Helen J. Frye

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Tape 1, Side 1

2002 January 9

CH: This is an interview with U.S. District Court Judge, Helen Jackson Frye, at the Mark O. Hatfield Federal Courthouse in downtown Portland, Oregon. The interviewer for the Oregon Historical Society is Clark Hansen. The date is January 9, 2002, and this is tape one, side one.

Before going into your family's background – how far back on either side of your family can you remember, in terms of where they came from and how they got here?

FRYE: Okay. My maiden name is Jackson. On the Jackson side of the family, my grandfather was born in upper New York State. I believe he was Irish. I'm not sure. My grandmother, she was also born in New York state. And then they came across the United States, and they got some sort of a homestead in Klamath County and he was a farmer.

CH: What kind of farming did he do? Did he do farming before he came out? Did his family farm back in New York State?

FRYE: Yes, in very upper New York state, almost to the Canadian border.

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CH: Really? Do you know how his family got out here, how they traveled here?

FRYE: I think they came in a wagon train, to tell you the truth. I don't know how else they could have gotten here.

CH: When would that have been, approximately?

FRYE: I think it was somewhere in the last quarter of the 19th century, the late 1800s.

CH: And were you saying about them that at first, they sort of wandered out this direction?

FRYE: Out this direction? Yes, I believe they actually went down into California and then came to Klamath Falls, Klamath County, I should say.

CH: Was this the part of the family that actually had gone down to southern California first and tried to get land there before coming up to Klamath?

FRYE: I think possibly, yes.

CH: Were they hoping to be able to farm in part of the state as well?

FRYE: Right. They did.

CH: Do you have any idea why they came to the Klamath County area? It seems, and you talk about this in a previous oral history that Linda Brody did with you in 1981, it seems like Klamath County is a very cold, and somewhat inhospitable, area.

FRYE: [Laughs] It is very cold. All the land there is at least 4,000 feet. It's a cold place. It's very good for potato farming. That's one of the great products that they have there. And then also they have grain and alfalfa. They cart a lot of alfalfa – they used to anyway — that's been dried over to Medford, because Medford didn't have the kind of hay that they had, and they sold hay over in that area. They had the same thing that other farmers had, they had rabbits in cages and chickens in coops, and a dog barking here and there. [Both laugh]

CH: What was your grandfather and grandmother's name on that side of the family?

FRYE: His name was Leander Daniel Jackson, and her name was Sarah Louise Wyberg.

CH: And your father's name?

FRYE: My father's name was Earl Clifford Jackson.

CH: Did they have any particular religious orientation?

FRYE: I don't think they did. I don't remember that. I know that my Grandfather Jackson was, I would call him a "wild man." And he was more or less a tyrant in the family. He never beat anybody or anything like that, but he was very domineering. His wife just kind of went around the house hoping that he wasn't going to get mad at her. I remember that part of it. But as far as I was concerned, he was just perfect. He always thought I was wonderful, and actually saved my life. Didn't I say that in one other interview at some time?

He did. My stepfather,[1] who was a Christian Scientist, when I had a ruptured appendix. I would have been sick for about three of four days, remember that? And then my grandfather Jackson is the one who came and said, "I am taking her to the hospital."

[1] When Helen Frye was approximately eight or nine years old, her mother returned from the tuberculosis hospital. When she returned, she had a new husband.

And just grabbed me, and took me to the hospital and really, saved my life, because my appendix had been ruptured for several days by that time. And then the bad part, I think maybe I told you this too, that ultimately, he died in the Oregon State Mental Hospital.

CH: Your grandfather or your stepfather?

FRYE: He lived to be very old and his wife couldn't handle him. She didn't know what he was going to do. He would get up in the middle of the night and light candles and things like that. It was very dangerous and she was a nervous wreck. And so, some of his kids took him, and he died at the Oregon State Hospital.

CH: Where was that located?

FRYE: That was in Salem.

CH: Was that what became Dammasch Hospital?

FRYE: You know, I'm not sure. Is the Oregon State Hospital Dammasch?[2]

CH: Well, they did have a state mental institution there, as I recall.

FRYE: Well, that's where he was. It sounds terrible. I think if they had been wealthy people, they could have done something else besides that. But they weren't. And that's where he died.

CH: This is all on your father's side.

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[2] The Oregon State Hospital opened in 1883 in Salem, Oregon. At its peak in 1958, the OSH housed an average daily population of 3,545. Numbers declined dramatically in the following years with de-institutionalization and the opening of other state hospitals – Columbia Park, The Dalles, 1959, and Dammasch State Hospital, Wilsonville, 1961. "Oregon State Hospital" Web Site, http://omhs.mhd.hr.state.or.us/osh/, Accessed August 20, 2002.

FRYE: This is all on my father's side, yes.

CH: And everybody on that side of the family, as far as you know, they were involved with agriculture?

FRYE: Agriculture, [yes].

CH: Were there other relatives in the area? Aunts, uncles?

FRYE: Oh yeah, [yes]. My Grandfather Jackson had two daughters, and he had four or five — I can't think of them right now, but I have their names somewhere — who worked with him. But he was a complete tyrant. He was not a person that, he was so domineering in the household, his wife, I can remember seeing her. She actually kind of went like this and this, and kind of like this. And she was actually afraid of him. But I never, I never saw him — He was just as good as gold to me. But she was afraid. It was a funny situation; it wasn't like my other grandparents.

CH: So, that must have been a difficult situation for the family then, to go through that.

FRYE: Yeah, I'm sure it was.

CH: And, then what about on your mother' side?

FRYE: Okay, on my mother's side of the family, now they're the ones that took care of me after my dad died and my mother went to the tuberculosis hospital. And my grandmother was as English as you could get. I mean she would definitely not approve of me wearing these pants down here. [Both laugh]

She had more rules about what I could do and what I couldn't do, and how my dress was supposed to be and my hair. If I ever had skirts, and got them up to here even, she'd tell me how horrible that looked. But she was really loving, and I had a lot of fun with her. But she had rules, boy! [Laughs]

CH: And your grandfather on your mother's side?

FRYE: He was the one that came across in a wagon train, and he was a wonderful guy, too. I used to sit in his lap and rock when he was listening to the radio. So, even though my childhood was fractured – my mother went to the hospital and my dad died, I had very loving and caring grandparents.

CH: Now your grandparents on your mother's side, you said that he had come out in a covered wagon. Do you know when that would have been?

FRYE: You know, I have some of this stuff written down. I've done some genealogical research on this.

CH: I think I have here from that previous oral history that he had been born in Illinois and came to Klamath County around 1900.

FRYE: That's probably about right. And he got a homestead grant.

CH: And, as you were growing up. Of course, you ended up living with your maternal grandparents, is that right?

FRYE: Right, [yes].

CH: Was there much interaction between the two sets of families?

FRYE: There wasn't much because there was at least 30 miles difference between them, and maybe they had some rattletrap cars or something like that, but it was difficult.

CH: Did you hear anything, actually, from the other side of the family, actually about the journey, getting here.

FRYE: How they got here.

CH: How they got here and what the journey was like. Did you hear any childhood stories?

FRYE: Well, my granddad was not — he liked to listen to the radio, and do stuff like that, and I wasn't smart enough to ask questions about that. My grandmother, though, with those sisters she had, they'd get together and talk about things about what had happened in their lives and this and that. So, I knew more about them.

CH: Did your maternal grandparents have any religious orientation?

FRYE: They didn't that I know of. Now my paternal grandfather; since we last talked, I found out that he was Presbyterian, which kind of makes sense, because I think that is the Scottish church.

CH: And what about the education levels of your grandparents?

FRYE: Okay. That's real interesting. My grandmother, she knew how to read and write, and she spoke good English. Now, my grandfather, he knew how to read too. I never did see him write anything. His main recreation was listening to the radio. [Laughs]

CH: This was on the maternal side.

FRYE: Yeah, the maternal side.

CH: Do you recall him listening to any particular radio programs or?

FRYE: Well, the main thing was the news. I mean, if the news came on, everything in the whole house stopped, because he wanted to hear what the news was.

CH: Did they have any other access to news? Newspapers, or?

FRYE: I just can't remember anything that would be like *The Oregonian* or the Eugene *Register-Guard* or anything like that. I don't remember it while I was living there. I am sure that it eventually came around, but…

CH: Was this in town?

FRYE: No, this was in Malin, which is about 30 miles southeast of Klamath Falls.

CH: That must have been fairly close to the California border then.

FRYE: Yes, very close to the California border.

CH: What town did your family usually go in and out of, shopping?

FRYE: Malin. That is a town made up of Scotch people and Czechoslovakians, German people.

CH: So that was actually a functioning town with stores…

FRYE: Oh yeah, stores and – my grandfather sold milk to the grocery store people, and eggs to them, and maybe potatoes, I'm not sure.

CH: How did the ethnic groups arrive in that particular area?

FRYE: You know, I don't know. Maybe there was some sort of uprising in Czechoslovakia, and they got on a boat, and came over here, and that's where they landed.

The Czechs and the Scotch were the ones that were there.

CH: Somebody settled in the area, and then their relatives and their friends and so on, just kind of followed them.

FRYE: [Yes], right.

CH: Were they all involved in farming, or were there other types of enterprises in that community?

FRYE: Let's see. Most of the Scotch people had the farms, and the Czechs were the ones that had the grocery stores, and they bought the eggs and the potatoes, and had other things that you needed from a grocery store.

CH: And, how about your parents then, what kind of background did they have besides what you've already told me about your grandparents in terms of their education?

FRYE: My mother was a smart woman. She graduated from Malin High School, and she was a valedictorian of her class. My dad graduated from Henley High School, which is up the road toward Klamath Falls. He graduated from high school. I don't know whether he

was academically inclined or not, but I'm pretty sure that they both, that they all spoke pretty good English.

CH: And your father's training, or?

FRYE: You know, he graduated from Henley High School; and I even remember Henley, because it's a little town in Klamath County that has had great athletes. [Laughs] And he went to Henley High School, and he was a farmer.

I think they had more diversification than my mother's parents. They were really farmers, that's what they did. But my Jackson family people, I'm not exactly sure, they did some farming, but I'm not exactly sure what else they might have done.

CH: Do you know how your parents ended up meeting?

FRYE: Yes, they went to a dance. They met at a dance hall, someplace. [Laughs]

CH: Could you describe the homes that you lived in, what they were like?

FRYE: Yes, I can describe them. I can almost see them, in fact. They were well-built homes. They weren't huge homes or anything like that. They had furniture in them. Each one of them had a rocking chair for the man, and they had a kitchen, and they had a table. Maybe I don't understand how it goes on today – but it seems to me that families today, that someone grabs a hamburger and comes in and says, "I'm not eating tonight." Instead of sitting down. They all sat down. They did sit down and have dinner. And it was hard on the children, it was hard on me, because I was a fast eater and a fast mover, and I didn't want to sit there and listen to it all. [Both laugh]

CH: Would they celebrate traditional holidays?

FRYE: Yes, they did.

CH: And your parents then, when they married, where did they settle? Where did they first live?

FRYE: They first lived in Malin, in a house that my Grandfather Kirkpatrick and somebody else built, which was close to right where he lived.

CH: So, it was close to his family.

FRYE: Yes, he was close to her family.

CH: Do you know when they were married?

FRYE: My mother was born in 1910, and I was born in 1930, and so…

CH: And your father was born when?

FRYE: I'm not sure, I think he was about four years older than she was.

CH: My question was, in terms of the place where they lived, how they made their home, what your mother was doing. Did she stay at home, and did your father continue to work in agriculture?

FRYE: Yes. He worked in the potato fields in Malin when they got married, and they had a house. They built some sort of a house. The community came and built them a house, which is what they did in those days. But my dad – this is the story that my mother told me – was that my dad wasn't careful about taking care of how cold it was outside. And so, what happened with him was, he went outside without his shoes on, and irrigated potatoes,

and got pneumonia, and died within four days. And then, of course, every time that my brother and I wanted to go barefoot, they wouldn't let us. They made us wear our shoes. I can remember that part!

CH: I believe that you said that your father died in 1934 when you were about three years old.

FRYE: Yes, right.

CH: Do you recall that?

FRYE: You know, I do have some memories of my mother crying a lot. But I don't remember myself crying a lot. I must have, but maybe my grandparents kind of protected me and took care of me, I don't know.

CH: Did they have any particular religious beliefs or philosophical beliefs?

FRYE: My grandmother had a lot of beliefs. She had cleanliness before godliness. Cleanliness is next to godliness. She had more rules for me than you can shake a stick at. Most of the time I complied with them, but occasionally it was hard for me to.

CH: When your father died, was it at that point that you moved in with your grandparents?

FRYE: Yes, that's when my mother and I and my little brother moved in with my grandparents. And then shortly thereafter, she came down with tuberculosis and my brother came down with tuberculosis. Both of them did. And she went to a tuberculosis hospital in The Dalles, and she was there for several years. While she was there, she met

her second husband who was from Bly, Oregon. Do you know where Bly is? Have you ever heard of it?

CH: Is that towards Lakeview from Klamath Falls?

FRYE: It's about halfway between Klamath Falls and Lakeview. And his family were cattle ranchers. So, they were both up there. That's how they met, and she married him, and then my brother and I were still living with our maternal grandparents. When she came back to Klamath Falls, my brother went to live with her and with the stepfather. And eventually, she and the stepfather moved to the suburbs of Klamath Falls. And about that time, I was in junior high or starting high school, and from that time on my whole life revolved around school, because my mother was sickly, my stepfather was a grouch, and he was sickly. My brother had TB and he operated by virtue of crutches, and he's still very handicapped.

CH: You were born in 1930.

FRYE: 1930. And my brother was born in 1932.

CH: 1932. And your birthday is on December 10th.

FRYE: Yes, December 10.

CH: And your brother was two years...

FRYE: Two years younger. His birthday was April 11.

CH: And was he born in the same place?

FRYE: Yes.

CH: Were you actually born in Malin?

FRYE: I'm not positive about that. I think there was the possibility that I was born in the Klamath Valley Hospital, but I'm not sure.

CH: But not at home.

FRYE: No, I wasn't born at home.

CH: And Malin is in Klamath County.

FRYE: Right. When you get to Klamath Falls, if you want to go to Malin, you go out of Klamath Falls as if you're going to Lakeview, and then instead of going to Lakeview, you keep right on that highway and you go down through the little town of Merrill, and then you go down and you get into Malin. It's a little town also.

CH: And how far is the California border past that?

FRYE: About three miles.

CH: Three miles. Wow. I believe that Harry [Dolan] Boivin came from that area.

FRYE: Yep, he did.

CH: I remember him talking about, in fact I think he was DA or something like that for a while and he had some kind of an official position and was going between that area and Northern California, and he would talk about trying to catch the bootleggers back there. I think maybe in the 1930s or even before. [FRYE laughs]

It sounded like pretty rough country. Did you think of it as rough country?

FRYE: Klamath? Well, I thought it was just fine, but I've heard that other people have thought it was kind of wild and crazy. See, one of the other factors in Klamath life that I kind of forgot was the Indians. See the Klamath Indians are right north of Klamath Falls, and they have a reservation and it goes quite a ways.

Well, when I was in high school, I loved, and I still love, my favorite recreation is ball room dancing. And when I was a teenager, I got to go – I caught the bus and went to the Klamath Falls Armory where they had dances and so forth. The Indians, and I don't mean to malign them, but they had them segregated, so the Indians were in one corner and the high school kids were in one corner, and the towns people, the adults were in another corner. And I can't remember who was in the fourth corner.

CH: The Czechs?

FRYE: The Czechs maybe. [Both laugh] Anyway, it was quite a place.

CH: Was it a segregation by rule or just by wanting to associate with your own?

FRYE: I don't think there were any rules, but it felt uncomfortable if you got into one of the corners where you didn't belong. And I think that if you were a high school student, they made you go to one corner. That's where you're to go. So, we didn't complain because we were just happy to be there.

CH: What were the dances like?

FRYE: Oh, they were just great. There were jitterbugs, and all kinds, a lot of jitterbug dancing and swing dancing and waltzes, and everything.

CH: It doesn't sound like something your grandmother would have approved of.

FRYE: She might not have. [Both laugh]

CH: Did she know you were going to the dances?

FRYE: Well, by that time, by the time I was in high school, she didn't know too much about what I was doing. On the other hand, I wasn't doing every much either.

CH: Did you ever dance with an Indian?

FRYE: No. No, they kept the high school kids and the Indians separate.

CH: Who kept them separate?

FRYE: The people who managed the ballroom.

CH: Was the ballroom managed privately?

FRYE: I think it was privately managed. And when you came in there, you fell into one corner or the other.

CH: What kind of criticism would you have received if you would have gone over to the corner where the Indians were? Would they have just asked you to leave?

FRYE: I think that they would have said, because I would have been a high school student, they would have said, "You're not supposed to be over here. You're supposed to be over in the other corner."

There weren't any fights that went on that I know of, but there was some drinking. There wasn't any drinking in the building, they had to go out to the car. So, a lot of people coming and going all the time. [Laughs]

CH: And you were a teenager then.

FRYE: I was a teenager, yeah.

CH: Well, to go back to the point when, about the time when your father died of pneumonia, at that point were they a member of a church, did they have any religious community?

FRYE: No, I don't believe they did. They lived in a Scottish community. There was a Presbyterian church there. I was married in the Presbyterian church to my first husband. But, that's about it.

CH: Do you remember your father's funeral?

FRYE: No, I don't.

CH: And, when your mother contracted tuberculosis, what did tuberculosis mean back then? I mean, very few people get tuberculosis now, and when they do, there's a lot of modern treatment.

FRYE: Well, then when you got tuberculosis, you had to go someplace. I mean they didn't come and lock your doors and so forth, but you were supposed to not mingle, and not to cause other people to get tuberculosis.

CH: Quarantine?

FRYE: Something like a quarantine, although nobody came to the door and put a rope around your house. But also, my mother needed to have something done, in other words, in order to get well, she had to do something that was not available in Klamath County, and that they did have that tuberculosis hospital in The Dalles.

CH: That was the nearest place that they could go.

FRYE: Yes, right.

CH: I would think that maybe on the west side that there would be, maybe Medford or…

[End of Tape 1, Side 1]

Tape 1, Side 2

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CH: About when she went to The Dalles, and that would have been in 1934 as well?

FRYE: About that, [yes].

CH: And you had a family car, and you drove up in that.

FRYE: Some kind of a car, yes. I don't know exactly whose car it was. I can't remember that part of it.

CH: Did your grandparents have a car?

FRYE: Yes, they had a car.

CH: Did they have other kinds of equipment, farm equipment and…

FRYE: Yeah. They had a tractor. They had some horses there that did things. They milked cows. They had some sheep, and they had some pigs. Ooh, I hated those pigs. And my grandmother told me to stay away from them. She said pigs could be mean to you. So I was always kind of afraid of them.

They had everything. Chickens, and…

CH: Was there a choice as to whether you went to a TB hospital, sanitarium, or stayed by yourself. Did you have to go to the hospital?

FRYE: You know I think that there was a lot of pressure put on people who had tuberculosis to go to a tuberculosis hospital.

CH: Did they know how it was spread at the time?

FRYE: Yes, they knew it was contagious. They definitely did, and you know, as I said, my brother got tuberculosis in his hip. But fortunately, I didn't get anything. I was the lucky one.

CH: And your grandparents too, the rest of your family?

FRYE: Nobody else in the family.

CH: What was the nature of public health in that time in that era?

FRYE: Public health was on to tuberculosis. They wanted to help people who got tuberculosis, and they wanted to put a lot of pressure on people who had it, to go to hospitals and get over it. Now, what I can't remember is how long my mother was gone. Those were pretty good years in my life when my mother was gone. [Laughs]

CH: Why?

FRYE: Well, because I really got along well with my grandparents, and then I was going to school. And I really loved my grandmother especially, but my grandfather also. So, I actually was a happy person all that time. It was when she came back that I wasn't very happy, because she got that husband that I didn't like.

CH: Oh yes. And had your parents been ill at all leading up to their sicknesses.

FRYE: My dad died, well what they told me is that he took his shoes off and it was cold. And Klamath County is a cold county in the spring, and he walked around in the irrigation canals, and got a cold, and then got pneumonia and died. And it was within a short period of time.

CH: Being back in the Great Depression, were there a lot of people suffering as a result of the Depression?

FRYE: Well, this is the way it was. The people who had farms, like my grandparents, I don't remember suffering at all. I remember only good things with them. I got to listen to the radio and rock in my granddad's lap, and they took me every place they went, and they were as good as gold. I can't even remember them yelling at me.

No, I do remember my granddad said, "Get out there and help your grandma with the dishes." [Both laugh] That was it.

CH: And your mother, when she was gone. How successful were they at treating tuberculosis at the time? I mean, did they feel by the time that she left, that she'd been completely recovered?

FRYE: You know, that's kind of a fuzzy thing in my memory. I know that she had to go have her sputum tested, to see if she had tuberculosis bacillus or something. But I think that they couldn't force you to do anything. But she did do that, I remember that part of it.

CH: How were they treated for tuberculosis?

FRYE: I don't know what they did up there in the hospital. Bed rest was basically what she had to do. And it was really boring to be with her, because, you know, I was an active young person, and she'd always have to take a nap. And then I had to be quiet. [Laughs] I couldn't have friends over, and it was hard on me, really.

CH: Did tuberculosis normally have lasting effects on people, or did they either get better or worse?

FRYE: Well, that's a question that I don't think that I can answer. I think my mother was well when they sent her out of the hospital up there. She behaved like she wasn't well for — I think she got a lot of benefits out of being sick. You know, and it's boring for some young person who's got a lot of energy to be around a person who is either truthfully sick or else just doesn't want you to make any noise.

CH: So, then by coming back, they probably had prescribed that she had to get regular rest.

FRYE: Right. Yes. And society, by that time, had caught on that tuberculosis was a very dangerous disease. And she had to go and give sputum, the test, at various times.

CH: How were they able to control it then?

FRYE: I don't know. Bed rest was the…

CH: Was there any kind of a medicine that kept people from getting it, inoculations?

FRYE: No, I don't think so. I think it was just bed rest and taking care of yourself and eating the right things. Although my mother never was a rowdy type of person. She never drank, she didn't do anything. She was actually kind of, this is bad to say, she was kind of a boring person in a way, because she had to take a nap here, and you had to be quiet there, and you couldn't have your friends over here. It was that kind of a thing. Which, you know, as an adult, I am ashamed of myself as a child. I ruined it. [Laughs]

CH: Now, you had said that it had a very traumatic impact on the family when your father died.

FRYE: Yeah.

CH: How did the extended family react to that?

FRYE: Well, my mother's side of the family, they reacted just perfectly. My grandmother just took my brother and me in. They used to listen to the radio with us, they were fun people. I can't ever remember them hitting or slapping me. They were just wonderful people. But, it wasn't too long after she went up there that my brother also landed in, I think that he went to Doernbecher's, I believe that he was there for a while.

CH: And he came back then, how long after that?

FRYE: I don't know. Maybe he was up there for three months or something. It wasn't a big, huge, extended period of time. But my brother is severely handicapped, because the tuberculosis just — I don't know how — it chewed up one of his hips. He walks with more than a limp. One leg is shorter than the other.

They have a dog. He lives in Klamath Falls in an apartment, and he does the best he can. I don't see him very often, but he's certainly not an anti-social person.

CH: And your school experiences there in Malin, what were they like?

FRYE: They were just wonderful.

CH: How do the rural schools in that area, from your understanding, compare to the schools in urban areas?

FRYE: This one was just great. I mean, I learned to read and started in on writing and had teachers I loved, and it was just wonderful.

CH: What was the school like? How many students were there, how many grades, and so on?

FRYE: Okay. They had a regular 12 grades, because my uncle who took me back and forth with him when he got old enough to drive, he was going to school there.

CH: Twelve grades in one building?

FRYE: No, they had two buildings. The high school was separate from the grade school. He got a good education. He's a farmer, but he speaks and writes well.

CH: Did you consider yourself to be fairly self-sufficient as a student? Did you need any special attention from teachers?

FRYE: No.

CH: Were there other students around you that did need the special attention, and did they get it?

FRYE: Let me think about that a little bit. See, the thing about a child like me, I think. I had to do it on my own, more or less. In other words, there were other kids that needed the help of teachers. And when you're a child, you don't say to yourself, now that kid really needs the help of the teacher. You just kind of sit there and think, well, you know, I wish he'd come by and look at my work sometime, you're selfish. So, I had some of that, but other than that I got along fine.

CH: Was it one teacher per grade?

FRYE: [Yes]. You got everything in one teacher.

CH: Part of the reason I'm asking that, is later on in your life when you were teaching middle school, you talked about the difficulties of having to teach so many different things, and especially about the boys in middle school that were so wild and… It sounds like it was a hard way for you to have to teach. But it sounds like in this case, the teachers didn't have any other choice in what they did.

FRYE: That's right, they didn't. Yes. I mean I have a great deal of respect for teachers, especially of younger children.

CH: Were there unique situations about the way you grew up and the education that you had in this community that somehow distinguished you from people who grew up in other areas or in urban areas? Some understanding you have of certain things that these other people didn't have.

FRYE: Well, I don't know. My grandparents were very, very tolerant people. I mean, in other words, if I started in on somebody or a group of people, which I can't remember ever doing either, they would have lit on me with all force.

CH: I remember in your other office we talked about some of the problems you had with the education system that you discovered later on. I'm wondering if, looking back on the education that you had, if you had ideas from those experiences that you would have like to have seen applied in these other areas?

FRYE: Yes, I think possibly that I have changed my mind a little bit. I'm much more tolerant of teachers and their plight in schools. You know, because I thought that if every teacher was going to be the way I was going to be, they'd have perfect kids coming out of there with perfect knowledge. But I definitely changed my mind. And I think that the burden of

teachers is a heavy one, and I sometimes wonder how they manage. So, I'm much more tolerant.

CH: You had also said that, by the time that the early 1960s came along, that you had found that students had become more unruly, and that teaching was a much more difficult profession.

FRYE: Right. It was, very much more.

CH: What do you attribute the changes to, in society, that students were getting more undisciplined and rambunctious?

FRYE: Well, our society has kind of said, well, it's because moms left the homes, and went out and got jobs. I don't know whether that's true or not. I don't think it is, because there are a lot of kids that go home, with both parents still at work. The mom comes home at five, the daddy at five-thirty, and they're just good kids and do everything. So, I don't know. I think it just depends on the family and the child.

CH: I think you were involved in a lot of different activities, it seemed like, from what I've been reading, that there were many things you liked to do, that you liked to read as well. And I was wondering whether a particular activity was appealing to you, a subject in school that you particularly liked?

FRYE: Yes, I liked English literature. That was my major when I was in college. And I liked history, history and literature. And I've always liked music and dancing, things like that.

CH: Did you play an instrument?

FRYE: I played piano. That was the one thing my mother. I told you she was an accomplished pianist, and I didn't become as accomplished as she, but I played the piano. But the thing that eventually evolved was they always had to take me, everybody had to take me whenever they went anyplace, because there was no such thing as a babysitter. And so, what happened was that I got into dancing. I got to go to the dances, and then there was the time with my grandma, "Hey, come dance with me, please."

CH: How old were you when you started that?

FRYE: I don't know, like 10 or something like that. And so then she would go and get somebody to dance with me. But what's happened is that, actually, ballroom is my big recreational interest now.

CH: Really, so do you ballroom dance? Where?

FRYE: At the Elks clubs, they have ballroom dancing. And there is a Sesame Club, it's a club over on the Eastside that has dancing. And what else. Anyway, that's what I do for recreation now.

CH: Do you still have somebody finding people to dance with you? [Both laugh]

FRYE: I have a man that I go dancing with. And he's a really good dancer. I have a lot of fun dancing.

CH: I was wondering from having heard about some of the difficulties that you went through as a child, and both your parents being gone. You mentioned in the other oral history that you became so absorbed in school, and I was wondering whether all of these activities that you were involved with, if this was an extension of that, if you just wanted to be involved in something to get away from all this other.

FRYE: Right. I had a lot of activities and did a lot of things in school, and I attribute what successes I've had in life, a lot to the teachers I've had. It's funny, because I didn't have any kind of awful experiences, and if I started to get out of hand, there was somebody around there to get me back in.

CH: You had said that the experience of your father dying and your mother leaving, that that shattered your family.

FRYE: Yeah, it did.

CH: It was a terrible disaster. And that even at several points you were left alone for a while. You were basically cleaning the house and taking care of your brother. And cooking.

FRYE: Right. That's true.

CH: How long of a period would that be when you were by yourself, and how old were you at the time?

FRYE: Well, let's see, I was probably like 12 or 13 or 14. He was hard to manage, though. Maybe in the other interview, I didn't say that. He didn't like his sister telling him what to do, even though what I said for him to do was in his best interest. He didn't like it, and so it was a hard situation for me.

CH: Was it weeks or months that?

FRYE: That went by? Well, it was over a period of several months. But we had relatives that came by, you know. They came by, but my brother and I just basically lived there.

CH: But your other relatives knew what the situation was.

FRYE: Yes, they knew what the situation was. And I didn't want to go and live with any of them, because I liked the school and I had my friends there and everything. And while my brother was difficult to deal at times, he was okay.

CH: So, at this point, this was in Klamath Falls, the high school in Klamath Falls. And your family had moved there, and there was just one high school.

FRYE: Yes, Klamath Union High School.

CH: By that point, did you have any understanding or feeling as to what you wanted to do when you were an adult in your career, or? Did you want to be a homemaker, or did you want to be a?

FRYE: I never considered being a homemaker. [Laughs]

CH: Why?

FRYE: I don't know. I just wanted to get out in the world. I would say that. And, so I was always dwelling on, first I was always dwelling on being a schoolteacher. I liked that, and that's what I did, in fact, when I got out of college. But, I didn't, you know this is terrible to say this too, but I didn't like dealing with that age children. If I'd gone maybe in primary or something, I might have liked it better.

CH: Those are middle school kids that you're talking about?

FRYE: Yes, junior high, they're the worst.

CH: Coming from a small town like this, and I did. I mean people would want to come back and stay in their small town. You went off to Eugene to the University of Oregon. Did you have any intention, after you got your degree in education, to come back to Klamath Falls?

FRYE: Well, see, by that time I had married. And my husband was in the same class I was, and he wanted to stay there and be in Eugene.

CH: But when you were in high school, though, and you were thinking about being a teacher and going off to college. At that point, did you consider spending your life in Klamath Falls?

FRYE: No. I didn't.

CH: Was that unusual?

FRYE: I don't know whether that's unusual or not. I think there are quite a few people who leave hometowns and still love their parents and their families and so forth, but they get used to another place. And then that's where they want to be. And I really didn't want to go back to Klamath Falls. I fell totally in love with Eugene.

This granddaughter that I've raised, is a junior down there, that I've mentioned to you. And so I've been kind of listening to see whether she was going to come up here to Portland to tell me, oh I just love Eugene. She didn't. She said, "I love Portland a lot more than Eugene."

CH: They keep on moving to the next horizon.

FRYE: Yes.

CH: Do you still have a lot of family in Klamath Falls?

FRYE: Well, my brother lives down there. It's really funny because, well, you've probably followed this water thing. Where they weren't going to let any water out. I followed that. I can't believe it. I mean, I can relate so much, because there are canals all over Klamath County for irrigation, and they weren't going to let any water out. And it was to benefit fish in the lake. I went through quite a bit of agony when that was going on.

CH: Do you remember the canals in the area as you were growing up?

FRYE: Oh, yeah. They definitely had canals. The canals ran right through my grandparent's property. You know when I was living with them, after my dad died and my mother went to TB hospital. They were all through my grandparent's farm. And what they would do, there was a fellow they called the "ditch-rider." They'd go up and order so much water, and two days later the canal would be all filled up with water. They'd go out and open up whatever they had to open up, and the potatoes would get watered, and the grain would be watered and so forth. And this year, they just didn't give them any water. That was kind of a traumatic thing for me. I didn't say anything. I wasn't the one who was dealing with it. Mike Hogan in Eugene was. I felt really sorry for those farmers down there.

CH: Was the district a locally run and sponsored district, or did it have state or federal help at the time you were growing up?

FRYE: Oh, no. No, no, no. It was local, definitely, but there was no trouble getting water from Klamath Lake. They had reclamation project ditch-riders, they had guys that rode by on their horses and took orders for water.

CH: Did the farmers have to pay fees?

FRYE: No, they didn't pay for the water, that I know of. Maybe in taxes or something like that, they might have. But they didn't pay that I know of.

CH: Did they have organizations for these kinds of farmers that were different than say the normal type of grange organizations that represented farmers? Did they have any kind of organization?

FRYE: They didn't have any organization that I know of, of farmers. I mean, I've said to myself, I wouldn't have been able to sit on that case at all because I'm on the side of the farmers instead of the little fish. And Mike Hogan was the judge that presided in Eugene. But, there was no problem there. All the time I was there, all my grandfather did was just order up so many feet of water to come through the canal.

CH: What were your friends like? Close friends in high school?

FRYE: Oh, yes, I had a lot of good girlfriends.

CH: Do you keep in contact with any of them?

FRYE: Yes, and we've had some reunions.

CH: Did most of them stay down there or did they leave?

FRYE: Oh, a lot of them left, but a lot of them also stayed down there.

CH: You know, from having heard your experiences and read about them elsewhere – you hear a lot about children who were forced to have grownup responsibilities placed on their shoulders, as it were, and how maybe they were robbed of their childhood or

something like that. But, as a result, the burden that they carried caused them to suffer somewhat.

FRYE: Never.

CH: Do you feel benefited by it?

FRYE: Definitely. Well, you know, I think that kids a lot of times – maybe they have to, they're pinched in. The circumstances of my daily life were that I wasn't pinched in at all. And I mean I got on a bus and went downtown Klamath Falls and got in the armory and danced with any guy that asked me. [Laughs]

Then got out and got on a bus and went home again. I don't know, I think it's very good for people to have boundaries when they're growing up, and certainly when they're teenagers. But I think you can bind them up too much. It's hard. That's what makes parenting so difficult.

CH: Today we get hardships that we hear about or read about. Of course, you've been much more exposed to this, having been in juvenile court and then federal court. Are the hardships that children go through today different than the kind of hardships that they went through during your time?

FRYE: Well, that's going to be hard for me to answer because I haven't been dealing with children since I got here, that's one of the things that I don't deal with.

CH: But you were in juvenile court down in, was it Eugene?

FRYE: In Eugene. Yeah, definitely.

CH: That would have been in the 1960s.

FRYE: Yeah, that's true.

CH: Were they having different kinds of burdens, or did they have the same kinds of things to deal with that you did?

FRYE: Well, hmm. I worked out in the juvenile court too for quite a while, while I was a state court judge. I don't know whether the society itself is different or not. I think that there are more resources for families that are having real problems with their kids. But you know, I'm glad you asked me that. One of the problems is the parent themselves. They either don't know how to deal at all with the kid, and they are therefore, embarrassed. Here's comes society to help them out, and they become defensive: "I don't think my kid could have done that. That was somebody else's." Or, "If it hadn't been for this person over here, he wouldn't have done anything."

And they become defensive and they can't let society help them out.

CH: Is it just denial?

FRYE: It's embarrassment, denial. Especially the ego of the father. "That kid is not gonna to be — we'll just take care of it." Well, they're not taking care of it because they don't know how to take care of it.

[**End of Tape 1, Side 2**]

Tape 2, Side 1

2002 January 9

CH: This is an interview with Judge Helen Frye at the Mark O. Hatfield Courthouse in downtown Portland, Oregon. The interviewer for the Oregon Historical Society is Clark Hansen. The date is January 10, 2002, and this is tape two, side one.

You were talking about your environment in the Klamath Falls area and the farming community around it. What was the house, and what kind of neighborhood did you live in there? What was that like?

FRYE: The house was just a small house, and it was about three or four miles from the high school, Klamath Union High School. And as I said, both my mother and her husband were ill a lot of the times. I mean, they didn't get up in the morning. It was very hard on me. Here I was, a very energetic person, and they were dragging around the house in their bathrobes, and grouchy. It's really hard on kids who want to get up and go and do this and do that. But it wasn't their fault, so.

CH: And your brother was there too.

FRYE: And my brother, yes.

CH: He was not well either.

FRYE: He was not well either, no.

CH: The neighborhood, was it a regular middle-class neighborhood?

FRYE: [Yes].

CH: Right in the middle of town?

FRYE: It was out of town toward the airport. In other words, I had to ride a bus when I went to high school.

CH: Did you ever go on any trips with your parents or grandparents or friends outside the area?

FRYE: Well, as I might have mentioned to you, I went on a trip to see my mother when she was in The Dalles, in the hospital. Then I went on a trip with my brother, going over to the Doernbecher Hospital for his leg. But those were depressing trips. They weren't fun trips.

CH: Did you ever go into California at all?

FRYE: No.

CH: There wasn't anything close by in California anyway, was there?

FRYE: That's right. One of the really fun trips that I did have, though, was when I went to 4-H summer school. I believe that that was in Corvallis, I'm not sure. But I had a really good time going to that 4-H summer school.

CH: What did they do there?

FRYE: Well, there were all different kinds of things. They had 4-H classes in Klamath Falls – cooking classes for girls and all kinds of stuff like that. And they kind of duplicated that when you went, but they also had a lot of other fun things to do. So, that was one of the good times in my early adolescence.

Oh, here's another thing I forgot to tell you. Did I tell you about the calf I won?

CH: No.

FRYE: Well, Sears-Roebuck had this contest, and you could win a calf, but you had to write an essay and say why you wanted it. So, I won the essay contest, and then we didn't have any place to put it. [Laughs]

That was the first part. We didn't have any place to put it but the back yard. And that caused a problem because we didn't have a fence around the backyard. So, I kept it there. But, the other part about it was that this calf was supposed to reproduce. In other words, when it got so old, I was supposed to take it, and then the 4-H agent would get the appropriate male and then I'd have another calf. It would be my calf too. I didn't have to give it back to the 4-H people. Well, so they found the male. We took the calf over there. By this time, she was ready to conceive, and it didn't take. We took the calf over there three or four times; it never did take. And it turned out to be sold – actually this was really hard on me. I cried and cried about this. They actually sold it for beef. It was not a male. It was something in between. I never did figure it out. It was not a female because it couldn't conceive and, but on the other hand it wasn't a male. It was a weird situation. I never did figure it out. [Both laugh] Hermaphrodite calf.

CH: So that was a little bit of a heartbreaker for you.

FRYE: That was a tear-jerker for me. Here they came and got my calf, took it away, you know.

CH: Your parents were probably glad, though.

FRYE: Yeah, right.

CH: Was the cow getting into their gardens?

FRYE: Yes, it was getting hard to control. [Both laugh]

CH: You did pretty well as a student, grade-wise. And, as you were approaching the end of your high school education, you were thinking about going off to college.

FRYE: Right.

CH: Did you have to apply for scholarships and things like this?

FRYE: Yes, I did. If it hadn't been for scholarships from the Standard Oil Company, I would have had a hard time of it.

CH: What was the Standard Oil Company's scholarship?

FRYE: I can't tell you exactly what it was, but it practically covered everything. It was a wonderful scholarship.

CH: And, did you always intend to go to the University of Oregon in Eugene?

FRYE: Yes, I did. I'm a Duck fan, too, to this day.

CH: I remember the other interview said that you'd had some romantic notions of going places like Stanford or Yale or something like that. I think you were interested in going back East or something like that.

FRYE: Yes, I was thinking about that. But it was my son [Eric Max Frye] who ended up going back East.

CH: Oh, did he really?

FRYE: Yes, he did. He lives in New York City.

CH: Wow. Where does he go to school?

FRYE: No, he's grown up, he's got his own kids. But he always had a wanderlust, and it was really nerve wracking. But he left home. He and his dad didn't get along very well. He was kind of an artist, and he right now, he writes screenplays. And I think I told you that, and he takes other people's screen plays that they didn't know how to write, but they had really great ideas. [Laughs] And he makes them into movie material.

CH: And is he a private agent of his own, or?

FRYE: There's a union. He told me this not very long ago, that he belongs to a union of screenwriters.

CH: The Screenwriter's Guild, I think.

FRYE: Maybe that's what it is, the Screenwriter's Guild. So, he goes out to Hollywood every now and then.

CH: Has he had any of his screen plays made into movies?

FRYE: Yes, he's had some. The one that was the most popular was *Something Wild*. Do you remember that?

CH: Oh yeah, right. It might have even been *Something* – was something the first word?

FRYE: I think it's *Something Wild*. I mean I don't know; you know it was a few years ago. But what he does now. In fact, I just talked to him last night and he was on his way to Southern California. He said there are lots of people who have great ideas, just wonderful ideas, but they don't know how to get them into a two-hour script. And so that's what he does a lot of. He takes these scripts that are really good, and then has to re-do them so that they fit into the two-hour slot or whatever it is now.

CH: With commercials?

FRYE: Yes, commercials. [Laughs]

CH: So, then, when you went on then to college, what was your intent in terms of the kind of degree you were going to get and what you hoped to do with it?

FRYE: Okay, my goal was to be a schoolteacher. And I did become a schoolteacher. I got certified by the State of Oregon, and I taught for a while, and went back to Eugene. And then came the 1960s. And the 1960s in the public schools were really hideous years. Kids were wild as March hares, and unruly, and it was a terrible experience I had. So, I knew that I didn't want to do that. I thought it was something that went on all the time. I didn't know it was just the 1960s. And so, I decided that I would go to law school.

CH: You went to the University of Oregon in, was it 1949?

FRYE: Yes, 1949.

CH: And what kind of living situation did you have there?

FRYE: Well, I didn't have very much money at all. And I had some scholarship money. I lived in a women's — it was like a commune, where we did everything. The only thing we

didn't do was cook the evening meal. We had a woman that came in and cooked the evening meal. But we got up and we had house duties. We had girls that cleaned the house and the bathrooms, did everything except we did have the evening meal cooked by somebody who came in.

CH: Did you make friends during that period of time that you still keep in touch with?

FRYE: You know, I wish I could say yes. I don't have any. I mean, they scattered, they got married, they moved away. The only friend, which is really kind of a sad part of my life, that I have left over from my high school days, is my girlfriend from Klamath Falls. She went to Oregon State. But then she went back and lives in Klamath Falls.

CH: Oh. Do you go back out there?

FRYE: I have gone back down there, quite a few times from the time I graduated from high school. But, so many of my friends have moved, and you know, my mother died, and my brother still lives there. I've gone back to my reunions. Every time they have a reunion I go back.

CH: Really?

FRYE: Yes.

CH: And what has that experience been like for you?

FRYE: It's been wonderful really, that the people from the class that stayed there put on good show, they really do. They don't have very much money, so they tape songs from the era that we were there, and we dance to those, and they've done a good job really.

CH: How many are returning to those reunions?

FRYE: Quite a few of them. We've had a good turnout. We've lost some people. I mean some people have died, but some people have disappeared, we don't know where they are.

CH: You had mentioned that when you got to the University of Oregon that you had had in your life, some mentors, and one of the ones that you mentioned here was Ed [Edward C. A.] Lesch.

FRYE: Yes, Ed Lesch.

CH: How was he a mentor for you?

FRYE: I don't know. He seemed to kind of take an interest in me. I was going to major in English literature, and I did and that's what I taught when I taught school. But he was a real grouchy old guy, and I was afraid of him. But he didn't try to become a friend or anything like that, but he would try to tell me things that I could do better, to improve what I was doing. He helped me to get into Eugene High School, to be a teacher there. He had all kinds of ways that he helped me to improve myself and to know how to behave, and that kind of thing. I mean, it isn't as if I had bad behavior, but I mean, how do I act when I go in and apply to the Eugene School District, to teach school, that kind of thing.

CH: How do you form a relationship like that with someone that becomes a mentor? I would presume that it's a rather casual thing that just evolves.

FRYE: It is. It sort of evolves casually, and then you kind of find out that the relationship's beneficial to both of you. I mean Dean Hollis had no children – that was the dean of the law school. He had no children, and he was interested in me. I don't know why he was

interested in me, because I was one of the first women that came out of the law school. I mean there was someone 10 years behind me or something like that. He also thought that, he told me this, that he thought that I was going to law school because I wanted to get attention, that I didn't get enough attention from my husband. It really irritated me to have him say that to me. But…

CH: Did he base that on experiences you had with your husband or?

FRYE: I don't know, I don't think so. Because my husband was the type of person that wouldn't discuss anything like that. And I didn't have any problems with my husband. Anyway, he was, and then Ed Lesch in the English Department, was very helpful in my getting the teaching job I wanted when I graduated from the university.

CH: How do you think that that relationship benefited him? As it did with Hollis not having had any children.

FRYE: You mean how this might have benefited Ed Lesch?

CH: Yes.

FRYE: I think that he genuinely thought that I was, I mean I was a very good student. And he knew that I had majored in English literature, that I wanted to teach the English language and I wanted to teach English literature. And I don't know, I think that he understood that I was very sincere in this, and so he took it upon himself to give me good recommendations and I got hired.

CH: Did he actually guide you along that decision-making process? Did you have questions in terms of specific things that you wanted to do, or?

FRYE: Well, he did a lot of probing, because he didn't like to make recommendations for people that he thought might go belly up, or something like that. [Both laugh]

CH: Were there any other mentors that you had that you liked?

FRYE: Well, let's see. Those two, Dean Hollis and Ed Lesch were the two, but I've had others too. I've had other mentors, other people who have given me good advice. Who have told me how to apply to the school district. I think people need people. So that's what I do with the law clerks I have here. I try to teach them and show them things and pave the way for them going into the legal profession, or some other aspect of the law. They could go in and be counsel to a corporation, this kind of thing. I try to help them out that way too.

CH: Have you kept up relationships with some of these people then?

FRYE: Some of my law clerks? Yes. A lot of them move to different places, like, they go to California, to Montana, someplace like that. Yes, I try to keep up. They send me Christmas cards.

CH: And what about other people in your office? Your secretaries or your assistants.

FRYE: Mary Jo's been here. She was Judge Solomon's secretary. And then Patricia, she was the first clerk I hired, and she has been a superb clerk, and I hope she stays on. [CH laughs] I think she will.

CH: Has your mentoring experience with your clerks and these other people, has it been rewarding for you in ways?

FRYE: Oh yes, very much so.

CH: And you feel like you've made a substantial contribution to helping them?

FRYE: To helping them, and in so doing helping the legal profession, because just because you get out of law school doesn't mean you know exactly how to operate. And sometimes they start telling me what they're planning on doing and I say, "No, no, that isn't a good idea!" [Both laugh]

CH: Was part of your mentoring of specifically meant to help women who were trying to get into the legal profession and encountering perhaps, some of the difficulties that you had had, or to help them so they didn't have those difficulties?

FRYE: Yes. I think to a certain extent. I've had one man who was here, I mean one fellow who was my clerk. He was here for several years, and he was just a wonderful lawyer. Patricia kept track of him for a long time, and I think maybe she still does. But anyway, I hated to see him leave. That's one of the problems. You know, it's the problem of life in general. And it's that way with helping these people too, you just hate to see them leave.

CH: But in this case, you have Patricia who has been here for all these years and…

FRYE: Right.

CH: How many years has Mary Jo been here?

FRYE: She's been here for like 12 years or something like that.

CH: What do you think they'll do when you're, when you…

FRYE: When I'm not here? [Laughs]

CH: You're not here, you retire.

FRYE: Yes, I don't know. I can't. You know, I'm 71 years old, and it's going to be real hard on me when I finally decide to quit, because I could have quit when I was 65, you know, with my full pay. But I don't have that much outside life. My work has always been a big chunk of my life. I think it's that way with a lot of people. But, it's kind of scary for me to think about not working.

CH: You have your routines and your structure and the things that are stimulating for you that you can do here.

FRYE: Right. And it's always, you know, everything looks nice, they clean it every night, and I like to look at the cactus plants.

CH: During your college years, were you involved in various organizations and activities there?

FRYE: Yes.

CH: What kind of things were you involved in?

FRYE: The same thing I'm involved in now. Government! [Laughs]

I was president of the sophomore class and vice-president of the student body when I was a senior. And active in campus politics, that kind of thing.

CH: Did you think of yourself as, I know you had anticipated being an English literature teacher, perhaps. Did you consider going into politics when you were in college?

FRYE: Yes, yes I did. I was in politics. You know, I was elected, as I said, as vice-president of the student body and I'd been interested in government, student government and government in general.

CH: Did you think of running for public office after you left college?

FRYE: After I left college? No, I didn't. I was geared completely to teaching school, and that was one of the big disappointments in my life is how I didn't like it. And I didn't like the students. Good thing I got out!

CH: What would you say your political orientation was, by the time you were in college, or by the end of college?

FRYE: By the end of college, I was a wild-eyed Democrat. [Both laugh] Then after that, after I got through the wild-eyed Democrat thing, I registered as a Republican, and I kept track of the Republicans and I said, "I'm not a Republican either." So, I've been a registered Independent, which is very good for me, for being in the job I'm in.

CH: Of course, Eugene has that reputation for having wild-eyed students down there. I guess a lot of that stems from some of the things that have happened there later. Did it have that reputation even in the 1940s and the 1950s?

FRYE: Definitely, definitely it did.

CH: What were the kinds of issues of the day, on campus?

FRYE: On campus? Oh, it was just, you know, kind of petty little things. Oh they had causes, definitely. They still do down there. It's still the same kind of a school. I can't think of very much. You know, it's been a long time.

CH: So, you were down there, say for instance, during the Korean War period. There were the first signs of widespread disenchantment with the war at the time. Not as much as it was later on with Vietnam. But, did any of that show up in Eugene?

FRYE: I don't remember it very much. I don't remember that very much happening.

CH: What about environmental issues?

FRYE: Oh, ooh, yeah, big time with environmental stuff going on. When I was in college, there was some of it. Now, of course, it's just really.

CH: What kind of environmental issues would there have been during that time?

FRYE: Let's see, well, the Green movement was coming on. And you know, students a lot of times, they're looking for excitement, and if it shows up in any kind of a cause they jump on it. You don't even know if they really mean it or believe it. And I was that way to a certain extent. I mean I liked to get going on certain issues and things like that.

CH: I remember, Stub Stewart told me that during the 1950s that, even then there were a lot of people that were concerned about pollution in the Willamette River, and some steps were taken even in the legislature to try to improve that situation. Was that something that was an issue on campus at all, that you remember?

FRYE: I don't remember that. But the students down there. When you get all the students in the state coming, different ones, it's a heady atmosphere for someone like me from Klamath County, which didn't even think about things in terms of environment and so forth, and they immediately engage into that. I mean, they become knowledgeable, and they

take sides in it, and it becomes quite an issue. And it's fun, if you're interested in politics or interested in debate, or interested in the environment, it's fun.

CH: How did you meet your husband?

FRYE: I met him because we were both in student politics.

CH: And did you both hold office at the same time, or?

FRYE: Yes, we did. I was the president of the student body and he was the vice-president.

CH: In the same student body?

FRYE: Yes.

CH: Wow.

FRYE: That's how we met. Actually, I had noticed him. When you think about who's the predator, the female or the male. [Both laugh]

He was tall and good looking, and all that kind of thing, and I had never had any real boyfriends. I was more interested in my classes and academics and politics and so forth, and he was interested in politics too. That's how I met him. And then the other thing that we. So anyway, I was kind of an aggressor. We had a house dance at the house that I lived in and so I wanted to ask somebody to come. And so I decided to ask him, and he came. And it kind of went from there.

CH: Did you have any particular areas of interest academically, at the U of O that you excelled in, aside from English literature, that you were particularly fond of, or did well in?

FRYE: Well, I liked history. I still like history. I like history more than English literature now. But I tried to be a very good student in all of my classes, and I got very high grades.

CH: And your degree then, was a BA, a Bachelor of Arts.

FRYE: Right, it was a Bachelor of Arts.

CH: And your husband, Bill, graduated at the same time you did?

FRYE: Right.

CH: You married while you were in college.

FRYE: Right, we did. We married between our junior and senior years.

CH: Not very many students were doing that, were they?

FRYE: I don't think so. Not very many. He had the GI Bill from World War II, so he got -I can't remember how that worked. But somehow, he got paid, his tuition, or something. Then we both had jobs. We managed some student housing projects. We worked all the time.

CH: What was his family like?

FRYE: His family, his dad was a lawyer here in Portland, and alcohol got to him. And so Bill's mother divorced him, and I think that he died in the Oregon State Mental Hospital. I really do. Anyway, Bill was a highly energetic man, very intelligent, kind of domineering, well spoken, interesting, and he danced well, which was important to me! [Both laugh]

CH: You'd go out ballroom dancing?

FRYE: Oh yeah.

CH: Did you really?

FRYE: I still go ballroom dancing.

CH: Well, does, Bill's family also…

[End of Tape 2, Side 1]

Tape 2, Side 2

2002 January 16

CH: This is an interview with Judge Helen Frye at her chambers at the U.S. District Courthouse in downtown Portland, Oregon. The interviewer for the Oregon Historical Society is Clark Hansen. The date is January 16, 2002, and this is Tape 2, Side 2.

In our last session, we were talking about your getting married while you were still an undergraduate in school. The marriage itself – was there much of a ceremony?

FRYE: Yes, we were married in Klamath Falls, in August of 1952. And then we came right back up to Eugene and started school again, in September. And he had the GI Bill. And I don't know whether I had any scholarships that year or not. But we somehow got along. And we graduated. He graduated in journalism and I graduated in English, and I had to have some extra courses to be able to teach. And everything seemed to be going alright. And I got a job at Eugene High School. I think I mentioned that, which was, you know, Eugene was a powerful place, and Eugene High School was a very good school. And then I got pregnant, and I couldn't teach after I got pregnant. I mean I could teach as long as I didn't show, because they couldn't see that I was pregnant. So, I had to quit after a few months. So, then we had to figure out how to survive, and we managed this big housing project. There was a big married students housing project down there. And so we managed that, and Bill started law school, and I took people around and checked them in and out and did all that kind of stuff. It seems like I had some other jobs too. I can't remember everything I did.

Let's see, and then he graduated from law school, and got a job. This was in the 1960s when kids were wild every place, but in Eugene they were really wild. Eugene is a community that latches onto all kinds of political issues and goes really wild. It was when we lived there then. I loved it too! I like that. Anyway, but I didn't like the kids. I didn't want them being wild, and they were hard to control. So, after I taught for a few years. — I have to somehow resurrect how many years I taught. I taught three or four years. And then I said

I don't want to do this all the rest of my life, and besides that I got pregnant and they wouldn't let me teach while I was showing.

CH: What was their concern about that?

FRYE: I don't know. I mean it's such a complete – I mean here Eugene was, a very liberal community, and pregnancy and big-stomached women are part of life. But they somehow thought it wasn't appropriate. So anyway, if they'd said it's going to be very disruptive to the kids, because you have to be out for two months or something like that. But they didn't say that, they just had this rule. So, that just discouraged me a lot from teaching. And then those few years where my children were born fairly close together. I mean not really horribly close, but 1954, 1956, and 1960 were the years that my children were born. And it seemed like every time I got a job I had to quit. And I had a lot of disappointments, because I didn't want to go in and say to somebody, you know, I'm here and I really would like a job, but by the way, in four months I'm going to have a child and I'll to have to stay home for a few weeks. So, it was a time of kind of depression too, and I don't know. It was a hard time. That was the hardest time in my life, was that period of time.

CH: When you were talking about Bill getting a degree in journalism and then going off to graduate school, and well, to law school. Was he intent on becoming a lawyer from early on?

FRYE: No. His dad was a lawyer. But he wanted to be a journalist. He was really gung-ho into journalism and he was going to the be the type of person who would do all kinds of investigative journalism. He would have been a good investigative journalist. I can't remember exactly what the thing was that turned him into – oh, I know, I think I mentioned this before. He had one more year. He graduated in journalism, and he had one more year of the GI Bill, and he didn't want to waste it, so he enrolled in the law school, and then he became intoxicated with the law, is all I can say.

CH: So, when he took the year in law school, did he think that that was just going to supplement his journalism background?

FRYE: Yes, that's right. That's what we both thought. That just a year in law school was going to give him additional knowledge that would be beneficial to a journalist. [Laughs]

CH: Then when he went into law, and especially after the GI Bill ran out, then how did you support…

FRYE: Okay, by that time I got this job at Eugene High School. And this was, I can't remember the years, but I know it was a time when there was a lot of tumult in Eugene. Eugene loves to have tumult anyway. And so, that was a time when kids were kind of wild and rowdy, and I didn't like that. I had never liked that kind of a thing, and I guess it was because of my English grandmother wouldn't allow me to be wild. But I didn't like it in kids. And I taught for a couple years or three years, I don't remember how long.

CH: So that was enough for him to be able to get through law school? I see.

FRYE: Right, to get through law school. So, there I was then. My kids then were disruptive. I love my kids. Anyway, but in 1954 my son was born, in 1956 my daughter was born, and in 1960, my last child was born. And so I was always getting, my career was always getting off course because of this. Because the school system, as I'm pretty sure I mentioned, they wouldn't let anybody teach as long as they showed pregnant. And, you know, you can't be giving birth to children without people noticing it. Anyway, it just kind of left a nasty taste in my mouth.

CH: So, what kind of law did Bill get involved in then?

FRYE: He got involved with everything. He was a person of high energy and was really into it. And when he left the law school, he got a job in a private law firm, and let me see, then I can't quite remember how he decided to run for district attorney. The district attorney wasn't, he was controversial, let's put it that way. At that time, I thought he wasn't very good. But now I am saying he was controversial. And Bill decided to run against him, and he did, and he won. And so he became the district attorney in Eugene. And in the meantime, I was becoming more disgruntled with teaching school and having to deal with disrespectful adolescents, and it was the 1960s. So, I said, "I'd like to go to law school."

His reaction wasn't very good. He said, "Well, if you think you can go to law school and run this household and take care of these kids." And the other thing, he said, "Well, that's okay with me. You can go for a year." And so I did go for a year. And then he didn't like it, because I wasn't at home, and the house wasn't exactly the way it was when I was home. The kids, I mean they weren't a bunch of juvenile delinquents or anything, but you know, he wanted his dinner exactly at six o'clock. So anyway, I talked to the dean of the law school. I told him I was going to quit going to law school. I think Bill, although this didn't seem to be too much of an issue at the time, I think the bottom line, though, was money. He had to pay my tuition and my books, which comes to a lot of money. And we had to have help with the kids. Because, I had to work with my law work. Anyway, he didn't like it. We had a lot of marital problems at that time. So that's when I told the dean of the law school that I was going to be quitting at the end of the term. I can't remember which term it was. Because Bill said he wasn't going to pay the tuition.

And so I talked to the dean. And I didn't tell the dean, could he get me any kind of scholarship money. But I told him that I had to quit. So he asked me why, and things like that. Then he said that he could get me tuition because I was a good student. So he did, he got me a scholarship that paid for my books and tuition for the rest of the law school.

CH: That's amazing. Did you, I remember in a previous conversation that we had, that you said you would allow your husband the unilateral right to veto whether you continued on in law school after the first year.

FRYE: Yes, right.

CH: Why did you make that kind of an agreement?

FRYE: Well because I wanted to get into law school in the first place. I mean, I was going to honor it. But I figured that if I got in and I really liked it and it didn't cause much of a disturbance in his life, that I could then go ahead and do it. And so that's what happened. [Laughs]

CH: How were you able to convince him that your going to law school after that first year wasn't going to be just as disruptive to his routine and standards and?

FRYE: Well, we didn't actually discuss it very much on into the future. And, in fact, I didn't, I wanted to be a lawyer, but I didn't necessarily want to be the kind of lawyer he was. In other words, I never had any desire to be a prosecutor. And I got a job fairly easily with one of the good law firms in Eugene, and I really had a wonderful time, because at that time, you know there were, I think I mentioned this to you, that abortion was illegal and there were still lots of girls that needed help. And so I handled lots of adoptions in Eugene, and I helped out so many parents and children, young girls, who got pregnant and they were afraid to tell their moms and they didn't know what to do with their babies and all this kind of thing. I had this wonderful time doing this.

But, because I was one of the few women in Eugene who was a lawyer, that's really how I got into the judiciary, because someone said, "Well, why don't we have a woman judge around here?" Because Eugene always has had, and I can't speak for them right now, but Eugene has always been right up in front, and the women's movement was coming on strong. So, Tom McCall appointed me to the circuit court in Eugene.

CH: Going back just a little bit before, though, let's see, when you were bringing up your family, and you saw this – you were actually going through quite a different lifestyle than you had when you were being raised. Did all those experiences you had when you were growing up influence the way that you wanted to raise your kids?

FRYE: My children?

CH: Yes.

FRYE: That's an interesting question I've never ever even thought about. Well, I've tried. Children. You have children, don't you?

CH: No, I don't.

FRYE: Well, children are so different, even three children with the same parents. They can just come out and be very different in their desires and their wishes and so forth. And my children, I don't know, that's one of the things – if they were sitting here, you could ask them, "Were these terrible years when your mother was going through law school, and being a lawyer?" Because when you're a lawyer you have to work at night too. And so, just because I got out of law school didn't mean I wasn't still working at night, because I was doing a lot of work at night. But I also was able, the firm let me bring my cases to my house, the files and so forth. So, I got to work at home. So now I'm getting back to your question.

CH: Do you think that, you don't recall any particular instances where, from your own experience, knowing that you had gone through something that perhaps you wanted your kids to go through, or didn't want them to go through, that you were going to try to make an environment for that situation?

FRYE: No, I didn't do that, but my husband did. He was very interested in having our son be a lawyer. He bandied that around a lot. The other thing he did was, our son is real tall, he's 6'5" and he's a big guy, and he was really interested in him being in sports. He played football for Eugene High School, or South Eugene, I can't remember whether it changed at that time or not. And also, basketball, he played basketball, and I can't remember whether he was in track or not. I don't think he was. But Bill was, he was kind of embarrassing to Eric and to me. I stopped going to Eric's games because he'd shout at Eric. You know, if Eric missed the basket or something, he'd shout at him, and on the football field, he would jump up and down. It was really embarrassing. I stopped going to the games. And, so I think, you know it's funny, because I've never really discussed this with Eric, but I think that he was kind of embarrassed about his behavior too. And with the girls, he was very good to the girls. The one I didn't think he was very good to, was Eric. But he was very good to his daughters, he didn't hit them or beat them up or do anything like that.

CH: When you were just going into law school, did you have an idea at that point as to the kind of law you wanted to practice? You said a few minutes ago that you wanted to do something different than what your husband was doing, you didn't want to be a prosecutor. Were you interested in specializing in anything?

FRYE: I was interested, because of my own childhood I was really interested in adoptions and in the welfare of children, I mean the traditional things that you might think a woman would want to do. I didn't say, now this is a traditional woman's thing, but I did know about adoptions because of my work in the circuit court. And I knew about women who had godawful experiences with their families when their families found out that they were pregnant. Because, believe me, you were not supposed to get pregnant if you were not married. And I handled a lot of things for them, and I had mediation with their families so they wouldn't hate their daughters, and I did a lot of that work. And I really liked it too.

But then somehow there was the women's movement, and there were hardly any women lawyers in Eugene, and the three that were in there, they were quite a lot older than I was. I don't know, and the women's movement, they kind of just swept up in it, and then I got appointed by Governor McCall to the Lane County Circuit Court bench.

CH: When you went into law school. You had mentioned a few minutes ago, that the dean of the law school helped you with some scholarships. You had mentioned in some of our conversations before about the difficulty that Dean Orlando Hollis, how difficult he made it for you, getting into law school. That he didn't take you seriously.

FRYE: Yes, he didn't.

CH: Was that just a test on his part?

FRYE: Well, you know, I don't know, whether he. There were only three women in my class, and I think the one that wasn't married, the other one was married. The one that wasn't married, I don't think he put much pressure on her. The other one, who is a friend of mine, I don't know whether he kind of raked her over the coals like he did me or not. But, he, he got the notion that I was competing with my husband. And the one that lived at Oak Ridge, her husband was a medical doctor, and then the other one was single. So I think that he just got the notion that I wanted to be, well, you know my husband was working too hard, and that I was going to try to do something to get his attention.

CH: Right.

FRYE: [Laughs] But I [Inaudible] pulled on me. But I never did believe that. You know, I didn't believe that anyway.

CH: Were there any professors that you had in law school that were particularly challenging for you, or that you had a special relationship with?

FRYE: Well, Dean Hollis was the major one.

CH: Did he teach as well?

FRYE: Yes, he did. He taught civil procedure. And he taught, let's see, that's the main one he taught. That's the one that he liked the most. Seemed like he taught something else.

CH: What kind of a teacher was he?

FRYE: Well, he was the kind of teacher that you. He always had a stern appearance. What else can I say? He wasn't the type that laughed or was jovial in any manner. He didn't want you to be that kind of a person. He wanted you to be very serious in everything you did. And, if you did something that he didn't like, if he didn't tell you right in class in front of all the students, he'd call you in after class and tell you that that is not the way a lawyer would speak or act or say or do or anything.

CH: Did he do that to you?

FRYE: Well, he did that a couple of times, yes. Because one time, well, he was on my case, and I can't remember what it was about. But I think that he got on my case because he wanted to make sure that I was strong enough to be a lawyer. But what he did caused me to shed tears. Then I thought I was probably going to get kicked out of the law school. It was right in class. Then after that he called me into his office, and he said he didn't mean to cause me to cry. And after that he let up for a while.

Well, I won't say for a while, because he was very helpful in my getting a job in Eugene.

CH: You had also mentioned Hans [A.] Linde. Was he a teacher at the school?

FRYE: Yes, he was.

CH: And what kind of a professor was he?

FRYE: He was quite different from Dean Hollis. He had a little more, the classroom was a little more relaxed. And he wasn't kind of like this [makes gesture]. He was a good teacher. And he had a love for the law, and he also had a desire to impart a love of the law to the students he had. He was a very good teacher.

CH: Were you involved in the law review at all?

FRYE: I wasn't in the law review.

CH: Probably didn't have time.

FRYE: That's right, I couldn't.

CH: And did your classes allow you any chances to look into specific areas, like you had mentioned in terms of issues around children and whatnot?

FRYE: That's an interesting question, because when I got out of law school, one of the interesting things that I got into in the law firm that I was working with was women who became pregnant out of wedlock and what do about them, because abortion was illegal. There weren't any doctors in Eugene that I knew of that would dare to perform abortions. So, what I did was I worked with a law firm where mothers and daughters would come in and say that the daughter was going to have a baby, that this baby needed to be adopted.

There were always some weird circumstances. And what I would do was, there were always people who couldn't have a child, who wanted to adopt a child. So, I had a lot of fun those few years that I did this. But I got pregnant women's babies homes, in good homes, and did all the paperwork, did all the legal work. I had a lot of fun doing that, I really did. Those were a few of the real fun years.

CH: Was this the Husband and Johnson Law Firm?

FRYE: Yes, it was.

CH: That was from 1968 to 1971?

FRYE: Yes.

CH: And why was it that you had gone to that particular law firm, was it because you would be able to do this?

FRYE: Well, because Bill, he was an associate in that firm. Yes, he was an associate in that firm. And they were an old-time law firm there, and a number of the women whose babies I found families with, were the children of clients of Husband and Johnson. And I did, I had a lot of fun with that.

CH: The first law firm that you went to was the Riddlesburger Patterson Law Firm, wasn't it?

FRYE: Yes, Riddlesbarger Peterson.

CH: Peterson.

FRYE: Yes, Peterson, Brownhill.

CH: And Young.

FRYE: And Young, right.

CH: And that was from 1966-1967?

FRYE: No, it was longer than that. It was about close to 1970.

CH: Oh, oh, I believe that you had said.

FRYE: Maybe I'm getting my years mixed up here.

CH: I remember you had said that when you were getting out of law school that your husband wanted you to go into his law firm and you didn't want to do that at first. You wanted to be on your own. And so you went into this other law firm, then eventually went over to his law firm and enjoyed those years.

FRYE: Right, I did, I enjoyed it.

CH: And prior to your actually getting a job as a lawyer, when you finished law school, what was the bar exam like for you? Was that as trying experience as some people talk about?

FRYE: Well, I studied very hard for it. I had gotten good grades in law school. It was a scary thing, yes. But I think I did okay on the bar exam.

CH: You only had to take it one time.

FRYE: Yes.

CH: And what was your husband like as a district attorney?

FRYE: Well, I think, as a real hardnosed prosecutor, and someone who was kind of a bleeding heart, he was definitely over here.

CH: But hardnosed.

FRYE: He was hardnosed, especially when it was necessary to be hardnosed. But on the other hand, every now and then he would tell me a case in which he said he's not going to prosecute. He's going to tell this person they have to do A, B, and C, and if he does it, then they won't prosecute. So, I think he was a man of, I think he was a pretty good prosecutor. In fact, he got some awards in the whole United States. He did a good job as a prosecutor.

CH: How do you distinguish between your approach to the law and his?

FRYE: Well, you know, I kind of think I'm a little more hardnosed than he was.

CH: Really?!

FRYE: Although I was never a prosecutor. Maybe it's because I've been a judge for a long time, but I think that, now between being a real hardnose, and someone who lets people off, I think I'm a little more on the hardnose than he would have been.

CH: Although, you had said that you wouldn't have wanted to be a prosecutor.

FRYE: No, I wouldn't want to be a prosecutor.

CH: So, you wouldn't want to be in the position where you would have to be hardnosed? It seems like any prosecutor is going to have to be pretty hardnosed.

FRYE: Yes.

CH: And want to be.

FRYE: Right.

CH: Where do you think your, that part of your attitude or personality came from? That you had this hardnosed?

FRYE: Well, it came from my English grandmother. She didn't tolerate a whole bunch of stuff. I think that's where it came from. [Laughs]

CH: Did you ever tell her that?

FRYE: All my life I've looked back at my English grandmother, and she did have quite an influence on me.

CH: But you never mentioned that. Did you ever say that to her?

FRYE: No, I never did.

CH: How many years was Bill a district attorney?

FRYE: It seemed like he was a district attorney for two terms, for eight years.

CH: Was that all before he worked for the…

[**End of Tape 2, Side 2**]

Tape 3, Side 1

2002 January 16

CH: This is an interview with Judge Helen Frye at the U.S. District Court in downtown Portland, Oregon. The interviewer for the Oregon Historical Society is Clark Hansen. The date is January 16, 2002, and this is Tape 3, Side 1.

Were you involved in any organizations or groups, other types of activities aside from your practice of private law and raising your family and so on?

FRYE: I was a member of the National Organization for Women; I believe that's what it was. But when I went on the bench, I didn't participate in anything like that. And then I belonged to some women's organizations in Eugene, and I can't really think too much about what they were called or what they were.

CH: Nothing politically?

FRYE: No, nothing political.

CH: And the time that you spent teaching at University of Oregon, that was in business law?

FRYE: Yes, I taught a class in business law.

CH: And why was it that you went back to the law school to teach?

FRYE: Not to teach. I didn't teach in the law school.

CH: Oh, I thought you did. It was additional academic classes that you took.

FRYE: Yes, right.

CH: Oh, I'm sorry.

FRYE: So, now what was the question?

CH: Why did you go back to the law school then?

FRYE: Why did I go back to the law school?

CH: To take additional courses.

FRYE: Okay. Because this is the way that the students and I got like this, instead of harmony. And part of it was just the times. And part of it was the city. Eugene is a very liberal city with people who have all kinds of causes and all kinds of interesting things, and politics, and any and everything. You know I've been away from it for quite a long time, but it's a community of fermentation I would think. Everyone's interested in different things. There's a lot of [Inaudible], there's a lot of all that kind of stuff, and I liked all that stuff too. And I belonged to several different organizations, and committees. And when I was on the circuit court down there, I couldn't belong to a lot of things that I probably might have belonged to, because I was a judge.

CH: But you wanted to go back to school to study business law? You wanted to have more specialization in that area?

FRYE: Well, when I was practicing law, I had handled these adoptions. That's the main thing that I did, because there was this great debate about whether women could have abortions or not. So, I tried, parents would get me to try to find homes for children, for

babies that were born out of wedlock. And that's one of the interesting parts of my life, because I did find a lot of homes for babies that might have been orphans or aborted.

CH: And you were doing that while you were in the same law firm that your husband was in?

FRYE: Yes, I did that mostly with him. And I did divorces, things that maybe men weren't interested in. He was interested in other things. But also, what happened was, I didn't feel that I was progressing. In other words, I wasn't having, you can learn how to prepare adoption papers and do the legal work for people. You learn that very quickly, and I was happy with that work, but I didn't seem to be progressing very much.

CH: So, was that when you became interested in running for the circuit court position?

FRYE: [Yes].

CH: And what was your connection? How did you first hear about that or become interested?

FRYE: Okay, how I heard about it was through a circuit court judge who was a friend of my husband and me. He thought that I should go ahead and run for the position or make my desires known. And it was, I believe through, I didn't run, it was through the fact that I did make my desires known to the lawyers, and Bill helped me too. That's my husband. And what happened was Tom McCall appointed me. And it was just the time. I mean, I was in the right spot at the right time.

CH: Did you have to have someone sponsor you or endorse you to be able to get appointed by Tom McCall?

FRYE: I tried to get; I mean I did get. I shouldn't say I tried. I got a number of Republicans and Democrats in Lane County to write to the governor, and it was just the right time. The women's movement was there. I was a woman who was a lawyer. I had been around that community a lot, done all kinds of different things. I was just in the right spot at the right time.

CH: And then how long was it before you had to run for election for that position?

FRYE: Okay, it wasn't very long. I had to run in the next general election.

CH: Which was how long?

FRYE: It was probably about, oh maybe 10 months. That's kind of a guess.

CH: And when you were appointed, did you understand what that career would be like for you? Did you have enough exposure to the court at the time that you would know what your day to day routine was going to be, and all that?

FRYE: Well, I might not have known what my day to day routine was going to be, but we had been friends with a couple of circuit court judges and their wives, so I knew something about it. And then of course, Bill had been around the circuit court a lot too. So, I had some idea. But, when your name is bandied about as going to be appointed to something, you don't start asking people, "What's this job going to be about?" [Both laugh]

CH: Well, when you were finally appointed then, was your understanding of that position different than you'd expected it to be prior to that?

FRYE: I don't think so, because I had practiced in the court, and I had known some of the judges on a friendship basis. I was just totally thrilled with the appointment. I just, I did my

best. I was just enthusiastic and excited, and because I was the first woman down there to be a circuit court judge, I was asked to speak at a lot of different dinners and meetings, and it was an exciting time in my life.

CH: What kind of cases did you hear?

FRYE: In the circuit court? I heard everything. From murders to divorces, to child, let's see, what was this called, when the court rules that parents, this is a very difficult ruling to make, but when.

CH: Not fit.

FRYE: Not fit, that's right. Thank you for supplying that word. To making findings that the parents were not fit and that the child had to go into a different environment.

CH: That must have been difficult, especially coming from a place where you were helping women to find proper homes for their children.

FRYE: [Yes].

CH: That must have been a very difficult thing for you to do.

FRYE: Yes, right.

CH: Then when you were in the court. Let's see, you were the only judge in the court room. Are there any *en banc* situations for the circuit court?

FRYE: For the circuit court? None when I was there.

CH: And how many judges did they have?

FRYE: They had six.

CH: And, did you enjoy that?

FRYE: Oh, I did. I enjoyed it a great deal. For one thing, I knew the judges socially, just through, my husband was a lawyer, and I'd practiced law. And I knew their wives. So, it was just kind of a nice experience.

CH: When you were asked to speak before organizations, what kinds of things did they ask you about? What was their primary interest?

FRYE: Well, their interest was, sometimes they had questions prepared as to how I would handle this kind of a thing or do this or this. And you know, it's really easy for a judge to answer that question, because you can't say how you're going to do it. You can't possibly conjecture how you will do it when someone asks you, "What if the cars had been going like that?" And then, "What would you have done?" Well, you don't know, maybe one driver was drunk and the other one wasn't. I mean you just can't do it.

CH: You were in the circuit court for how long?

FRYE: For eight years, eight months, and twenty days. [Both laugh]

CH: Boy. Is there a reason why you know that specifically?

FRYE: Well, yes. The reason that I know that is because, when I found out that Jimmy Carter had nominated me for the federal court, then I had this sudden feeling, "Oh my gosh, I wonder what's going to happen to me now. I don't know Portland; I don't know

anybody in Portland. I'm going to be moving from Eugene." I loved Eugene dearly, and you know, it was a scary situation for me.

CH: When you were on the circuit court were you involved in any of the organizations, the judicial organizations at the time?

FRYE: I belonged to the Oregon State Judges Association, I believe is what it was called. And I had deep friendships with my circuit judge colleagues in Eugene. They were so good to me, and I had known their wives in different committees and so forth. It was a big shock for me to come to Portland.

CH: Prior to your coming here, did you have any political experiences? Of course, as a judge you wouldn't have been able to have been involved in politics.

FRYE: No.

CH: How did you come to the attention of President Carter?

FRYE: Well, the first reason is because President Carter was looking around for women to appoint to judicial positions, and in other positions too. He was trying, you know, to give women and opportunity to. That isn't actually what he said. What he said was – he had a better way of saying it than I just said then — that there was going to be equal opportunities for women. So that's the main reason that I'm here, I think, is because of Jimmy Carter.

CH: Normally, from what I understand, it's usually one of the state's senators who nominates someone for the president to then put before, as a candidate, put before the Senate Judicial Committee. Did you have any contacts with either of the state's senators?

FRYE: No, I didn't make any, it would have been unseemly for me to have contacted them. One of them, this is terrible, one of them was Mark Hatfield. And he was a Republican, and I was a registered Independent, and had been a Democrat, and my husband was very much of a Democrat, more than I was. Because, for one reason, I had been a state court judge and I couldn't be politically active at all. So, I didn't think that I would ever get the federal appointment. But Jimmy Carter, who is a Democrat, he didn't care what you were. He decided that he was going to have some women on the federal bench. And I was just at the right spot at the right time. That's what I figure.

CH: You had said at the end of the last tape. I'm not sure if it's actually on the tape or not, but that your husband actually ran for Congress.

FRYE: Yes, he did.

CH: When was that? Which year?

FRYE: Hmmm, you know I can't remember exactly which year, but it was, seems like it was the 1950s.

CH: Was it before he was a district attorney?

FRYE: No, I don't think so. I think it was after he was a district attorney, he ran for Congress. Because it was his campaigning for district attorney that had given him a foothold and the ability to have the voters know who he was. That was the most, that was just a terrible. He had been never in a vote that he hadn't won, and then when he lost that candidacy, he was very down at heart, very downtrodden. It was really bad, a bad time.

CH: And, as I recall, you were just getting out of law school at that time, weren't you?

FRYE: [Yes].

CH: After he lost that, he went back to his law firm.

FRYE: Yes, he did.

CH: And you went off to your first law firm.

FRYE: Right.

CH: And then joined him later. And so, when you were being tapped by President Carter for being a judge, then what was your husband doing at that point?

FRYE: He was practicing in Eugene and he had a pretty good practice, and he was very, you know, he didn't pout or carry on in any way. He was happy that I had been appointed.

CH: When you were a district court judge in Lane County. Is that right? A circuit court judge.

FRYE: A circuit court judge.

CH: Did you have interest in going beyond that, or did you not think about it at the time?

FRYE: Actually, I really didn't think about it at the time. In fact, when I became a circuit court judge down there, I hadn't really thought about it very much. It was just that there weren't any other women around hardly, and the women's movement was coming on strong. So, the women kind of pushed me into the whole thing.

CH: Did you know Nancie Fadeley.

FRYE: Oh yeah.

CH: Was she one of the women?

FRYE: Yes, she was one of them.

CH: Because you had, I believe that she had been involved in politics by that time. She was a State Representative from Lane County in, let's see, I think it was the late 1960s, early 1970s.

FRYE: Someplace around in there, yes.

CH: And then her husband, Ed Fadeley, who later became a supreme court judge. Were you involved with them socially?

FRYE: Oh yes, the Fadeleys we knew very well. I think Ed Fadeley was in Bill Frye's law class, I'm not sure. They were very much connected then.

What is? Is he on the state supreme court still?

CH: I believe he left.

[End of Tape 3, Side 1]

Tape 3, Side 2

2002 May 20

CH: This is an interview with Judge Helen Frye at her chambers in downtown Portland, Oregon. The interviewer for the Oregon Historical Society is Clark Hansen. The date is May 20, 2002, and this is tape three, side two.

In our last discussion you were talking about your circuit court of Oregon experiences, and I'm wondering if you would like to provide an overview for what that experience was like, and things that stand out in your memory regarding it.

FRYE: Okay. It was one of the most exhilarating things in my life, and I still look back on it as a time of great exhilaration and enthusiasm, and the kind of attitude that, you know, you're going to do wondrous things. And I did do quite a few things that were real interesting to me. It was a time when I handled a lot of adoptions. I loved that part of it. I counseled a lot of women. I could never, never counsel, never once counseled them to have an abortion then, because they were illegal. But I tried to offer them adoptions, and those kinds of things, and maybe getting a family member to help them raise their child or something. Most of them were scared to death of their fathers. And so, it was kind of like being a social worker as well as a lawyer. But I got a lot of, I don't know what the heck you'd call it, ego, or what. I mean, I just felt so good about the things I did for those women. And I got to actually go to the hospital and, maybe I told you this before, pick up babies and deliver them to the people who were going to adopt them. It was something that a lot of people wouldn't like. But I really got a lot of enjoyment out of that.

CH: Did you do this while you were also on the circuit court as well?

FRYE: No, this was before I went on the circuit court, yes. And then because of the various different work that I had done, I think that that's how Tom McCall, who was the governor of Oregon at that time, noticed me. And I wasn't looking to be noticed. But then he also

noticed me because there were hardly any women lawyers. And so, he appointed me to the circuit court down there. And then I did every kind of, you know, handled all kinds of cases, car wrecks, and…

CH: You didn't specialize in any particular area?

FRYE: No, I did do a lot of divorces, and domestic things. But I also handled automobile accidents and all kinds of things. Wills and deeds, and, let's see, what else did I do? Personal injury. Things like that. Car wrecks. Just the regular things that go into the state courts.

CH: And were there other women on the circuit court at the time?

FRYE: No, there weren't.

CH: And how were you accepted by your male counterparts?

FRYE: Colleagues. Well, the interesting part about it. I wish I could say that they were just enthusiastic, and that kind of thing, and they were, they were very good to me. But most of them, I had known anyway. Because they were – my husband being down there and being the DA, he knew them. Some of them had been in my house, with their wives. We'd gone to plays with them and so forth. So, I really knew people there. I knew Eugene and I knew the people, so it was a good time.

CH: When you look back on that time, are there any particular cases that stand out?

FRYE: Today, I can't think of anything, but abortion was becoming a big issue at that time. Of course, I was on the bench, and I had. Okay now this goes back. I think I said this to you. When I was in practice, whenever there was a problem with the woman being able to

keep her child without her father kicking her out of the house or something like that, I tried to find a family because there were families who wanted children. There still are, I'm sure of that. And so I had this, this practice of where I was helping women who were pregnant. Their mothers would bring them in. They didn't want to deal with a man, and, but they wanted to see if something couldn't be done. They could send their daughters to Aunt Julie or something, you know like that. And then when the baby was born, I could have all the papers ready, and get everything ready, and hand over, and this is where I think I said last time, I had some of my most exciting moments, is when I took the baby from the hospital and handed it over to its adoptive parent.

CH: Boy. How long were you on the circuit court?

FRYE: I was on the circuit court for about nine years.

CH: And that was during what period of time?

FRYE: Let's see. It was. I should have written. I'm getting so old now that I can't tell the times.

CH: I think it was in the, most of the 1970s wasn't it?

FRYE: Yes.

CH: Because it was Jimmy Carter then, who nominated you for the federal court.

FRYE: Right.

CH: And he was elected in 1976, began in 1977. And I have the notes here, but I think it was in 1978 or 1979 that you were…

FRYE: Yes, it was right about in that time, yeah.

CH: So, during the circuit court period of time, were there any other unusual experiences or memories that you have of being there?

FRYE: Well, I think maybe I mentioned this before, but I got so that I really liked to handle estates. You know, a bereaved widow would come through, and the kids were fighting and stuff like that. And I did that in my law practice, but when I got into the circuit court, I also handled it because they were still fighting. I mean I didn't have my clients fighting, but there were families fighting over who was to get this and all that kind of stuff, and the widow not knowing what to do. She was distraught. I don't know, I had a lot more, and I'm not comparing these two different courts, but I had a lot more actual human relationships in my court work than I have here, who, people come in and I deal with them for like two days or three days, and then I make a decision, and that's goodbye and I never see them again. Well, I had a lot more interaction.

CH: And, after you were nominated to be on the federal bench, what were the hearings like that you went through? You said that President Carter had reached down and actually asked for your nomination, and that it didn't come from either of the senators of the state like it usually does.

FRYE: That's right, it didn't. Well, he did that for quite a few women, not just me. He said when he got to be president, that he was going to make it so that the federal courts represented the population, and he said that unless there are women on the federal benches that the population isn't represented. That's kind of a little — you know, we don't represent anybody here. So, he didn't really need to worry much about it. But he wanted the courts to reflect the population of the country, and until women became a part of the judicial branch, he felt that it was necessary to appoint women.

CH: Were there any issues that came up in your confirmation hearings?

FRYE: No, none at all.

CH: And did either of Oregon's senators take an active part in that process?

FRYE: None of them disputed that I should be a federal judge, none of them did. And I don't know whether they wrote a letter to him, or what they did. But anyway, I didn't have any problems at all.

CH: Shortly after you were selected and confirmed, didn't Judge [James A.] Redden follow you?

FRYE: Yes, Redden and [Owen Murphy] Panner and I came on, it was just like we were the triplets that came here. We all came at the same time. [Both laugh]

CH: And were they supported by one of the senators?

FRYE: Jim Redden was supported by the Democratic senator, and I believe, I mean I know that for sure. I believe Owen Panner is a Republican, then I was, at that time I was a registered Independent. I had been a Democrat. It's a wonder Jimmy Carter even appointed me. I had been a Democrat for years. My husband had been a Democrat and had been, you know, very active. I'd been active too. But then, I got kind of disgusted with the Democratic party, so I was a little leery about whether he would appoint me or not, although my name had been bandied around when. And he was, Jimmy Carter was clear in his statements that he was going to make the federal bench a bench with women judges as well as men. There just wasn't anyone in the state other than me. There wasn't any other

woman in the position that I was in, so I was just in the, I was there in a place at the right time and the right place.

CH: When you then began your term or your tenure on the federal bench, what was that initial period like for you? Was there any kind of initiation process that took place, or, how did you get oriented?

FRYE: Okay. That's kind of interesting. I thought that it was going to be a very tumultuous and very difficult thing for me. But it actually, the thing that was the most difficult was leaving Eugene, and you know I had to leave Eugene in order to be a federal judge, and I would have been a fool to have said, "Well, gee, I'm going to stay here in Eugene. I don't want to go to Portland." And I didn't say or do anything, because that would have been really, you know. My name was bandied about, and I knew that there had been some people that had written on my behalf. But I didn't want to, in any way, shape or form, give any indication that I even might get appointed, because that would be not good on my part, and it would be a real embarrassment too. So, the only thing I did, is when I knew that Jimmy Carter was considering women for the federal bench, I did ask my colleagues that I worked with, if they could write a letter of recommendation for me. And I asked some of the prominent women in Eugene if they could write a letter of recommendation for me. But that's all I did. I didn't go campaigning from door to door or do anything like that.

CH: Then, were you a full federal judge, or a magistrate? How does that work?

FRYE: A federal judge is appointed by the president. A magistrate judge is interviewed, there are candidates who are interviewed by the federal judges here. For example, we have three magistrate judges here. And we were entitled to have them by virtue of the number of cases we had. And we had to justify to the taxpayers and to the court system in Washington D.C. that we needed them, and we have three of them here now.

CH: So, in that case, it's the process of a panel selecting, or nominating the interviewee that determines that judge will be a magistrate judge?

FRYE: Actually, the way it works here, or worked here with our three, is that we had to justify a need, and we had to be given permission, given permission to hire three of them. And they came on at different times.

CH: What's the difference between a magistrate and a federal judge after their both here and working?

FRYE: Okay. A magistrate judge cannot try a case unless the parties sign an agreement to have it heard before a magistrate judge. And then there are some other little things. For example, they also can't sentence anybody to prison. They can't preside over a criminal case. But they handle some social security appeals that come from the social security organization. And let's see, what else do they do? Oh, I know, what they can do is, if there is a party that is in a big rush. There are two parties that are in a big rush to get something done. It's important, this kind of thing, they can consent to a magistrate judge. And that kind of thing.

CH: When, if space becomes available as a judge in the Ninth Circuit Court, and in Oregon's District, are the magistrates looked at first as potential candidates for that new position, or the opening position?

FRYE: You know, my guess is that some of them. We have the three of them here. I think that, like if I retired, and they wanted to have another judge here, I think probably all three of them would talk to the senators and try to get a little bit of, a few people writing on their behalf. They might get us judges here to write on their behalf too.

CH: In your case, you're a senior, you're on senior status. And, would you or someone else on senior status, would your retiring create that opportunity or is that different for a senior status person?

FRYE: Well we have, we have three of us are here. Owen Panner and Jim Redden. You've taken their — and I. And we have filled the magistrate positions. We've interviewed people. Even though Jim and Owen and I are on senior status, we vote on the magistrate judges too. And so, I think I got off track. Am I answering your question?

CH: I was wondering are there always a specific number of Oregon judges that are full time judges? Neither magistrates nor senior status?

FRYE: Oh yeah, Garr [M.] King is one of them here. And, I can't, just right off the top of my head I can't remember exactly who they are. Do you want me to get the names for you?

CH: No, I. Is Oregon assigned, say for instance, three judges on the, for this district that are full judges? Or, is it four or?

FRYE: Yes, the federal judges that are here now are, Garr King is one of them. Let me go ask my law clerk. Because see, I'm so used to Panner, Redden and Frye, we're the three that came on.

CH: Right, right, right.

FRYE: And have been together all this time, and Garr King is one who was appointed by, who was it? Ronald [Reagan].

CH: That was after you, wasn't it?

FRYE: Yeah, after me.

CH: So it would have been, after Carter was Reagan, and he was in there for eight years, and then after that Bush.

FRYE: Bush. Yeah, let me go ask Patricia. She'll know.

CH: You've got your…

FRYE: Oops.

CH: That was enlightening. So, I guess I have a better idea of how magistrates aren't necessarily in waiting for the full judge positions, and they have different responsibilities and usual authority, than full judges. That's interesting.

So, when you're comparing your state court experiences with your federal court experiences, you had said a few minutes ago that you had a lot more human contact when you were in the state courts.

FRYE: Right.

CH: Were there other experiences or other things that you could mention that distinguish the two types of experience, state and federal?

FRYE: Let's see, let me. Yeah, there's quite a bit of difference. Not in, when you go into the court room, it's the same. You know, you conduct the, you hear the plaintiff, hear the defendant, hear their arguments, have a jury. I mean, you know, all of those kinds of things are the same. Excuse me.

And also here, there are cases that are, in my opinion, are much harder. The subject matter is harder. You know, you can get involved in multi-million-dollar engineering cases.

And so, that, you know your chances of getting a case that you don't know a darn thing about are greater here than in the state court.

CH: Is there a need, do you feel, for judges to have specific types of training if they are going to be focusing on certain types of cases? Or maybe they do.

FRYE: No, I don't think that, I'd say no. It's good if you're going to get an engineering case, it's better if you know something about engineering and mathematics and all of that kind of stuff, it's best. Because it'll make it easier on you. But that doesn't mean that somebody else can't take that case, because it's up to the lawyers to educate the jury and the judge.

CH: Do the, in the federal court, is it the clerk who assigns the cases?

FRYE: Actually, it's a computer.

CH: Oh, gee! How times have changed.

FRYE: This is the way that we do it, pretty much. I mean, I'm not saying it's exclusively this way. But a computer selects cases for judges. Then, if someone here gets a case that he or she doesn't want to be the judge, they can send it back and ask that it be put into the computer and sent to somebody else. Because if you're just, you know, like, I don't like to get engineering cases. I mean I haven't had any practical experience with engineering. And it's up to the lawyers to educate me and the jury, but still it's better if somebody here on this court has had experience in it. It's better if they have the case than I. And they just what, the computer then picks out a case and they give it to me.

CH: So, in a way, there's a, it seems like there's an element of democracy in that system, in that with the juries and the judges are both starting out more or less on the same footing.

FRYE: [Yes].

CH: The judge won't assume that juries know any particular type of information.

FRYE: That's right, [yes].

CH: But in the case of engineering would there be, or other things that are highly specialized, would there be any attempt made to assign those cases to somebody that may have that kind of a background?

FRYE: It's possible that the chief judge would do that. And there's nothing wrong with that either. All he'd have to do is tell the computer to send this case to either one of these three, who have had this kind of thing. And so, it works out pretty well.

CH: When you first came on the federal bench, what kind of informal contacts did you have with the judges that were here, and did any of them help you get situated?

FRYE: Okay, you know, Jim [James Milton] Burns was here, and he was always helpful and would come. I'd ask him questions. He had been a state court judge when I was a state court judge, so I felt reasonably comfortable with him. Let's see, who else. Judge Solomon was here. You know about him.

CH: I sure do.

FRYE: I didn't ask him about anything. [Both laugh] Although, he was nice to me. He was very nice to me. He was not used to women on the bench, and I think he went out of his way to be kind to me. And I was a little leery of him, but I had a good relationship with him.

CH: Speaking of Judge Solomon, of course the courthouse eventually became named after him, presumably after he left the federal bench, but, but Judge Solomon had such a fierce reputation of lawyers.

FRYE: He did, yeah.

CH: Did he deserve that same kind of reputation among other jurists?

FRYE: Well, he, I mean actually I appeared before him in a case or two when I was in Eugene. And he was person, how do I say this? He was a person with a big bark. And if he got irritated with you, he really barked. But he, I don't know, he was always kind to me, I never did have any tangles with him at all.

CH: Did he tangle with other judges?

FRYE: Well, I don't think he did, no. Because we're so separate. For example, I wouldn't tangle with Jim Redden. I might go ask him something. You know, "I heard you had a case like this. What do you think this is like?" Something like that. But I was afraid of him when I first came here because I had heard about him. But he was nice. He was okay.

CH: Had he ever been considered for the Ninth Circuit Court of Appeals?

FRYE: You know, you'd have to ask, possibly Owen Panner would know that question.

CH: Okay. And were there other venues in which you could associate with other judges here at this court?

FRYE: We meet for lunch every Monday and every Friday. And we can ask each other questions. "Have you ever had this in a case?" Or, "Has So-and-So ever appeared before

you before, and has he acted out?" This kind of thing. That's about the only kind of gossipy stuff we do. Because it wouldn't be fair to the litigants for me to go and ask federal judges for me to go and ask, "What do you think I ought to do on this?" You know, this kind of thing, that wouldn't be right. But we can ask each other about the temperaments of some lawyers. Most of them are okay, but once in a while you get one that's not. And you know, I've asked my colleagues a couple of times about someone like that, that's acting out in court.

CH: Coming on here, at the beginning, did you take advantage of those kinds of opportunities to be able to understand this process a little bit better?

FRYE: [Yes], I did. And also, they, the court clerk told us about the ways that it's different here from state courts as far as documents control and things like that. We had some education.

CH: So, did you actually go through some kind of a training period when you first came on the court to get oriented?

FRYE: Yeah, it was some sort of a one, but I mean it wasn't. We did, all of us had to go back to Washington D.C. They wanted to see who it was that Jimmy Carter appointed. The representatives had to agree to it. I mean, in other words, that was the balance that, kind of the balance of power. The president gets to say who he's going to appoint. But it's with the advice and consent of the Senate, so that they had a little committee that looked us over. And it didn't amount to a hill of beans, it really didn't. I was scared out of my wits when I went there. [Laughs]

CH: So, it was just a pro forma?

FRYE: Yes, they wanted to make sure that there was a person by the name of Helen Frye. [Both laugh]

CH: I would imagine that would be the opportunity, if there was any controversy about a judge, that then…

FRYE: [Yes], that…

CH: Would come out into view.

FRYE: Right, that's true.

CH: Then, when you finally arrived at the courthouse and you're setting up your office and your staff, how do you go about doing that?

FRYE: Well, we've always had the court clerk around here. And he knows what the limits of what we can do and what we can't do. And he told us, basically, kind of step-by-step, about where our office was going to be, and where, what we needed, what we thought we needed, compared with what the government would give us. And things like that. So we've had, you know we had someone who kind of helped us prepare for our jobs.

CH: And then, your staff, were they selected for you, or? How do they do that?

FRYE: Okay, they were selected for me. Judge Solomon. You've heard about him quite a bit, probably. Well, Mary Jo, my courtroom deputy, I mean my secretary, she worked for Judge Solomon. And I thought, you know jeepers, if she could get along with him, she's got to be good. [Laughs] And so anyway, that's how I got her, and she's been a perfect, wonderful secretary.

CH: And prior to Patricia, who was your clerk?

FRYE: Okay, I had two or three clerks that I…

[End of Tape 3, Side 2]

Tape 4, Side 1

2002 May 20

CH: This is an interview with Judge Helen J. Frye, at the U.S. District Courthouse in downtown Portland, Oregon. The interviewer for the Oregon Historical Society is Clark Hansen. The date is May 20, 2002, and this is tape four, side A.

So, you were talking about getting set up here and the clerks that you had prior to Patricia. You said you had a couple clerks that came on a year or two, and then were gone. How did you select your clerks?

FRYE: Well, I basically asked for, you know, to have them submit a resume. Okay, this is the first part of my being here, to submit a resume, and after I collected as many as I thought I should, then I would have them, I would pick out four or five that I would interview. And Patricia was, she came along, you know, fairly early. She's been here for a while.

CH: Fourteen years or something like that.

FRYE: Yeah, she's been a wonderful clerk! She has, she's just been a wonder. She's a wonderful person, and she's been a wonderful clerk.

CH: And does she attend the court sessions with you, then, as well?

FRYE: Going into court?

CH: [Yes].

FRYE: Oh yeah, she's in there all the time.

CH: And she's in the audience or does she have a special place?

FRYE: No, she has a special place, yeah.

CH: Is that true with all clerks?

FRYE: Yeah, I think it's true of all of them.

CH: What do they generally do during the course of the trial?

FRYE: Well, before the trial begins, for one thing, they, she gives me everything I need to read. And she orients me to, as much as possible, to the two lawyers that are going to be there, and she refreshes my memory, "Remember him? He was here." Like this and this, and so forth. Because lawyers are different. Some of them are harder to deal with than others, and if she thinks this is going to be hard trial, she lets me know, and just sort of paves the way. Then she also, before that though, she has given me a brief, as far as the facts that they anticipate to present, and the names of the witnesses that they intend to call, and approximately how long we think these witnesses are going to take. And then they also submit a brief to me as far as, well I said that, what they think the law is, and they also present kind of an argument about how great their case is, and perhaps not as, the other one isn't quite as good as theirs.

CH: Can you participate, or can you communicate with your clerk during the process of the trial?

FRYE: Oh yeah, she sits right in front of me in here, and she calls the court to order. In state courts they call them the bailiff. We...

CH: Oh, I see.

FRYE: That position, yeah. She tells the jurors, you know, when to come back and do things like that, just does a lot of different work.

CH: Were there particular judicial associations that you were a member of?

FRYE: Judicial associations?

CH: Aren't there, and commissions and panels and things like that?

FRYE: Yeah, there are those. And, I think I did belong to a couple of them, but they didn't amount to a hill of beans.

CH: For instance, Judge Burns had his long-running involvement with sentencing guidelines and streamlining the courts.

FRYE: Yeah.

CH: And I was just wondering if there was any particular issue that you grabbed onto as you were on the bench.

FRYE: Well, not, I don't think so. Most of it, he started out earlier, and he was here in Portland with Portland judges that he had been a judge within the state courts. And so he had, when he came on the federal bench he had a notion, I think, of how he would, you know, how he would set up his chambers and his courtroom. And I think he followed what he had done in the state courts. Which is fine. There was nothing wrong with it. But, when I came up here, I was, I came up with Panner and Redden, and the three of us kind of got together as to, you know, how we would do. Now, the, a lot of things go on seniority, and Judge Panner was the senior one of the three of us. And he was the presiding judge then, for a number of years. And then Judge Redden was the presiding judge here for a number

of years, and then when it was my turn. Maybe I was a coward, but my granddaughter was about in the sixth grade, and when you are the chief judge or the presiding judge, you have to travel. You have to go down to some meetings in San Francisco, and you have to go, that's where the Ninth Circuit is. And I didn't, I just didn't feel that I wanted to do that because I didn't have anybody here to take care of her. In other words, I didn't realize I was going to have her when I was appointed here.

CH: So, this is almost like a whole other part of your life that…

FRYE: Yeah…

CH: You were involved in beyond your professional duties.

FRYE: Yeah, right. And so I declined my opportunity to be the chief judge. You know, I haven't had any real feelings of, that I didn't do my job, because I did do my job here. I just didn't go traveling and give my input in other areas.

CH: What was your approach over the years to resolving litigation and opinion writing?

FRYE: What was my approach? Okay. The fundamental approach, as far as litigation and opinion writing. First of all, I like writing, I was an English teacher. And I like to have a client see on paper why I ruled the way I did. Either for or against him or her. And I do that in every case. Right now. That's why Patricia is valuable. She straightens me out if I get a fact, you know, get facts that are not quite according to what it really was. She'll say, "I don't think this."

And I'll say, "Look at the transcript, will you?" And either she was right, or I was right. This kind of a thing, yeah.

CH: What about during the course of a trial, when, say for instance, you're intervening between the lawyers for the defendant and the prosecution, do you have a particular approach for handling those differences?

FRYE: No. But, see, either, when I'm in trial, and it's a jury trial, either the jury's going to decide this case, or I'm going to decide it. They may wave a jury. And so, I like it, I like to have Patricia listening all the time. And then I usually have a — I have a court reporter in there and he has a transcript. So, if Patricia and I are working together on the facts, which is what we set out first, we will have a transcript. And I also have her, who may remember something differently from me. So, we have it pretty well covered as to the facts. I mean we have a system that allows us to cover the facts. And that's important to the litigants who are sitting home wondering, you know, why they didn't win their case. And it's right there in my opinion why they didn't.

CH: Did you ever fear, or have hesitancies about being reversed in the Court, the Court of Appeals?

FRYE: Okay, well I think that I'm the same as everybody. Judges just hate to get reversed. [Laughs]

CH: Sure.

FRYE: And, you know, I've had to, well, but on the other hand, fear of reversal also keeps you on the straight and narrow. If you think that, if you think that you could write it the other way, because you'd like to write it the other way. Then you look at the law, and Patricia comes in and says, "Yeah, but look at this case."

Usually I go like this. This is a terrible thing. "I'll write it the other way then!" [Both laugh] "I can hardly stand to do it, but go ahead."

CH: I read in the paper today that there was a judge that actually might be removed from the bench because every time he didn't like something that someone said in his courtroom, he would push this little button that would make the sound of a toilet flushing. [Both laugh] People got so irritated by it.

FRYE: Yeah, well, I never do anything like that. In fact, I keep, when I'm in court I keep my face completely, I don't have any emotional, I hope, anything about my face or my demeanor, that would give an indication to a juror or the lawyers or the litigants, how I'm going to rule. Because actually, I don't know how I'm going to rule, when I'm in there to be the trier of fact.

CH: And, do you feel that there is a purpose for dissent in the lower court?

FRYE: Yeah, I think so, sure. I mean, it's, you know when, when parties come in to litigate a problem, the main thing they want, they want to know they got a fair shake. If they lose, but they've had their day in court. They've had from the judge a reason for the ruling, or from the jury. The jury makes the decision in many cases. Then I think they accept their loss, and they go on to the next step in their life or whatever they're going to do.

CH: How does it work with the Court of Appeals, if they were to issue an opinion on one of your decisions, is it like the Supreme Court where there would be so many people affirming the decision, and so many opposing it?

FRYE: Dissenting…

CH: Dissenting.

FRYE: Dissenting, yeah. Yes, they, it's like that.

CH: So, do you feel that by, even if you are reversed, that you have offered a, that you have brought up the issues for the judges on the Court of Appeals as well, that you're providing them with the information or the views that they might need?

FRYE: Yeah, right. That's one of the reasons I like Patricia and my other clerk. I like to have the Court of Appeals know why I ruled the way I did. You know, I set out the facts and why my ruling is that. It's better for the litigant to know what you've written, and it's also better for the Court of Appeals. Their opinions are shorter that way, because they know exactly what you ruled, and then they will pick out the part that they think you need to be overturned. And then that way, the litigant knows what happens to his case.

CH: A minute ago I had mentioned the issue of sentencing, and I was wondering what your views were about sentencing guidelines.

FRYE: [Yes].

CH: Do you have a particular feeling about some of the types of guidelines that have been set forth, the uniform sentencing guidelines…

FRYE: Yeah.

CH: And whatnot.

FRYE: Well, let me say this. I think probably the guidelines have served the purpose that Congress meant them to serve. That is, more uniformity in sentencing for the same kind of crimes. So, I think that it does serve that. It's kind of frustrating for a judge, though, to be confined, or think, at least, feel like they're confined in sentencings. But, I don't know, I have had to use them for quite a long time now, and I'm reasonably comfortable with them, although I have Patricia that I can shout and yell at. If I say, "I don't like this. I don't want to

be confined. I want to do something else." But, you know, I have to follow the law the same as everybody else does.

CH: Are there certain kinds of situations that you would, you wish you had more control over?

FRYE: I would say that that's true. I mean my, I don't know, I think that probably when I was in the state courts, I was a pretty hard sentencing person, and I think maybe I still am, because the agitation I have with them comes when I feel that I have to give them a sentence lower than I feel that they deserve, and the public deserves to have done. But I follow them.

CH: So in that case, then, would the guidelines — could they also help, in that, if you really feel that someone deserves such and such a sentence, you can explain to them, especially if you think that they need to be sentenced in such a manner, that your hands are tied...

FRYE: Yeah.

CH: And this is what has been set forth for that particular crime.

FRYE: Right, and I have said that to them in court. And also, I've used the guidelines to say what could happen to them if they, you know, don't adhere to following the law and they appear before me again. Then I'm not going to be so easy on them or something like that.

CH: What, how do you balance between the issues of the rights of victims, as we hear a lot about, versus the rights of criminals, which we also hear a lot about?

FRYE: Right, yeah.

CH: How do you balance between that?

FRYE: Well, that's hard to do, because with people who are charged with crimes, the law is spelled out, you know, they, you have to go through step by step by step, you have to be convicted beyond a reasonable doubt. I mean they have all of these, these kind of benefits of the law. Whereas the victims, really, they don't have any benefits of the law, except that, when I, at the time of sentencing I've had some victims who have wanted to make a statement to me. Now I don't let them make a statement to the jury because that isn't their job, you know, and a jury could. So, but anyway, I have let them, I've let anybody that is convicted and is sentenced by me, can make a statement to me, if he or she wants to.

CH: And that's after they've been convicted, but while the court is still in session?

FRYE: But, but. No, it's after they've been convicted and at the time of sentencing, I ask them if they will, you know would like to make a statement to me. Now their lawyer will make a statement, he'll make a statement suggesting that I give them a lesser sentence. But I like to hear from them, you know. And I kind of put them on the spot, because I like to hear what they think that they are going to be doing when they get out of prison, and how they think they can pay back to society for the crime that they've committed. And how, you know I make them talk to me. Now, if they just refuse to talk to me, then of course I don't call in the marshals or anything like that. [Laughs]

CH: How often do people not respond?

FRYE: Not very often.

CH: And has there, have there been cases where their response actually, aside from what their lawyer might have said, affects the way you decide a sentence?

FRYE: Yeah, yes. They. I can take, and I say to them that I have taken two months, or three months off your prison sentence because of what you said to me. So, I mean, "You've got to come forward and perform your part, because I'm, you know, making these adjustments and taking what you've said as what you will actually do." And I usually tell them, say something to them about um, about that they have injured somebody in society, and that they'll be paying in the criminal justice system, they'll be paying for that crime.

But they need to pay it back otherwise too. And I tell them how they do it. I tell them that in order to pay this back, you have to say to yourself, "I will never commit a crime again. I have devoted my life to not committing crimes." And then if part of this punishment is to make restitution to a victim who was, you know lost something, I tell them that they have to do that, and that is part of the sentence that they have to re-pay. And then I talk to them about, I suggest to them, that if they want to vindicate themselves. In other words, if they want to get back to having peace of mind, that they do something for society.

Now I don't usually make them do that because most of them are poor, and they have to get jobs in order to feed themselves. But I say, "You should do some good works. Not only should you not commit crimes, but you should give some sort of service to society. And if you want to know what kind of service you can give, talk to your probation officer and see what you could do. Serve meals at some place where people come for meals that would otherwise not be able to eat. Do things like that to pay back your debt to society." Now I don't know whether it ever works or not, but I say it anyway, things like that.

CH: With the sentencing guidelines that are in place, do you have any leeway in this kind of thing, in terms of what they might be able to do for a part of their sentence? Or is the sentence, are the guidelines so stringent that?

FRYE: Yeah, they're pretty specific, yeah.

CH: Are there other areas that are not, that, where there may not be specific guidelines that you can actually substitute certain types of time in jail for service in the community and things like that?

FRYE: Yeah, I've done that too, where they have to do something like that. That's a little scary, though, because, see they've committed a crime, and you don't want to send them out where they might commit another crime. So, you have to be a little careful about what you do.

CH: What about, say with, white collar crime. And you're sentencing that person, are there types of service that you can make a part of the sentence, that will help the community in a way that pays them back for what you see has been done?

FRYE: Yeah, I can do that too. See, the thing with most of these people is that they don't have any money anyway. I mean they are going to have to get a job and work and, and I, frequently if they have like a wife, or a significant other person, or a child, you know, I talk to them about that, that this is how they're going to be, you know they need to do. And they have a probation officer who will get on the case. If that's the facts. Because it'll be written up as to what they are supposed to do.

CH: Do you ever follow the course of someone's life after you've sentenced them?

FRYE: Well, I have followed the course of their lives for a while. But eventually they all drift off, you know. And the probation officer also keeps track of them. Then I'll, a lot of times I'll ask the probation officer, "How's he doing out there?" Most of them say they're doing okay. It's amazing. I was just stunned, that most of them, I mean I'm not attributing it to what I say, but they have listened to me a little bit, and they've been affected by their stay

in prison so that they go the straight and narrow for a while. Then who knows where they go after that.

CH: Has that given you any creative ideas as to what you can do to make future sentencing more effective, or appropriate?

FRYE: Yes, it does. The only thing is that the United States taxpayer, you can't, you've got to, you can't do too many things because the guy, and usually it's a guy and sometimes it's women, but, he needs to be watched. You can't trust him completely. And you don't want to have the probation officer spending all his time trying to find him, and you know, get him to do what you said, and all this kind of stuff. So, you have to be real careful. But usually what I do is, if it's somebody that I'm really interested in and has, what I think is potential for completing the sentence and going on the straight and narrow, I ask them to let me know in six months, "What are you doing?" Because I get interested in what they do too.

CH: So, do you feel that a relationship between punishment and reform, at least according to your experience of it, is, has a positive, there's a positive relationship?

FRYE: I think that there is. Yeah, I think there is.

CH: If you could change anything, in this area, would you?

FRYE: Well, I don't know. [Laughs] I'd have to talk with the people who work with these people, most of which are men. But some women too. We've had some horrible women, but I'd have to know a little more about than I know right now. Because I know that the probation officers and the parole people that work with them after they get out of the penitentiary, their only goal is to keep them on the straight and narrow, and not have them commit crimes again. So, I think that they're working about as hard as they can. And if

they're on probation, they can have them come back before me, and then I can send them to jail. Which I would, which I have done quite often…

CH: Really.

FRYE: Yeah, because if they get, if they're going to go out, commit crimes, drink, sit around in taverns, not support their kid and wife, you know, there's no reason for me to be kind to them.

CH: Are people who are on parole under the watchful eye of the same judge who tried them?

FRYE: You know, I don't know about that. Most of the time when the people that I've sentenced, and then they're on parole, ordinarily or many times, I don't hear from them. But I will ask about them. You know when the probation officer or the parole officer comes in to see me on another case, I will say something about this one. I will say something like this, "Aren't you the parole officer on Joe Jones that I sentenced two years ago?" Or whatever. And then he'll give me the full rundown, and some of them are doing just fine. It helps the most if they've got a spouse, and they can get, they got a job. If those two happen, there's a good chance that we may never see them again.

CH: But if this person does violate the conditions of their parole, they could be assigned to have that reviewed by any judge, is that right, or do they usually try to get it back to the judge who had handled the case?

FRYE: They usually get it back to the judge that's handled the case.

CH: So, you have a relationship with the person that point…

FRYE: Yeah, right…

CH: You kind of understand how they work, or don't work.

FRYE: And I have the pre-sentence report. If I've forgotten exactly what they did, I can easily get it and read it.

CH: Looking over your career and having associated with so many people, on the bench and in the legal community, how would you define the qualities of a good judge?

FRYE: I would define it, first of all, as someone who listens carefully to everything that's said in court. Well, that's kind of a tough question. Okay. Has listened carefully, has done the best that he or she can in making judgments that will benefit society and the criminal. In other words, you can't just say, "Well, I'm going to throw him in for 20 years. That'll be the best thing for society." You can't do that. You've got to also tell him that the sentence that you're giving him is designed to be like a wire fence around cattle. In other words, it's to keep him from committing further crimes, and thereby hurting society, and just terribly hurting himself. And I don't know, you know I don't have a man's voice. I can't say things in a gruff manner, but I try to say them so that they hear them. My goal is not to scare them to death, but to try to get them to appreciate why they're being sent to jail, and what they have to do when they get out of jail in order to live as free people.

And if I have this report that I, from the probation and parole here, I know something about their families. And usually I can get under their skin by mentioning their families. Like, "You've got this son eleven years old, and he's going to need a law abiding, nurturing father to help his mother." And you know, sometimes I can get under their skin on those, because sometimes they cry in court even. But I don't think just beating them up after you sentence them, you know, with your voice, I don't think that helps very much.

CH: If the person seems to be incorrigible, do you feel that there's justification for a so-called three strikes and you're out type of provision?

FRYE: Provision. Yeah, but the three strikes and you're out, that goes to, if you commit a crime here, and a crime here, and a crime here, then say, three strikes and you're out. What I usually do is, I will tell them that if they commit…

[End of Tape 4, Side 1]

Tape 4, Side 2

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FRYE: Me too. So, and I'm not easy on them when they come back before me. I mean, you know, how many chances do they get?

CH: So, are there other qualities, aside from a judge's ability to listen carefully and balance between the needs of society and the criminal, are there other qualities that would be most important for a good judge to have?

FRYE: Yeah, I think so. I think that, I don't know. Here I'm promoting women as judges, but I think that, you know I've been in courts. I've practiced law. And I had Judge Solomon. You must have heard of him. Well, he'd scare the wits out of anybody. And I don't think that that really helps, because when they get out of court, they'll, what they do with someone like Judge Solomon, is they cuss him up one side and down the other and hate the legal system. That's about all that it matters. And I don't have Judge Solomon's demeanor, and I don't have his ability to shout at them. I was before Judge Solomon a few times as a lawyer. And so, I have to use a different method. And how I get to them. I can get them crying in there if I have the information about their families and I say such things as, "When you go to prison, and you're going to go to prison, you're going to lose months or years, or whatever, without seeing and knowing your child. And you're going to wish to heaven that you had never committed this crime. And you can never get completely rid of it, but you can change yourself in prison."

And that's true. They are going to have counselors in prison. They are going to be able to take some classes. It's not a University of Oregon or anything like that. But they're going to be able to do that. I also talk to them about the getting and making friends with the prisoners in jail that are looking forward to getting out and becoming law-abiding citizens and being with their families again. "Now you can come out and not be a law-abiding citizen, and forget your family, and not take care of your child. But if you want to have some sort of a decent life, you'll work toward that at all times."

And I usually say those things, and I ask Patricia, you know, "Do you think that they even hear me?" And she says, "Well, they heard you today. Maybe they'll remember some of it." [Both laugh]

CH: Do prisons usually have programs that involve either inmates who have been reformed, but aren't able to leave prison…

FRYE: Yeah.

CH: Or even former inmates who can come back and counsel people in prison?

FRYE: I think they do, but I don't know to what extent or to whom they give this counseling. I just don't know enough about it.

CH: It seems like the reformed criminal, who has a similar background to the criminal in prison, can, in a way, speak the language, that they speak. And know how to communicate with them in a way that may be a little more direct.

FRYE: Right.

CH: Than what a judge might do.

FRYE: I think that they do have some of those in the federal prisons. Men who have been in prison and gone out, and have towed the line, and then they come back in. That's what you're talking about, isn't it?

CH: Exactly.

FRYE: Yeah, they do have some of that.

CH: So, then for lawyers, having been a lawyer and been before the bar on so many occasions, and then being a judge as well, what do you see as the best qualities for a lawyer to have?

FRYE: I think that the best qualities for a lawyer to have are, first of all, to be able to communicate with his client, so his client has confidence in him. That he's not just doing him in, or getting paid and then run to the next one, this kind of thing. He has to trust him. And then he has to, he has to respect the lawyer's talents. In other words, if he talks with the lawyer and he doesn't like him, he should probably ask a judge to maybe appoint another lawyer for him, and we've done that, because some people who've committed crimes, they don't get along with their lawyers. And it doesn't pay to just make them string along. It isn't right either.

CH: If they don't ask, can you actually intervene yourself, or do they have to ask?

FRYE: No, they don't have to ask. If you know. Well, the prosecutor will sometimes mention it too. "Your Honor, it might be wise if you appointed another lawyer for this defendant. Things don't seem to be going on very well, and we are trying to work out an agreement where he doesn't have to go to jail for so many months." This kind of a thing. And so then we will appoint another lawyer. And a lot of times that works.

CH: The prosecutor – it doesn't seem like they would be the most likely source for looking to the welfare of the defendant.

FRYE: That's right. They don't most of the time, but they do when they think that, okay they've made an offer to this lawyer, and when they think that this lawyer is not accepting this offer, or not encouraging his client to take the offer, that it might be wise to have another lawyer talk to him. Because if he goes to trial and loses, he's going to be in there

for 10 years, and we've offered him a pretty good deal. He'll be in there for 11 months, or something like that. So, yeah, you do that. You have to be flexible.

CH: How involved are you in brokering an agreement?

FRYE: I'm not as involved as some of the judges are. The judges here that do the most brokering — and I don't say that with contempt at all, are Judges Panner – he does a lot of that. And also Judge Redden does some. And I believe that Malcolm Marsh, who comes and goes here, does some too. But I don't get involved in it very often.

CH: I would imagine that in some cases, especially very complicated cases, it could be a very intricate problem, and then coming up with a solution is...

FRYE: Yeah, it can be. Where I have been, where I felt I have done some of the best brokering is when there's a stalemate. You know, the lawyers are getting hot under the collar. The client is getting agitated. "Well, they're trying to do me in again." This kind of a thing. And I have been called in, and I've been able to, you know, calm him down – the client. And even, for some reason, the lawyers have cooled off to. And you know, I've been able to do it that way. But Judge Panner does a lot of settlements here in his court.

CH: How important in all this is productivity for a judge?

FRYE: How important is productivity?

CH: I would imagine that in some cases, brokering and other brokering agreements and other skills that a judge might have, as well as their own intelligence, can increase the productivity of a judge, and in some cases the more they would get involved, the longer it might run on and reduce their productivity.

FRYE: Yeah, it might. But at a certain point, after you go on and on, you just have to say, you know, "I'm at my wit's end." You don't use this language, but "I'm at my wit's end. Would you like to have another settlement judge come in and talk to you?"

But you don't want to do that, just go on and on, because they will likely look back and say, "That darn judge wouldn't even give me a jury trial." You know, that kind of thing. So, you've got to be real careful about that.

CH: Does the court, the Ninth Circuit Court, have, do they set up any kinds of goals for judges to achieve certain levels of productivity, or do they encourage productivity in terms of turnover in cases and reaching conclusions and…

FRYE: Yeah, they do. Yeah, they do much, much, much more than they ever did the state courts. When I came up here, I could hardly believe it. And I didn't like it either. I thought, "Jeepers creepers, we just force people to do things." But I've changed my mind on it, really, considerably. Because most people who are charged with crimes are better off to accept a deal than to go to trial and risk five years in the pen. And you just have to — well, I never try to get them to do it — but I mean, I talk to them about the choices that they have to make. And that they have to make them, and I can't make them for them. I mean either they accept this deal, or they don't.

CH: You're appointed for life. And yet you've probably seen some judges either here in Oregon, or the Ninth Circuit, or elsewhere, that are very productive, that can go through cases very quickly, and others that take their time. Does the administration of the court respond to that in any particular way, to either encourage the judges who are not taking on as many cases, to get through with those and take on more? Or, well, how do those things work?

FRYE: Well, how it works here is that they have a wheel, and they put cases in the wheel. And then they take cases out, and they distribute them around. And if you get a case that

you've worked on before, or you don't like that case — like I, I don't take certain cases — and they can just put it back in the wheel and someone else will get it. And it's a good way to do it, really.

CH: If you have a case that is in court for an extremely long period of time, is there any administrator of the court that is inquiring as to why it's taking so long?

FRYE: Yes, yeah there is, there's an administrator who looks over this and says, "These cases have been filed too long ago, and we need to have them set." And, "They've been sent to Judge Jones and he's been back up in a bunch of civil cases, so we're going to redistribute them." That's what they do.

CH: They redistribute the cases…

FRYE: If a case is pending too long. I mean by too long, it's been here for several months, they will put the names of all the judges in, and they'll spin the wheel, and whoever gets them, gets them.

CH: Really.

FRYE: Yeah. It's done really on a totally neutral basis. And then, if you get your brother-in-law, [Both laugh] or you get a case that you don't, you know you really don't want it because it involves mathematics or something like that, you can send it back.

CH: But some cases must, you know I hear of these cases that go on for years.

FRYE: I know, that's right.

CH: And in fact, when I was interviewing Judge Burns, he was involved with the Posse Comitatus or something like that in Montana. And I was interviewing him over a period of quite a few years, and it seemed like he was always making trips back there and to Chicago. And this must put a tremendous burden on the other members of the court, who then have to assume a greater workload to be able to compensate for that. Is that true or not?

FRYE: Yes, that is true, because see, the court has to resolve these cases within, you know, a period of time. You can't just sit, have these cases sitting here. Because the witnesses die and move away, and this kind of thing. You have to have a speedy trial. You've heard of the speedy trial act. Well, someone who is charged with a crime is entitled to a speedy trial. So, you have to give them a —.

Now, on the other hand, the lawyers have to have time to get all their information, and take their depositions, and do the work they have to do. I mean, you're not going to tell somebody, "You're going to trial in five weeks." You know, you can't do that either.

CH: Do you recall how many cases you had going at one time?

FRYE: You know, I don't know. They'd know. The court would know here how many cases I had. But I, I don't know, I didn't keep track of them.

CH: Well I know that Patricia had gone through your records, and you had an enormous number of decisions and so obviously you were very productive. But I'm wondering how judges or courts or clerks can anticipate the course of a trial, and a particular case, to be able to allow the judge to open a new case while that, some other part of the previous case, is pending. How do judges anticipate their workload?

FRYE: Well, it's a guess. We do ask the lawyers to give us an estimate of the length of time this case is going to take. And sometimes it fits in nicely with what they say, and sometimes

it doesn't. If it goes shorter, then there's no problem. If it goes longer, we always have a back-up judge. There's usually a judge around here who isn't in trial who can take that case.

CH: Is that usually a judge that's in senior status, or?

FRYE: No, just any judge.

CH: Any judge.

FRYE: Now, in criminal cases, our magistrate judges can't do them. But our senior judges can. You know, if somebody around here needs to have a trial start, and I'm here, I can take that case, you know unless I'm in another trial.

CH: Then in a case like that then, would you take on that case, and get it going until the other judge, the previous judge or another judge can pick up on it?

FRYE: No…

CH: Or do you have to follow it all the way through?

FRYE: I have to follow it all the way.

CH: So, you can't just fill in the gap for…

FRYE: A few days. [Laughs]

CH: A few days or weeks or something. You have to stay with it then.

FRYE: Right. I have to stay with it, or else declare a mistrial and start all over.

CH: Is there any reason for a judge to leave a case once it's been started?

FRYE: The only reason you'd do that would be if you didn't anticipate that there was going to be information in the trial that was related to you in a different way. In other words, you'd forgotten completely that you represented somebody that was in the trial. You'd have to get another judge.

CH: So, aside from a conflict of interest situation, a judge would never leave a case that they had started.

FRYE: That's right. Yeah, they wouldn't.

CH: How do you feel about the effectiveness, or the competence of juries, in general?

FRYE: In general, I have complete trust in the jury system. I really do. I didn't at first. When I was a state court judge, I didn't think the jury system amounted to a hill of beans. [Both laugh]

CH: Why is that?

FRYE: I don't know. I just thought, well, they couldn't possibly. Just because I got this notion that they couldn't, a jury just couldn't do it right or something. I thought, said to myself, "If I ever was a defendant in the trial I'd want to have the judge decide it." But I've changed my mind over the years that I've been a judge. I think we have a good system.

CH: Do judges advise defendants as to whether they should have a trial jury or not?

FRYE: No, you never do that. But here's one of the things that we do here, is that, lawyers are allowed to say to their clients. "There is a judge available. If you want to go to trial, we're set to go today. If you want to have a conference, and maybe have a judge decide this case without going to a trial. And we can tell the judge what the facts are."

Then if the judge said, "Okay, I'll take that. I will listen to you, and I'll decided it." Then you tell them again, "You won't have a jury trial, though. This will be decided by the judge, and you are entitled to a jury trial." And then they get real queasy and uneasy about which one they should do, and I can see why. And so, what happens is, of course in a criminal case you can never, they never get to go to a judge and have a judge bargain a criminal case. They have to decide whether they're going to plead guilty or go to trial. Those are their options.

CH: What about the ability of juries to understand complex issues. You've mentioned how difficult it is, say, to understand engineering issues or math issues. And then, of course there are the technicalities of all sorts of laws that come before the court, before the juries. How confident are you that juries will be able to understand these complexities?

FRYE: Well, I'll tell you, I'm confident that three or four of the jurors in there are going to understand it, and that they will then help the others, help out the others. If the others get mixed up, then the three or four that are really understanding it, or six, or eight, then they're home free. They've got, you know they've got it going at that point. That's what juries are all about.

CH: Are there certain requirements or definitions for having a so-called "blue-ribbon jury"?

FRYE: No. I've never. I mean, I think a blue-ribbon jury is what lawyers call a jury that is voted from their favor.

CH: Oh, I see. [Both laugh] So this is not a legal definition in any way?

FRYE: No. It isn't. [Both laugh]

CH: Okay. I guess I was under the impression that there might be some kind of issue that is so complex that jurists with, or juries with backgrounds in those areas might be called to serve. But that's not the case?

FRYE: No, that isn't. We get, in our juries we get everybody from people who just finished the eighth grade, to people who have advanced degrees.

Now here's how a lawyer gets around that. If you got a person who has been only through the ninth grade, and you have a technical, complicated case, you are probably going to excuse that person. They won't know why. Nobody will know why. But it would be good to excuse that person, because they may not be able to understand a lot of the stuff that goes on.

Then they also, another way that you have with your client is, your client may not like somebody. "I really don't like that guy in the fourth row." Well, you almost have to excuse the juror, because your client is going to think, when he loses the case, that that's the guy that caused it. You know, I mean he didn't like him. That's one of the reasons that we have these peremptory challenges, is so your client gets to excuse some people that he doesn't trust on the jury.

CH: But when the trial begins, then that process is all over with.

FRYE: Yeah, that process is all over, right.

CH: What about the situation with expert witnesses? Do you think there's too much emphasis placed on using expert witnesses?

FRYE: Well, let me say this. There is much more. There are many more expert witnesses now than there were when I started practicing law and when I first became a judge in Lane County. But, you know, life is more complicated now too, and the stakes are high, maybe higher than they were when I started in. I don't know. Expert witnesses are just absolutely invaluable in just lots of cases. I mean, people just are not going to understand.

CH: But do prosecutors, or the defendants' lawyers, are they always going back to the same expert witnesses that they know who are going to be reliable to bring testimony…

FRYE: Yeah, they, well they, you know they have to follow ethics pretty much. And it's okay for them to go back to an expert whose opinions they know of because they've used them in another case or something. There's nothing wrong about that. But for them to bring in an expert and say to him, "Now this case is a little different than that other case we had. And I think you're going to need to do this and this." You can't do that. This expert's got to say, "Oh well, that's okay, because this case that you're asking me to testify in has a few extra facts so that it's different enough from what I said before, that I can do it this time." Something like that. But, they can't, you know they can't. That's about all I'll say on that.

CH: Okay. And then, what are your views concerning what we hear so often as judicial activism?

FRYE: Judicial activism?

CH: [Yes].

FRYE: Well, I'm not a judicial activist.

CH: What is a judicial activist?

FRYE: Well, a judicial activist is a judge who gets involved, on everything. You know most of the time, if you were in my courtroom, you wouldn't hear me talking most of the time. I would tell the jurors that we're going to have lunch. I would make rulings that the lawyers ask me to make. And I would make sure that the lawyers adhered to courtroom behavior. If any one of them got out of hand or anything like that. But as far as other kinds of things, I stay out of it. Because when I tried cases, I didn't like it when the judge was always telling me what to do, or whatever. And I, with my work in the state courts, and here, you know I don't get on the lawyers' cases any more than I need to. I let them practice their own type of lawyering in there. But if they get out of hand or anything, I can reprimand them. And I would do that only after sending the jury out.

CH: Some people think of judicial activism as a judge who insists on making certain views known, or affecting public policy in some way. And some people feel that judges should not be doing that, that they should leave the laws up to the legislature, to define and make decisions on. But oftentimes, legislatures will, for one reason or another, refuse, or be unable to do that. So, where do you fall on those kinds of things?

FRYE: Well see, if a legislature doesn't act, and something needs to be done, and somebody then files a lawsuit, then the judge had to decide it instead of the legislative body. And they do that. I mean, if you're in the legislature and you know that you've got kind of an issue that, it's going to divide the people, but you still want your job, you know, then you just leave it to the judge to do it.

CH: I think that some people feel that the legislators are sometimes relieved that a judge will make a decision that is politically difficult for them to make.

FRYE: Yeah, that's right. And judges. Well, state court judges, they're a little different because they have to run for election. But as far as the federal courts are concerned, I

don't mind doing that. I mean I'm happy to. That's what my job is. So, if they want me to make the decision, instead of a jury or something like that, that's my job.

CH: I would imagine that these issues surfaced quite a bit when you were dealing with the spotted owl.

FRYE: Oh yeah, right, spotted owl.

CH: Were there people accusing you of being too involved in public policy? That you shouldn't be dealing with this?

FRYE: Well, that's one of the nice things about the job. If they did, I didn't know it! [Laughs]

CH: [Laughs] Even if they did, it wouldn't make any difference.

FRYE: Yeah, that's right.

CH: Was that particular case difficult for you to…

FRYE: To deal with?

CH: To deal with, yeah.

FRYE: Well, it was a, yeah, it was a hard. You know I knew that, every day I read in the newspaper about the spotted owl, and the environmentalists were adamant about it. So, it was a difficult case for me because I knew about how society was feeling about it. And, you know it went on for quite a long time. But anyway, I did the best I could.

CH: Cases that go on for a long time and have very high visibility like that, I've often wondered how informed a judge will keep up with that issue, from reading about it in the news media. Do they make an attempt to find out what's going on publicly with this, or do they avoid doing that?

FRYE: No, they're not supposed to do that. And what they, you know for example, with the spotted owl, I shouldn't have, and I don't think I did, read what the newspaper was saying about it. Because that isn't the way, you know, that isn't.

[**End of Tape 4, Side 2**]

Tape 5, Side 1

2002 May 20

CH: This is an interview with Judge Helen Frye in her chambers in Portland, Oregon. The interviewer for the Oregon Historical Society is Clark Hansen. The date is May 20, 2002, and this is tape five, side one.

Then, in terms of judicial activism. Finishing up on that. Should judges be legal innovators? And thereby illuminating certain parts of the law, or should they leave that up to the legislatures or?

FRYE: Well, I, I'm not a judicial innovator. I believe that my job is to decide the facts of the case, and to listen to the arguments of the lawyers. That's always helpful, because when you're listening to the facts of the case, from witnesses here and a witness there, and so forth, it's very helpful to have the lawyers present to you in oral argument, what their position is as to how these facts lead to a ruling for me. And then the other one does the same thing. That is very helpful to judges. When an argument isn't very helpful is when there's one side that's way ahead of the other side. In other words, one side has lots more favorable facts than this side has. And this side is trying, as best he or she can, to bring out all the facts for this side. You know it's, sometimes you, it's difficult to deal when you have a lopsided case like that, because you know, they've been there in court. But you have to make the decision, and you have to make it on the facts. And you have to do what's the right thing to do.

CH: And then, if the case is appealed and goes to the Ninth Circuit Court of Appeals, then they simply review that case. They can't take in any more new information, can they?

FRYE: No, they can't.

CH: So, any legal innovation then, would take place in the Supreme Court?

FRYE: Yeah, right. In the Ninth Circuit, and then possibly the Supreme Court.

CH: Possibly the Supreme Court. So, do you feel that the courts are very influential on public policy?

FRYE: Yeah, they are in some ways. Most cases are not, you know they're not giant cases. They're not going to cause people to walk up and down the streets picketing and things like that. Most cases aren't that way. But the society needs to have judges who will determine the facts, and then apply the law, and then reach a decision, and then say goodbye to the case, and let them appeal to the Ninth Circuit, or the Supreme Court if they want to. But your job's done.

CH: When they do go on, do you follow them?

FRYE: Well, I only follow them when I get the case that, what, for example, now I deal with the Supreme Court, I only follow them just a little bit, just to see if they agree with my rulings, of course. And if they don't agree with my rulings, then I try to figure out what I did wrong. And Patricia and I go over the case, and you know, see what it was that caused them to reverse me. But this doesn't happen very often here in the federal courts, because with all of the 48, 50 states appealing, you know, they don't have time to deal with everything.

CH: When that process has actually taken place, and you've reviewed a case that you were reversed in, do you usually end up agreeing with the judges who reversed you, or do you back down on your own case?

FRYE: Yeah, I usually think I'm right. I say to Patricia, "I still think I'm right."

She says, "That doesn't count." [Both laugh]

CH: How has your judicial philosophy evolved over the years? Or has it? Has it changed much?

FRYE: It's changed, yeah, I would say that it's changed. But I have a greater respect for the law, and a greater respect for following the law, whether it's the local, just for example, the Lane County Circuit Court that I was in. And then the Multnomah County Circuit Court here, I think that, you know I think laws are so important to a civilized society. And a respect for those laws is so important too. And that's why it's important for judges to behave well, and I don't know, just be good citizens, I guess. And I think most of them are.

CH: Are there various issues or policies of the court that your philosophy has changed in dealing with those issues over the years?

FRYE: Okay, say that again.

CH: In terms of, aside from the increased respect for the law, are there other specific issues or policies in the court that your ideas about those have changed?

FRYE: Yes, I think so. But I don't — I still have a great deal of respect for the way our judicial system works. Well, I'll tell you where I, I don't know whether I should say this or not. I think that the weakness, I think, in it, is like when the Ninth Circuit, your case goes down to the Ninth Circuit. And you get three judges on your panel. Because that's the way it works – three judges. So, you, here, in the state of Oregon, are listening to Oregon lawyers, or you've got a jury, and the jury has decided it. It's harder, it's harder to accept a reversal, when you know, you basically know a lot more than they do anyway. Now if you have not applied a law that should have been applied, reverse. But sometimes the, I don't know the Ninth Circuit, in some respects, they kind of take something and say, "Well, we wouldn't have done it that way." But you know it's not a matter of well, you would have done it one

way. I was the one here who heard it all and heard all the briefs and all that kind of thing. So, what I'm saying is, it's painful to get reversed. [Laughs]

CH: Sure. And, in terms of some of the issues in the court, and in the Ninth Circuit Court, in particular, that are very hotly debated, one of them is whether the Ninth Circuit should actually be divided.

FRYE: Right.

CH: And they're talking about, perhaps say, making Washington and Oregon, and perhaps Alaska or whatever, into one.

FRYE: Yeah, Alaska and Idaho, they pulled that in.

CH: How do you feel about that?

FRYE: Well, you know actually, I think that might be a good thing to do. I'd want to have a study done, and I would like to have experts talk about different things, talk about the money that would be involved to the taxpayers of re-doing this. It would cause problems in courts too, because one state might have a ruling going this way, and one might having a ruling going this way. And then the judges there would try to take one that they thought fit both states and make a mess out of it. I don't know, I, I just, fortunately I don't have to deal with that. [Both laugh]

CH: Are there certain issues or areas that you think are very fundamentally different between this part of the circuit, and the other parts?

FRYE: I think that if there was ever going to be a division of it, I'd get California out of it.

CH: California is one and everybody is in the other.

FRYE: [Laughs] Yeah. California has so many people in it, so many. And it doesn't seem to me like there could be much real cohesiveness between Alaska and California. But I don't know, that isn't for me to decide. I know that some California judges have written rulings that I haven't necessarily agreed with. But it's not my job to go around saying, "Well, I don't think he did a job," or something like that. That isn't my business.

CH: There's some suspicion, particularly among, say for instance, environmental groups, that in the Ninth Circuit Court of Appeals, they have a much better chance of getting a decision in their favor. But, if it were split and Oregon and Washington were in a different circuit court, then it would be less likely.

FRYE: Well see, I think that if I were going to split it, I would say Oregon, Washington, Alaska. I would go over to Idaho, put Idaho in it too. And I think that those states have a commonality that would work pretty well.

CH: What about Hawaii and Guam, and?

FRYE: Yeah, they could stick with California probably. I don't know. They probably would, because it's not as far from Alaska to Hawaii. On the other hand, there's not a lot of commonality between Alaska and Hawaii either, I don't know. [Laughs]

CH: Then, in terms of some of the other issues that Congress has thought about changing, one is on product liability. That perhaps the judgments in these cases are way out of line. How do you feel about Congress stepping in on that issue?

FRYE: Well, I think that they have a right to do that. If they want to. If they agree that this, then that's up to them. And, you know, if they change it and they make some other rules, then it's up to us to follow them.

CH: And what about on term limits?

FRYE: For?

CH: Well, you know for, I guess you could look at it in terms of term limits for, either politicians or, of course the federal judges don't have terms.

FRYE: Right.

CH: On politicians. A lot of people feel that the court should or should not make a decision on.

FRYE: Well, all I can say, personally, is that if the population doesn't want somebody elected, they don't have to vote for him. I mean you know. I think that term limits are okay if that's what the people want.

CH: And, then in a more general sense, when you're looking back over your judicial career, what things stand out most for you?

FRYE: Well, that's hard to say.

CH: Are there particular episodes that have happened while you've been here, that stand out as being most vivid, for you. You've mentioned your granddaughter, for instance, as something outside of court, that occurred and had a big impact.

FRYE: Right, and I think I mentioned she's graduating from the University of Oregon this spring.

CH: You must be thrilled.

FRYE: I am thrilled, yeah.

Let's see, as far as being a federal judge, I had to leave Eugene and I was just totally in love with Eugene. I was hoping and praying I would be the one that was sent down to Eugene. I wasn't, and I had to move up here. And now I'm happy with Portland. I mean I got happy with Portland long ago, so. And I don't know that I'd even move back to Eugene, because the air up here doesn't have as many pollutants, natural pollutants as Eugene does. There's a lot of farming around Eugene, and I used to have a really bad time. Actually, there's some pollutants in the air right now, natural pollutants, that are bothering my eyes.

CH: When you look back over the years of being on the federal court, how have the demands on the court changed?

FRYE: Well, I don't know for sure, but it seems to me like we don't have as many cases as we did. Now I'm a senior judge, so maybe they're not sending me as many cases as they did. But that's kind of the way I think it is. But if you really want an accurate answer to that, you could probably ask the clerks down there. They'd probably give you that answer.

CH: In the 1960s and 1970s, there were so many civil rights cases. And there still are civil rights cases.

FRYE: Right.

CH: But of course, there are so many drug-related cases. And sometimes that's really burdening the courts as far as volume…

FRYE: Right, yeah.

CH: Have you been affected by that?

FRYE: Well, I was affected by that definitely when I was an active judge. I mean I'm still, I'm a senior judge now, so if I get a case that I don't want to take I can send it back and the computer can give me another one. But, yeah, the drugs, I would say the drug scene is still there.

CH: Have you ever traveled to other circuits?

FRYE: I have. I went to Idaho and — What was that last one now?

CH: Oh, about traveling to other circuits.

FRYE: Well, since I had my granddaughter when she was four years old, and no other relatives around, I have not gone to very many circuits. But I have gone to a few of them. I was in Idaho and I was in Montana. And let me ask Mary Jo. Could I send you a letter or email?

CH: Sure.

FRYE: We can resurrect this.

CH: And, and that really isn't — it isn't really important about the specifics. I was just wondering how the, how that affected you, by seeing how another circuit was run, and how it...

FRYE: Well, it was in the early years that I was here. So, I was in the learning process. And I got, you know I'd handled cases. But I was also learning from the judges over there, and I can't remember everything that happened, but in every one that I went, every district that I went, I learned something from other judges.

CH: And how do you feel about your role as a senior judge?

FRYE: Well, it's kind of, I feel kind of good about it and kind of bad about it. Good, in the sense that I don't have a guilty conscience if I don't work as hard as I did. Bad, because I miss out on some of the, you know the knotty little twists that it's kind of fun to pull apart.

CH: What keeps you here? Why do you? I mean, don't federal judges retire with full pay?

FRYE: Yeah, they do.

CH: So, what's the incentive? Why do you want to remain here?

FRYE: Well, because I do enjoy my job, and I do enjoy my flowers and plants and so forth. [Both laugh] And I don't have a big group of friends, and my daughter lives in Corvallis. My other daughter lives out toward the coast, and my son lives in New York City. And so, I just have. The dog takes me for a walk. So, I guess it's just because I don't want to quit my job yet.

CH: Sure.

FRYE: I like it.

CH: Do you have any other thoughts? Say, for instance on the nature of problems today, and their relationship to the court. Are there?

FRYE: No, but I think that the courts are very important in the civilizing process of humanity.

CH: Well, I'd like to thank you for you having taken the time over the previous several months to sit down here and discuss your judicial career. It's been quite an honor to have taken down these memories of yours. I really appreciate that.

FRYE: Thank you. And it's been very nice to meet you too, and I appreciate your work.

CH: Well, thank you very much, and we'll be back to you with the final product here.

FRYE: Okay, that'll be fine.

[**End of Tape 5, Side 1**]

[End of Interview]