone too far?

SOLOMON: Oh, there's so many of them [Laughs], I can't remember.

RH: I wondered in particular about their defense of the civil liberties of Nazis and so on. Is that [inaudible]?

SOLOMON: Oh. I wouldn't have found that way because – I know the judge who handled that case, and he's a fine man, Bernie Decker. But I don't think I would have held that way, because I think that [the planned neo-Nazi march in Skokie, Illinois] comes within the reach of the doctrine announced by Oliver Wendell Holmes when you shout, "Fire!" in a crowded theater.

Now here was a group of people, who – some were ex-Jews, you know, the leader of that was born a Jew, and he was a Nazi. He was not trying to march in Skokie, Illinois. He didn't want that, but he wanted to get publicity for his organization. And Skokie was a place where there were just scores of Jews who had been in concentration camps. In spite of the activities and actions of many of the Jewish organizations urging the residents to stay in their homes, pull down their blinds, and let them march, it was obvious that they weren't going to do it. It was going to cause dissent and even violence, and that's what [the Nazis] wanted. What we thought would be the case actually turned out to be the case. In other words, they were given their permit to march, [Slaps desk] and they never marched, because they had gotten all the publicity, and they went to Chicago to do it.

Now, it's one thing to march in the streets, and the other thing is to march with Nazi uniforms, and with all the things that they did. Well, I didn't think that that was a good idea. I thought that the local branch of the American Civil Liberties Union was mistaken, and I thought it would do them a lot of harm. Now, the American Civil Liberties Union nationally and locally has more cases than they can handle. They have to be selective. They could have established the right to march with an organization that wasn't so offensive. And this way they did it, and it not only cost them thousands of members, I think they must have lost several millions of dollars as a result of it. And what did they accomplish? These people were using them.

RH: You talked about your policy of contributing to organizations. This has been actually a formal policy of tithing that you've had. Would you care to say a little bit more about the percentage?

SOLOMON: Yes. For many years, I've been contributing a minimum of ten percent of my income [to charity]. And I didn't do it only to a church or to a synagogue, but my total contributions. And I've exceeded that for many, many years. In the last few years, I have contributed around 15 percent of my income, because my income has gone up, and I have been able to do it.

But I have another principle, and that is, I don't give more than a nominal amount to any organization unless I'm active in that organization or unless I've been honored in some way, because well, I think I ought to know what's going on.

Now I make certain exceptions. I don't have that [rule] as far as the United Good Neighbor Fund in Portland and Multnomah County, I give them a substantial amount. The same thing is true with the Jewish Federation (that's the United Good Neighbor Fund as far as Jewish organizations are concerned). And at Reed College. I've been active there for many years so I give them between \$1,000 and \$5,000 a year. [Reed also gave me an honorary degree.] Portland State College gave me an honorary something³⁷ over there, and I've given them as much as \$5,000 after that, and I've given them between \$500 and \$1,000 a year. I have been on the executive board at Columbia University, and I usually give them between \$300 and \$500 a year. But some of the organizations, I don't give them that much money. I give them \$100, sometimes \$50. I give [to] organizations like Mental Health, I believe in that, and give them \$50 or \$100, but not usually more than \$100.

RH: Is part of your financial and moral support for Jewish organizations related to your support of the State of Israel?

³⁷ The honor Solomon is referring to is the Distinguished Service Award.

SOLOMON: Yes. There's no question about that. I think a person ought to know who he is. And I was born a Jew. My father and mother were never very religious, and I'm not religious, but I belong to the Jewish people, and I think that they have made a real contribution to the world, and I won't turn my back on my people.

I think I told you that my father came from Romania. Now, I'm not [great?] with the Romanian government over there, but when I went to Romania I wanted to see where my father was born. I was told not to go there, and I didn't go there because I was told I couldn't see anything. But it was important for me to know something about my roots. That's why I feel the hurt that I experienced as a young man being for discriminated against before, because I was a Jew. I tried to do something about that.

I think I told you that I've always been friendly to that remark that President Kennedy said, that when we see an injustice, we have to do something or try to do something, and not just merely complain about it, and that one man can make a difference, and everyone should try. I've used that as my model long before I ever heard that remark of President Kennedy's. And not only as far as Jewish people are concerned, but as far as blacks are concerned, as far as women are concerned, and as far as poor people are concerned. That's been my views, and I think I have made certain contributions. As you know, there's a lot of people [who] have taken credit for some of the things that I'm responsible for, but, that didn't bother me.

RH: Well, you've probably given over a larger percentage of your life to your profession than the average person, just in terms of the amount of hours that you have worked. But I'm still interested to know, as we conclude here, a little something about the quality of your family life and the sorts of activities and interests you've shared with your wife and your family.

SOLOMON: Well, I think that I have neglected my family, and particularly my sons. When you become a judge, you lead a sort of isolated life. You can't fraternize with lawyers. For

many years I didn't fraternize with the judges because the judges that were on the court had different views than mine and different attitudes. I couldn't go certain places because of my own restrictions, as far as people who belong to country clubs, and university clubs, and things like that kind, we didn't go to those places. But even if I had, there are restrictions not only among the lawyers, but among laymen. In addition to which, I didn't have the time to go there.

Now, I used to work seven days a week, and I have, all the time. I came down Saturday mornings, and I worked usually until about 12:00, sometimes a little later. On Sundays I used to come down – early times, I used to take my kids to Sunday school at 9:00 or 9:30, and then come down here then pick them up at noontime. I did that for many, many years. In fact, on Saturdays, I used to hold court here. Every Saturday, I would open court. I opened the court because I had business, and because the man who was the crier would only get paid on the days on that he opened court, so I'd come down and open court so he could get paid. That was the time the clerk's office was open on Saturday.

I didn't go on a vacation for about four years after I was appointed. At that time, Judge Fee, who was the Chief [Judge], he just insisted that I go, and I went down to Gearhart a stayed there a month in summer. And from that time on, I have gone [on vacation], and I have taken trips with my wife, and we have gone to Europe, and Israel, and Hong Kong and various places.

But I have found it very interesting to go to other cities. Now, I have held court in New York City on a number of occasions. We have a lot of friends there, so it's not merely work, but I have the opportunity to meet people. The same is true with Los Angeles, and San Francisco, and Seattle, and Hawaii, and Florida. We have friends in every one of those cities. It's been very good. I have enjoyed my work on the court. One of the reasons why I've enjoyed it so much is, it's given me the opportunity to meet so many people.

You'll find that most judges are decent people, and more interesting people, as far as I'm concerned, than many others. And [going to other cities] has given me the

opportunity to renew acquaintances and make new acquaintances all around the country. It's been a very enjoyable experience for me. I wouldn't trade my life as a judge for any type of other experience that I could've had.

[End of Tape 14, Side 1]

Tape 14, Side 2
1984 October 18

RH: This is an interview with Judge Gus Solomon. Tape 14, Side 2; October 18th, 1984.

[Tape stops]

On your visiting judicial appointments, would your wife usually accompany you?

SOLOMON: Yes, she did. She did when I would go for more than two or three days. For example, when I went to Boise for a couple of days, or Seattle, she wouldn't go with me. But when I went to Los Angeles or to New York or to Boston, she would always go with me. It was expensive because the government doesn't pay for her travel expenses. I know it cost me around \$5,000 a year usually, but it was good for her and good for me, particularly after my boys were away at school.

RH: What was done with the children before they were away to school, when you went away?

SOLOMON: When I went to Hawaii, for example, we had a housekeeper there, and she lived at the house, and was there for a couple of months. We always had someone in the house. And then friends of mine and family would go over and see them from time to time.

I think it would've been better had I been able to be with my children more, because they never traveled with us except one time when we were in New York. School was ending in about May or June, and they came to New York and stayed with me for about ten days or two weeks. They had a great time in New York. My [oldest] son was at Harvard and he came down. And then we drove back to Portland. I bought a car in New York, and we drove to Portland, which was a good experience for them and for me. [We

had stops in Washington, D.C., Chicago, Des Moines, Salt Lake, Reno and Los Angeles. We had friends in each of those places, and we ended up in Los Angeles during the Democratic National Convention when President Kennedy was nominated.]

RH: Did your children attend the public schools here in Portland?

SOLOMON: Yes. My children attended the public schools and the private schools. They went to the Catlin [School] for a while. I think two of my boys graduated from there in the grade school, and one of my boys went one year to the high school [at Catlin], but mainly [they were] in the public schools.

RH: I wonder if you'd name your children for me?

SOLOMON: My oldest boy is named Gerald. He's about 43 years old. Then I have a boy by the name of Phillip, and he's about 41. The youngest son is Richard [who is 38], and he's here, and I think you met him. He's an accountant. All of my children have been married. Unfortunately, two of them are divorced. My middle son has two children, two girls. One of them is about thirteen and the other is eleven. They live in the Los Angeles area. I just got a letter from my granddaughter telling me that she's going to go to school in Japan this next year. I think it's with the Y.W.C.A. or something, [Y.W.C.A.] is having a group go over to Japan, and she's anxious to go. She is letting me know about it because I assume that I'm going to pay the bill. [Both laugh]

RH: What are the professions of Gerald and Phillip?

SOLOMON: Gerald doesn't work now because he's ill, but he's a computer expert and a statistician. Graduated from Harvard, and has a master's degree from University of Oregon. My middle son, Phil, is an accountant. He has a [bachelor's] degree from Oregon

and a master's degree from Oregon, too, and he's taught accounting. At the present time, he's a chief financial officer of a hospital.

My youngest son, who lives in Portland, is an accountant. He's been with some big firms, but about two or three years ago, he went out for himself. He will only take clients for their income tax work, and he also gives business advice and help. He has some wealthy clients, and in addition to the very wealthy clients, he represents a lot of lawyers and physicians, and a couple of real estate developers. He likes his work. He operates alone, and I'm constantly telling him he's got to get help, and I think finally he's going to hire another accountant to come in with him. He likes to be by himself, but it's too much for him.

RH: He's working too hard just like you did.

SOLOMON: Yeah, well he does. [RH laughs] And he was the one who told me some years ago, he thought that he wanted to work 20 hours a week. But he never did work only 20 hours a week, really. He started out at 30 hours a week, then 40 hours a week, then 50 hours a week, and now he's working around 60 hours a week. But he says he's going to give it up.

RH: Do you have any sort of regular family reunions at all?

SOLOMON: My son [Dick] comes over all the time, and my oldest son [Jerry] also is with us. He lives with my sister [who has an apartment in the same building we are in]. I see my middle son from time to time in Los Angeles. They come up here quite a bit. My sons and their families are friendly with each other. But as I told you, if I had it to do over again, I think I would've spent more time with my children when they were small.

RH: Well, Judge, I want to thank you heartily for participating in this. It's been an experience that I've enjoyed immensely.

SOLOMON: Well, I have too. The only thing is, as I've told you many times, I can't imagine anyone else being interested in much of the statements that I've made here today [Laughs] or at any time.

RH: Well, I'm confident that they will be.

SOLOMON: OK.

[End of Tape 14, Side 2]

[End of Interview]