MINNESOTA SUPREME COURT JUSTICES

A

Project of the

MINNESOTA STATE LAW LIBRARY

ORAL HISTORY INTERVIEW

OF

OSCAR R. KNUTSON

MINNESOTA SUPREME COURT

Associate Justice
1948 - 1962

Chief Justice
1962 - 1973

MINNESOTA STATE LAW LIBRARY
ORAL HISTORY INTEVIEW

Oscar R. Knutson — TITLE
1981 — YEAR

Name: Knutson, Oscar R.

Date: December 18, 1980

Place: Mendota, MN

Interviewer: Marvin Roger Anderson
State Law Librarian

Project series: Minnesota's Surpeme Court Justices

Biographical information: Born October 9, 1899 in Superior, Wisconsin. Moved with parents to a farm near Warren, Minnesota in 1916. Education: Northwest School of Agriculture, 1919; Warren High School, 1920; St. Olaf College, 1920-1921; University of Minnesota Law School, 1927, LL.B. Practiced law in Warren 1927-1941; appointed Judge of District Court, 14th Jud. Dist. 1941; elected 1942; resigned to accept appointment as Associate Justice of Supreme Court 1948; elected 1948; re-elected 1952 and 1960; appointed Chief Justice of Supreme Court in 1962; elected 1964; re-elected 1970.

Subjects discussed: Knutson's early life in Wisconsin and Minnesota; decision to enter the legal profession and the University of Minnesota Law School in the mid-twenties; the practice of law during the Depression; appointments to the District Court in 1941 and to the Supreme Court in 1948; his opinion of the election processes for Minnesota justices; pressures on the court (1962 recount proceedings); differences between serving on the District and Supreme Courts; impressions of Chief Justices Charles Loring, Roger Dell and others; changing role of the chief justice from 1948 to 1972; problems and reforms in the Minnesota judicial system; reflections on the neglect by historians of the Minnesota Supreme Court.

TAPE RECORDING

Cassette

Length of interview: (time): approximately 1 1/2 hours
Restrictions on use: release signed. open

TRANSCRIPT

Transcript made: yes
Number of Pages:
Restrictions on use: none

Comment(s):
Portions of the text have been deleted or rearranged for editorial clarity.

I am Marvin Roger Anderson, State Law Librarian, and the following interview is with Oscar R. Knutson, retired Chief Justice of the Minnesota Supreme Court. The interview is being held in the home of Mr. Knutson in Mendota Heights. The interview is part of a project of the Minnesota State Law Library to compile a history of the Minnesota Supreme Court. The interview with Mr. Knutson is the first in this series.

A: Justice Knutson, you were born in Superior, Wisconsin, is that correct?

K: Yes.

A: And you attended school there?

K: Well, I attended school in Superior to begin with. I had one year of high school in Superior, and then my father bought a farm up in Warren and we moved up to Warren. I stayed out of school there to work on the farm; then I went through the Northwest School of Agriculture in Crookston. We went to school six months a year and you were supposed to work on the farm six months; then you went to school for six months from October to April; then you had to go to work again.

A: You worked on the farm with your father?

K: Yes.

A: He had a dairy farm?

K: We had a dairy farm in Superior. We had a grain farm in Warren. We went broke from the grain farm in seven years and went back to Superior and bought that same dairy farm again.

A: Was your father also a conductor in Superior?

K: Well he was everything. He was a conductor on a streetcar;

he worked from the day we plowed a field; he worked at everything. He and my Mother came over from Norway when they were about 20 years old.

A: What were living conditions like back in Warren and Superior?

K: Well, farming was rough. People were going broke. You sold eggs for six cents a dozen. We sold them at one time for $.28 cents a bushel, the lowest at six cents a bushel. They were tough times.

A: Was that just because the farm prices were down?

K: Everything was down in those days. Farming was terrible--it was awfuly hard, and they had things to contend with on a farm. Farming was tough. We bought the Warren farm in 1916. My father moved up there and we had 200 acres of good land, and we only sold $28.00 worth of grain that year. Rust and smut and dust and quack grass took your crop.

A: What size family had to be supported on $28.00 per year?

K: There were six of us in the family, but one had alrady died. Peter got through high school and became a lawyer in Superior--then he came to Warren and worked in the bank. Bertha, my sister, went off to work too.

A: You went to St. Olaf College in about 1920?

K: In 1920 I finished high school and went to St. Olaf starting in the fall. I went one year and ran out of money completely. I had no money so I stayed out a year and then went over to the University.

A: When you went to the University did you go there to finish college before law school?

K: Well, we had to go two years to get into a law school in those days, but Dean Fraser let me in a quarter less than two years. I was a special student. I made up that quarter my last year in law school. I carried a full course in law and made up that quarter in the summer. That's when I got my degree.

A: When you entered St. Olaf College had you made the decision at that time that you wanted to practice law?

K: No. I didn't know what I wanted to do. I registered at Hamline and then my Lutheran minister, Reverend Tollefs, came out to the farm and spent the whole day with my mother convincing her that no good Lutheran should go to Hamline. He said he would have a good job for me at St. Olaf's. So, I went down there and was a month late for classes. I knew Harold Hagen, who became our congressman; we rode together on the way down on the train; he was going to St. Olaf's too. The job I got down there was washing dishes at Yeterbor Hall, and then they got a dishwashing machine. It was nice at St. Olaf's for a year. The following year after that I went to the University.

A: Why did you decide to go to law school at that time?

K: Well I don't know; that's a good question. I don't know what made me go into law. I can't answer that question.

A: You can't recall that it was because it would help people or you . . .

K: I guess that I had done a little debating and I thought that maybe, being a good debator, I would be a good lawyer. I didn't know a thing about law personally. I had seen a lawyer that I knew . . . I

don't know what made me go into law.

A: When you were at the law school did you work after school too?

K: Yes, I was a chauffeur for a real estate man. I was on duty at 3:30 p.m. in the afternoon and was off duty the next morning. He lived in the Concord-Lexington apartments--they were on 11th and LaSalle. He owned those and he gave me a room. I got $3.50 a week and one meal. He owned a restaurant in one of those apartments and I went over there for one main meal a day, I ate enough in that meal to last me all day. I didn't have any money.

A: At that time was law a lucrative profession?

K: No. When I started practicing law we prepared deeds or mortgages for $2.00. We probated estates for $75.00 and then didn't get that! We didn't charge anything for oral advice. We didn't like to write anything and we didn't tell you anything. That's the way you practiced law.

A: Now that's practicing law back in Warren? You returned there after graduation?

K: I graduated from law school and I went into practice with Julius J. Olson who was my predecessor on the Supreme Court.

A: How many lawyers were there in Warren when you returned?

K: There were seven in Warren. However, I am reminded of what Judge Qvale, over in Willmar, said when he was asked the same question. He said, "there were ten admitted to the bar but only two were lawyers." They all went somewhere; they sold insurance and they did everything else. We had two good lawyers in Warren. There were 14 lawyers in

Crookston--30 miles away. One was Charlie Loring, who later became the Chief Justice. He and Aaron Youngquist were good lawyers.

A: Do you remember your first case as a lawyer? That you got paid for?

K: Do I remember what?

A: One of your first cases there?

K: No that's 40 years ago.

A: What was your impression of the legal system at that time?

K: My impression?

A: Yes. Was it working as well as could be expected or . . .

K: I never thought about it. I guess it worked. Do you mean while I was on the Supreme Court?

A: No, I mean when you were practicing law did things happen that you felt were inequitable or . . .

K: No, you didn't think anything about it. You took what came your way. You took all you could get. You took everything.

A: You didn't specialize?

K: You didn't specialize. You couldn't up in the country. You had to get some work. . . you didn't get paid much. Nobody got paid much in those days. You might in farm country; eggs sold at $.06 cents a dozen.

A: Did you ever get paid in any eggs or anything like that?

K: I remember one woman. I probated her estate. She had to probate in order to refinance her mortgage. Mrs. Wolfstein--I still

remember her name. An old Swedish lady out in Meagher Township. She couldn't pay me so she gave my wages in eggs. I said "my wife buys the eggs, go and see her." I ate so many eggs that summer I finally told my secretary "if we get any more eggs send her the bill and mark it paid. I don't want any more eggs." That's the way you practiced law.

A: You practiced law from about 1927 until 1941 when you were appointed a justice of the district court?

K: A judge of the district court in 1941 and a justice of the Supreme Court in 1947.

A: Wasn't Judge Olson also the judge you followed at that time?

K: I practiced with him right out of law school and was with him until he was appointed to the District Court . . . no there was a judge in between us. Judge Brattlen on the district court. Julius Olson was a judge of the district court first. When he was appointed on the Supreme Court, Judge Brattlen was appointed district judge and he only lived about a year. When he died, I was appointed. I was appointed by Harold Stassen, if you can imagine how far back that is.

A: When you were appointed as the judge of the district court back in 1941 how did you feel about your qualifications to be a judge?

K: I never thought about it. They had to publicize in those days and they had a vote among the lawyers in the 14th district. I had most of the votes so I was appointed. That's the way they had the election in those days. They had to publicize. Now they don't.

A: Were you expected to prepare, in terms of reading or acting

differently etc., in anyway as a judge then as you were as an attorney?

K: No, you'd been before a judge many times--you knew what a judge did.

A: After sitting as a judge of the district court for about a year, did you feel like this was something you could do--did you feel comfortable as a judge?

K: I liked to work on the trial bench.

A: As opposed to being an attorney?

K: I like to work as a trial judge better than as an appellate judge.

A: Did you have some interesting cases as a trial judge that you can remember?

K: Everything came your way in those days.

A: Do you remember some of the attorneys who came in front of you who went on to St. Paul or Minneapolis?

K: All I knew was Judge Loring the chief. He was a lawyer up in that district. If you needed help you went to Charlie Loring. He had the best library up there. Also, there was Aaron Youngquist, who wrote most of the new rules. He was a good lawyer--an excellent lawyer. He went down to St. Paul later.

A: Were the characteristics of good lawyers in the forties the same characteristics of good lawyers today?

K: Oh, I think so, except they worked harder.

A: They worked harder then?

K: They worked harder in those days. In my day when I went in with Julius Olson we had a race every morning. We walked down to the post office to pick up our mail, and either he got it first or I got it. We'd meet in the office on Sunday morning. If we had a trial we stayed in court until noon; we were back at 1:00 p.m. and we were there until 6:00 p.m., then we would have a supper, as we would call it, and come back at 7:00 or 7:30 p.m., and were there until 10:00 p.m. everyday. That's the way you worked.

A: And you did all your own writing and researching?

K: You did your own researching. You didn't have any help . . . you couldn't afford help. In my day as a lawyer when I started in private practice I needed help but I couldn't afford it. You took the work you had. The more volume of work you had made you a nicer living.

A: Yes, it was quite a bit more work than they are doing now.

K: It was about four times as much work. We were there every evening from 7:00 to 10:00 p.m., practically every evening.

A: That brings me to a question. What types of pressures did that put on a family back in those days with an attorney working that hard and that long?

K: The family didn't see you very much.

A: Were you expected to take civic jobs because you were a lawyer? Were you expected to be involved in civic activities?

K: Yes, I was Mayor of Warren for 3 terms, and I got paid next to nothing. I got paid $20.00 a year as Mayor of Warren. In reality, say

I did it for nothing. In Warren the council said, "well you're a lawyer, why should we hire a city attorney too?" so I was city attorney and I did all the legal work for nothing.

A: When you actually got appointed to the bench you dropped most of those civic activities then?

K: Well I had to.

A: You had to?

K: I couldn't take part in those; I had to resign as Mayor of Warren when I was appointed as a judge in district court.

A: What did you do with all the new free time you had?

K: Free time? Judges worked in those days.

A: Do you think the judges in those days worked more than the judges today, just like lawyers did?

K: We had two judges in our district--I don't know how many you have now. Now you have county judges and everything else.

A: And the cases haven't changed that much?

K: Well, I think there's more work now, but we only had two judges. We had to handle everything in 14 counties. You traveled, you were on the road all the time. You traveled by automobile to cover those counties.

A: In summertime and wintertime you would do that traveling?

K: That was the thing. Up on your regular rounds in snowstorms. I was out in snowstorms when you couldn't see anything. To get to Roseville at 9:00 a.m., I'd leave Warren at 7:00 a.m. in the morning--

we started at 9:00 a.m. in those days.

A: I can understand. Well, then your appointment in 1941 to the Supreme Court of Minnesota . . .

K: No in 1941 that was on the district bench. In 1947 was the Supreme Court.

A: That's right--you were a judge for about seven years then in Warren, around that area?

K: Right.

A: And then after that you were nominated to become or you were . . .

K: I wasn't nominated. Governor Youngdahl called me up one morning and he said "Oscar, can you stand the shock?" Well I said, "well Governor what's up?" He said "I'm going to bring you onto this court down here." Well, I said "I don't want to. I don't think I want that job. I don't want to leave Warren." My family liked Warren, my kids were in school in Warren, and I didn't want to leave Warren. So I said "I'll see you tomorrow morning." So my court reporter and I drove down that day to St. Paul and saw him the next morning, and then I went over and saw the other members of the court. I told the Governor if anyone didn't want me on that court, I didn't want the job. I went up and saw one after the other and they all wanted me to come and I took it. I said afterwards I'd made a mistake. I don't know whether I did or not now.

A: Did you feel that you were ready for the job in your legal

background?

K: I was as ready as I'd ever be. I must have had some success as a lawyer, or the Governor wouldn't have asked me to take that job. I didn't ask for the job--he asked me to take it. You don't have that happen nowadays.

A: Back in those days was a person selected for the Supreme Court because he was a moderate or a conservative or because he was a . . .?

K: No I don't think so. They talk about this, how the picks in the judiciary are. I was on the court for many years, and I never saw any politics in the court.

A: You don't feel as if courts have to be balanced?

K: No. We were balanced, I suppose, just by which governor picks. Usually when you have a Republican governor you'll get a Republican appointment. That's only natural. And the court was pretty well balanced. We had about the same number of old Republicans, the same number of Democrats. We didn't take any part in politics on the court. People couldn't understand that when I went on the bench I couldn't get involved. I had been quite active in Republican politics in the country as it was, and the people couldn't understand why I wouldn't go to the old party caucus or convention. I never went near a party meeting after I was appointed to the bench. I'm close to all people standing in the court whether they are Republicans or Democrats. I never went near a meeting after I was appointed to the bench and haven't approached one even now.

A: So you did give some consideration to turning down and not accepting your appointment then?

K: The Governor appointed me. He wanted me to take the job and I didn't want the job. I told him so.

A: But after you decided to take the job you gave it your very best?

K: I gave it the very best I had.

A: Did anything surprise you about the Supreme Court? Had you practiced before the Supreme Court?

K: Oh yes. My partner was a Supreme Court judge. Later during the day I was appointed to the district court Julius had been on, I was in his office in St. Paul and Julius said "Oscar, I wish I could trade places with you and go back to Warren." He didn't like to work in the Supreme Court at all. He said "you take myajob and I'll take yours." But of course you couldn't do that. That's what he wanted to do, and Julius was an excellent judge.

A: Trial or appellate judge?

K: Both. He was an excellent lawyer. He was one of the best they had up in our district.

A: Did you feel that being a trial judge was helpful to you as an appellate judge?

K: Oh yes. I don't say it's necessary, but it's helpful.

A: In what way?

K: Well, you know how the decision was arrived at by a jury or by a judge, which ever it may be. That background helps you, but I don't

think it is necessary. Some of our judges coming right from the bar have made just as good a record as those who have had trial court experience. But I think it helped me. Whether it would help someone else, I don't know.

A: Being an attorney helped you also didn't it?

K: Well, you have to be an attorney; you can't be a judge without being an attorney. Of course it helps . . . the wider the experience, the better the judge, the better he can decide cases.

A: What was your workload like?

K: Well, we had a heavy workload. There were two less judges. Seven judges handled the work; you have nine now. And now they have all this help. They've got enough help to run four courts.

A: How much help were you given when you . . .?

K: You weren't given any--a secretary to begin with. When I went on the court we had two judges sharing a secretary. I finally got one of my own.

A: What did you look for in a written brief when you were on the bench?

K: Well, you looked for brevity for one thing, which you seldom got. That's why we called it a brief I guess. But you don't always get a brief--you get a manuscript. You look for a good discussion of the law. To me that's what you're dealing with on the appellate court; you're not dealing with facts. The facts are determined by the trial court. But the law is what you're dealing with on the appellate court,

and you want as much help on that as you can get, and you expect the briefs to discuss the law.

A: What did you listen for in oral argument?

K: Well you listened for brevity for one thing. I use to say that one rule of an appellate lawyer is brevity, brevity, brevity, and brevity. Say what you've got to say and sit down.

A: How do you feel about the practice when, during the oral argument, the justices of the Supreme Court will interrupt?

K: Well, you do that. I asked more than my share of questions. But you do it for two reasons. If there is something that is bothering you that isn't covered by the brief, or if you're trying to lead the lawyer into thinking the way you believe he ought to think. Probably you think that he's missing something and you want to help him a little bit to discuss some issue that he is overlooking. We don't ask questions to be fooling or funny. I asked more than my share of questions because I think you get at the issue better if you ask a question when you think the lawyer is overlooking something. And sometimes they obviously overlooked it, and you don't want them to do that.

A: Did you make it a practice to look at the brief before you went on the bench?

K: I read every brief, and almost every record to begin with, but I couldn't keep that up. But I read every brief.

A: Before hearing any argument?

K: Yes.

A: What about researching?

K: Well later you had clerks who did a lot of the research for you--preliminary research. They had just graduated from law school; they were with us for a year. I think if they had been with us longer it would have been better, but that was as much as they could get out of it. You could get more money by going out and practicing law, and when they left here they usually got pretty good jobs.

A: Did they write your opinions?

K: Well we wrote a lot of opinions. I didn't write the final typewritten copy but I wrote a lot of opinions, important parts in longhand; otherwise my opinions as chief would have cost them a lot of money. I would lay there awake at night thinking about them and get up and write it down so I could go to sleep. Then the next morning we were ready to dictate. And when I dictated an opinion, I went right from one end to the other, right down the line on that dictation and usually they went by my decision. I had a lot of it written out in longhand.

A: Was conference a practice of the Supreme Court justices? Prior to writing a decision, did they have a conference?

K: We had a conference on every case. Every morning after the oral argument. We had the oral argument in the morning and they were usually through by 12:00 or 1:0 p.m.--we had two or three cases usually--and then we'd have the oral conference. Every judge expressed his opinion. In those days we sat en banc--the whole court

sat together, all seven. Now they sit in division, but we sat en banc in all the cases, and even during the last year when I retired I sat on all the cases.

A: I heard that you had the habit in conference of remembering a particular case and going to the bookshelves and pulling a book down and finding the case without any trouble?

K: I don't know; that's the way we had the conference.

A: How were you able to remember the cases that well?

K: I have a good memory . . . still have.

A: What advice would you give to a young attorney coming before the bench? What advice did you give to attorneys who were coming before the appellate bench?

K: Well, the first thing is to know your facts. Thee irs so much junk. So many times they think they are giving the case to somebody who hadn't been with it; also they can write a better brief. I think the fellow who tries the case knows the facts, and usually if he has any legal ability, he can write a pretty good brief. I think the thing to do is to know your facts, know your case, and then make it as brief as you can, because the judges have an endurance record too, you know. You should say what you've got to say and have it well arranged, and then sit down.

A: How do you feel about an attorney citing precedent to you of the Minnesota Supreme Court's prior cases?

K: You have to cite precedent--that's the way you rule on them.

That's the way the legal system evolved. That's the difference between the continental or civil system and our system. They don't go by precedent, we do. The old common law system evolved that way--that's the way the law evolved.

A: You feel strongly about stare decisis or precedent?

K: Oh yes, you can't have a new law in every case. How is a judge ever going to know how to advise a client or a lawyer? You can't, the way they do in the civil law in Europe. I don't know how you can advise a client that way.

A: Many people say that precedent has stood in the way of, say, social progress?

K: No, we make changes, we've made all kinds of changes on the courts and in the law. If it needs to be changed it is changed. That's what your average Supreme Court in the United States is for.

A: How did you feel about the influence of, or the rule of, the United States Supreme Court?

K: Well the role of the United States Supreme Court is that it has the final word. If not, why we'd be going around in circles. They eventually say what the law is and it is that from now on.

A: After serving on the bench as an associate justice from 1948 to 1962 you became the Chief Justice of the Minnesota Supreme Court?

K: I took Roger Dell's place.

A: Can you describe how that came about? The circumstances?

K: Well Roger Dell retired. I remember the time when it came up--

Elmer Anderson says "I've got to appoint a new Chief. If you're going to retire, I want Oscar." That's how that came about. And Roger Dell said "Oscar would be the best I can think of," and that's the way I was appointed Chief Justice. By Elmer Anderson, not T. Elmer Anderson. Elmer E.

A: You say that "Oscar would be the best one?" Does that maen that Oscar would be the best intellectual leader of the court or the best arbitrator?

K: I don't know what Roger Dell had in mind. Roger Dell was one of the best lawyers I've ever known. He was the best trial lawyer I ever knew. He was a good judge, very good, and he was a great lawyer. I don't know whether he thought I was the best, or if he was just a good friend of mine. How do you know? He was a very good friend of mine.

A: Mr. Chief Justice, maybe I ought to ask you this question because I have been wanting to ask it. What traits do you think a judge should possess?

K: Well, first of all, patience. Like one of the judges they asked that question, what should an appellate judge be, and he said "they should be patient, patient, and more patient." that's what you've got to be. You've got to be understanding. You've got to have an understanding of people, you have got toh ave sympathy with people and you have got to understand their weaknesses and realize that they are human beings, and you have to try to get at the root of their trouble. Sometimes it's hard to do.

A: What judge did you meet the that closest to having those traits, besides yourself?

K: I don't think I came close to it. We had good days with all of our judges. I saw all of the judges on our court come from 1947; the last two were appointed after I was gone. I haven't seen any of our judges that I would say shouldn't be there in all that time. The Governors over the years in Minnesota have been very careful about appointing Supreme Court judges. One thing we can say for that.

A: Do you like the appointment system that we have here in Minnesota?

K: Well, yes. It could be better . . . I don't know--I don't know how it should be.

A: But you have felt that there could be some improvements made?

K: Well, I suppose everything can be improved can't it?

A: What is your opinion of the method of selection of the Chief Justices?

K: Well, we had Charles Loring as chief when I came there, and Roger Dell took his place, and I took Roger Dell's place--that's how many chief justices you had over the years. I don't know how it could be improved.

A: What were some of the reforms that were made in the court under your leadership?

K: You can look for changes. The public defender system . . . I have been given praise for being the father of that. The

administrative office of the courts . . . When I came there, nobody wanted an administrator. When I was a trial judge they all thought an administrator would be telling them all what to do. Now we have a disciplinary system where judges can be disciplined as well as lawyers. All those changes have come about during my administration or during the time I was working. I don't say I had any more to do with it than any of the judges did. The other six had just as much to do with it as I did. We thought there ought to be an administrator. The first one we got was the Administrator of Ohio, and the second one was Bill Westphal, who was wonderful; the other one was a very good administrator too. In my day on the trial bench you couldn't switch the judge around at all. The only way the judge could be moved if one judged asked another to come over and help him. During the years that I was on the trial bench I was only asked by one judge to help him and that was Martin Nelson. I went down and held court for him in Austin for two weeks one year. That was the only time I was asked to go anywhere else in my district. Now they switch them around wherever they are needed and that's the way it should be.

A: The one reform, the State Public Defender?

K: Well, both when I was a trial lawyer and on the bench, if an indigent or a poor person needed a lawyer the judge appointed him one. When I was practicing law we got $10 for representing an indigent defendant. We'd go in and ask him, "did you do that?" If he'd say yes, we'd say "well you'd better plead guilty then" and that was it. Now

you've got Paul Jones who gives them a real defense. I know it isn't all black and white in criminal law--even if you blew it sometimes, you probably should have a good defense.

A: The public defender system that was established in Minnesota--they say was one of the very first. How did the idea come to you to promote this?

K: It came because we had three or four decisions come out of the Supreme Court the same day as they were argued. I've got it all in a book I received at a seminar in New York. I was at a meeting and I wrote all this in a book. If you are interested in reading it, I will dig it out for you.

A: I think I would like to see that. I remember an article that you wrote in the Bench and Bar about those cases.

K: Well, I went through the Bar Association. They were charging to appoint lawyers, and the Supreme Court had said that the defendant had a right to a lawyer in every case. So I went to the Bar and told them this was going to bankrupt every state in the country and that we had better set up a system covering defenders. That was the beginning of it. I thought it was nothing new. They called a meeting of the Bar Assocation and from there on the thing just boomed. That was when I was down there and worked on the public defender system.

A: Do you recall any landmark cases that you decided when you were chief justice? The election case . . .?

K: The election case of Governor Elmer L. Anderson and Karl

Rolvaag. I called the lawyers in one day and I said "this thing has just gone haywire. Nobody's going to think any of us is any good until you lawyers on both sides agree on one judge or three judges. There is no provision for three judges, but we can make some." And I said, "I'll appoint them." This was on Friday. I said "I'll be at my home all during the weekend, and if you get together, well, call me." And at about 2:00 in the afternoon they called and said "well we've come to an agreement." I asked "where are you?" and they said "well, we'll come where you are," and I said "no, I'll come where you are." They said "we're all down in Dick Kyle's office." I said "I'll be right down." I went down there and they had appointed a judge in Duluth. I called him up in Duluth and I said "I've got an appointment for you; it isn't a popular one, but if I tell you what it is, the answer can't be no." Dick Kyle was laughing. He said that's the way they ran the Army. I called one after the other; Sidney Kaner and J. H. Sylvestre of Crookston, and young Keyes, Leonard Keyes, (not the old man but his son) and John Graff as an alternate. I called Kaner and he said "well if you say "I've got to take it I've got to take it." I called Larry Sylvestre who said "well Oscar, I don't suppose I have any choice." I said, "well, no you don't have any choice." So they all took it. They came into my office the next morning and there was a motion for change of venue and I said "here it is--it's your baby. I don't want anything to do with it. It's your baby now." They all agreed on where the case should be held, and they went to work on the case and did a tremendous

job. And Elmer Anderson, God bless him, called me up (he didn't call me--his attorney called me), and said "well is there any chance of reversing this court?" "Well," I said, "no, I don't think so--not with those judges. We lost then." So they went ahead and made the decision, and Rolvaag went out of there on that.

Elmer won out by the first decision and in the recount Rolvaag won out naturally. It worked. I remember some newspaper in Ohio wrote that Minnesota had found a way to settle disputes.

A: That's interesting, Mr. Chief Justice, because you had no precedent there, yet you were able to . . .

K: There was no law for the appointment of three judges, but it worked out fine.

A: After your retirement from the bench did you change at all?

K: Well, I worked as a retired judge for about five years after I retired. I sat on the court for standards of law, and didn't get paid as employed . . .well I retired on full pay, so I didn't need it.

A: You weren't ready to step down?

K: No. probably not then, but Governor Anderson sent word to me that he was going to appoint Bob Sheran, and Bob Sheran was a man that I had great respect for. It got around (you know how rumors get around) that I was going to retire, and newspapers would call and he sent word up that if I was going to retire he would appoint Bob Sheran in my place. Well I had great respect for Bob Sheran, and I knew it had to be somebody who belonged to the Democratic party, because being a

Democratic governor he wouldn't appoint a Republican as Chief Justice. So he appointed Bob Sheran, and I supposed I'd really have to step down, but I kept on working as I had before.

A: Some justices have returned to the trial court?

K: Yes, well that's why I stayed. I like to work on the trial bench, dealing with people instead of books. I like to deal with people. I should have gone back to the trial bench, I think. That's what Walter Rogosheske is doing, I think.

A: And Justice Kelly also.

K: Kelly's down there. Traffic court.

A: Were programs like sensitivity training for judges being established while you were on the bench?

K: Well, now you've got this continiuing legal education that started just about the time I quit.

A: Do you feel that judges need extra training in human relations?

K: Well I suppose everybody needs extra training. You should keep it up. I think that's a good thing. I think some judges shouldn't have to go back to school--it wouldn't have done me any better, I don't think, at that time unless I had started earlier. There weren't many judges appointed. For instance on the district court it isn't going to hurt a judge to learn something about handling decisions.

A: And people?

K: And people.

A: What about when they say there ought to be a minority judge, there ought to be a woman judge, there ought to be a Catholic judge,

this sort of thing?

K: Well, baloney.

A: The best person?

K: It ought to be the best qualified person they can get, whether it's a man or a woman, a black or a white. It doesn't make any difference to me. Of course in Minnesota we have so few blacks that it's only natural that there aren't any black judges here, but where they have a lot of these black populations I see nothing wrong with a black judge if he is qualified. But it shouldn't be based on having a certain number of blacks and a certain number of whites. It should be based on who is best qualified.

A: The United States Supreme Court seems to be picked on that basis and . . .?

K: Well, I suppose they're picked for various reasons. I don't know.

A: But the quality of their decisions, as you remembered them, were always first class?

K: Well, I think so. I don't think politics were entered into in decisions. I know they didn't in our court while I was here. Politics had nothing to do with them.

A: What effect has being a judge and a justice over the years had on your family? Is there any way that that can be lessened?

K: I don't know. Certainly my wife can probably answer that better than I can.

A: Were you away from home a lot?

K: No, you weren't away from home so much. On the Supreme Court you weren't away from home at all, because you sat in St. Paul all the time. As a district judge I was away from home quite a bit. Up in the 14th District where I sat we had long distances. The district was 200 miles across from corner to corner. But you had automobiles and it didn't take too long. I was about in the middle of the district, and I could drive from Warren to Roseau, or Crookston, which sounds far away, in an hour and a half. Usually when we held court I wouldn't stay there. But for special term, I got over there and back the same day. I didn't think much of that. I didn't stay away from home too much, and during general terms you stayed home.

A: Did being a judge put any restrictions on your social life at all?

K: I don't think so, except that you have got to be a little more discreet. You can't go into a barroom and dilly your foot on the rail. At least I didn't. But I don't think it shifted your social norms. Depends on how you lived before, I suppose.

A: So putting on the black robe and becoming a judge shouldn't be a time for making changes in a person's life?

K: Well it depends on how you lived. You wouldn't be appointed, I suppose, if you weren't at least a decent sort of person. If you were a drunkard, you wouldn't be appointed there, so you would have to change that. There was a judge over in the Twin Cities who told the governor,

Floyd Olson, that he drank quite a bit as a lawyer, but he said "I'll never take a drink as long as I'm a judge," and he never did. The minute he got off , well he had a drink again. But he never touched a drink while he was a judge. We'd go to a Bar convention or something and he'd have liquor in his room to entertain the rest of us but he'd never touch a drink himself. I think you're a little more discreet. You certainly don't go out to barrooms and get drunk.

A: How about your reading pleasure and your research. Did you read a lot when you . . .?

K: Oh yes I read all the time. I'm either reading or writing all the time.

A: Other than law?

K: Well, you did as much as you really could. There is a limit to what your eyesight will take too. I was reading law most of the time. I got one of these outstanding student awards from the University of Minnesota for revisions one year, and I told the Dean of the Law School, when I was later on the committee to appoint those who recieved those awards that I was a little shocked that I'd ever gotten one, because I never wrote any books. Most of them had written several books. And he said "like hell you haven't, Oscar--if you'd put all your opinions in book form, you'd have several books." My writing was all in law, in opinons. The T. Eugene Thompson case alone was a 75 page opinion. Just the one opinion.

A: For someone who did not make a conscious decision to practice

law you've seemed to have enjoyed a very rich and rewarding life as a lawyer, as a trial judge and . . .

K: I must have had some success if Governor Youngdahl called me up and asked me to take the job of an associate justice without my asking for it. I didn't want it; he wanted me to take it. I must have had some success.

A: Right.

K: I don't know what it was.

A: What about the future of law? Will there always be a place for a Supreme Court?

K: There's got to be somebody who makes the final decision. The trial judges aren't always going to agree. They are gentlemen too, and they're not always going to agree. We have to have some final arbitrator to decide a case. The federal position would be the Supreme Court of the United States. You don't realize that on state law the Supreme Court of Minnesota's decision is final. In federal law, they can go to the Supreme Court of the United States. I think most cases end up in the Supreme Court of Minnesota; the Supreme Court of the State.

A: And if you had the opportunity, you'd do it all again?

K: Oh I suppose. I don't know. That's a hard question to answer. I would rather be a judge again . . .

A: A judge.

K: I'd like to work as a lawyer again and I'd like to work as a

trial judge, the best of all--because then you're dealing with people. I like people. When you get on the appellate court you're dealing with a dry book. You sit there and read all your work indirectly--you never see the people.

A: What advice would you give judges, so that they don't lose contact with people?

K: Well, that's up to the individual judge. You can't advise them how to do that. I think most judges try to keep in contact with people. My doors were always open. I had a fellow tell me when I was on the Supreme Court that it was easier to get into my office than it was to get into see a justice of the peace. My door was always open, except when I had somebody in there. And I'd like the people to come, to talk, and I think you've got to keep in contact with people. You can't put yourself above people if you're going to judge them, because after all you're judging human beings and their actions, and you've got to know something about how they mix and function.

A: Excellent point.

K: I don't think you can put yourself up on a shelf as a judge and judge people. You've got to live with them.

A: As the chief justice, were you able to get other justices to see that point of view, or did they all come with that?

K: Oh I think most judges come with that. At least our judges have. I don't know, I suppose on the Supreme Court of the United States you may put yourself up on a pedestal. You can't be as open, and your

doors can't be as open as they were on my court, but at the United States Supreme Court you can't get near those doors. It's like touching God almost. But I think on the state court, if you can, you should keep as near people as you can, although there's a limit to the amount of time you have.

A: The reason that I mentioned the chief justice is because the Warren court involved itself, it seemed, with issues that involved personal rights, and then there's the Burger court which, under Chief Justice Burger, has a reputation of being indifferent in that sense, and I'm wondering if that's the Chief Justice's choice. Can he be that influential?

K: Well, I think so. The Supreme Court of the United States can. The Chief Justice of the Supreme Court has tremendous power; he's the top judge of the whole judicial system in the United States. The same as the Chief Justice of the state court is over the state. But when you're dealing with a whole country as the Supreme Court of the United States does, as the final arbitrator, I would think the Chief Justice has a great deal of influence, although he has only one vote. And in the judiciary, well as you probably noticed, the Supreme Court differs too. They divide in groups. And they have their own opinions. Every judge has his own opinion and his own vote, and Burger as Chief Justice has some opportunity to be a leader.

A: Do you believe he's exercised those opportunities?

K: Oh I think so. I've know him for years. Burger was a good

friend of mine--I'd known him before he was on the court. Burger and Blackmun. I roomed with Blackmun one year down in New York. We were down there for an appellate judges' meeting and I roomed with him for a week. I got pretty well acquainted with Harry in New York, when he was the attorney for the Mayo clinic, before he went on the Circuit Court.

A: Did you exercise the power that is within the Chief Justice in Minnesota to influence the other judges?

K: You don't have any power but you have a right to express your opinion. Yes, I expressed my opinions of what should be done. The other judges didn't always agree with me, but they were my opinions and they had a right to an opinion the same as I had. I had only one vote, except that I was the Chief Justice and they probably listened to me a little more once in a while.

A: You were instrumental in setting up the annual judicial conference of judges?

K: I set up so many things I don't remember what they all were. But I didn't do it alone. I had the support and the help of the members of the court. I wasn't acting alone on anything.

A: Did you and the other justices differ on points from time to time?

K: Yes, I'd like to know when the court differed with me, but that was probably because they understood that I wasn't trying to run, to push them into anything that I didn't believe in. But we did differ, we'd have splits on the court on opinions and other things too. But we

got along rather well in the years I was Chief Justice, and I think we got along as well as anyone could get along. When I retired they gave me a rather nice send off. I had pretty good times as a member of the Bar and the Bench.

A: When you were on the bench what sources did you refer to to give you an idea of what the Minnesota Supreme Court was like before you came. Was it passed down verbally?

K: I practiced before it and I knew the judges. I knew Associate Justice Holt and I knew Judge Loring, I knew all the judges before I came there. I had argued a few cases up there. For some of them I was a spectator. I knew Judge Holt. You don't remember him.

A: No I don't remember him. I'm too young.

K: He lived way out in Minneapolis. He took the same streetcar for 20 years when he lived in Minneapolis. He took the streetcar every morning from Minneapolis to St. Paul and would read his briefs on the streetcar. He walked downtown from the Capitol so he would be sure to get a seat on the streetcar, every night to go home.

A: Did you feel as if you were entering a tradition--as if it was a tradition you were becoming a part of?

K: Well, I don't think so. I don't recall really. I never thought of it. When you were being appointed on the court you did the best you could.

A: What other major changes do you recall?

K: One of the major changes was the administrative office

which kind of helped judges. I helped set up the disciplinary proceedings of the lawyers, and it got extended to where even now a judge can be called before the commission.

A: How was the administrative office received by the judges?

K: Oh, not too crazy but they knew it was coming. I don't think they objected to it. I can remember one judge who said that when we got the administrator, he'd have to quit being a judge. He wouldn't have anybody peeking over his shoulder. Well I said "Charlie," (his first name was Charlie--you wouldn't remember him, he's gone now,) I said "Charlie that would be too bad--we'd just have to try to get along without you." That ended the argument right there.

A: I seems that you had great insight to people and that . . .

K: I had good luck.

A: Good luck. Well that would be a perfect way for me to end the inteview at this point, saying that it was a matter of luck and a matter of insight.

K: Well, I had grown up on the farm. I had a hard time as a youth; I didn't have any youth. I started milking cows when I was a kid. We were on the dairy farm, and I never knew what it was like to have a whole day off to myself in my youth. You delivered the milk around town in Superior and when we got up on the grain farm it was just as hard a time. You had no money to go to school. I started St. Olaf College with $50 in my pocket. It was all the money I had. No help from anybody. My father wanted to help me with things. He was losing his

farm and did lose it. What were you going to do?

A: You never forgot that beginning?

K: Well, how can you. Bill Douglas' book called Go East Young Man. That's a good history of his early life. He worked on the berry picking farm back in the IWW days. Industrial Workers of the World.

A: Did you think that background gave you some compassion for other human beings?

K: I think it gave you some understanding for other human beings. The compassion you had yourself because you had nothing yourself. My father and mother both came over from Norway when they were 20 years old. When I started school I couldn't speak English. When I started grade school we talked Norwegian. And I talked Norwegian and wrote Norwegian to my mother as long as she lived. So it was bound to influence my life.

A: And influlence it in a way that helps others?

K: I suppose you had a little sympathy for the people who were hard up, because you had gone through it yourself. You had nothing as a boy--you didn't have anything. We had plenty to eat. I can't say that I went hungry, but now I see these kids out playing football and baseball and things like that nowadays and I never had a chance. I never knew what it was, because you never had a whole day to yourself. But it wasn't a bad life. I didn't suffer. I had a good mother and a good father. My mother was a very devout person. She was the one who kept me going, I guess, in college when I was ready to quit. So many

times she'd say "Oh, you can do it Oscar." When I graduated from the University Law School my mother came down to see me graduate. I was proud of her. She couldn't even speak English. It took her to the opera out at the Fair Grounds; that was the first year that the fair grounds were open, and they had the opera out in the stadium. I took my mother there to her Aida. She wanted to know what the hell was going on. She didn't understand the opera, and she had never heard of this type of thing. She had a great time anyway. She enjoyed it tremendously.

A: Were you the first one to graduate from College?

K: I was the only one. There were six of us and I was the only one who went to college. My sister went to business school in high school--the business school was in high school in those days.

A: When you had the opportunity, did you travel to Norway?

K: No I never did get there. I was always going to go and never got there. I met the King when he was here. I was toastmaster at his banquet the first time he was over here.

A: Do you see any members of the Court these days?

K: Oh yes, Bob Sheran comes and sees me once in a while. Once in a while he comes here or he calls here and sees me. I haven't been over there to the Court. I can't see by myself. I had a stroke and lost my eyesight. I can't go by myself--I've got to have Kay's (Mrs. Knutson) arm to see where I'm going.

A: Well, Your Honor, I'd like to thank you for taking the time to

talk with me this afternoon. I've asked you a lot of questions and I want you to know that I appreciate all of the answers that you gave.

K: Well I hope it's helped you some.

A: I wanted to make sure that I didn't leave anything out.

K: Well, I think that you've gone though it thoroughly.