

Arkansas Supreme Court Project
Arkansas Supreme Court Historical Society

Interview with
Ray H. Thornton Jr.
Little Rock, Arkansas
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Interviewer: Ernest Dumas

Ernest Dumas: Today is February 21 and we are at the Fletcher Library in Little Rock and I am talking to Ray Thornton, retired justice of the Arkansas Supreme Court. Scott Lunsford from the David and Barbara Pryor Center for Oral and Visual Arkansas History in Fayetteville conducted a lengthy interview on your life a year or so earlier so we're not going to cover the same ground. But we're going to go in and fill in some gaps.

Raymond H. Thornton Jr.: Well, it's a pleasure to see you, Ernie.

ED: It's a pleasure to visit with you again. So we're not going to cover all that ground. But we're going to fill in some blanks and plug in elements of our interview today into that longer interview with Scott Lunsford. Let's start off. I wanted to get your full name.

RT: I am named after my father. My father was Raymond Hoyt Thornton of Conway, Arkansas, and I'm Raymond Hoyt Thornton Jr. In the early years, we made a distinction and he was called Raymond and I was called Ray.

ED: All right. So what was your mother's full name?

RT: My mother was Wilma Stephens Thornton. It was actually Wilma Elizabeth Stephens Thornton and she was born in Prattsville in 1908 to A.J. and Ethel Stephens.

ED: Yes. I think in the early interview we covered a lot of your childhood and your parents and your grandparents. Wonderful stories. So I wanted to skip forward to one thing that I think was not covered sufficiently and that was...I guess your first public office was delegate to the Constitutional Convention of 1969-70.

RT: That was my first elected office...

ED: Elected office.

RT: ...by the people. I had previously been president of the Associated Students at Fayetteville.

ED: OK. For the readers of this interview, a little background: Winthrop Rockefeller was governor in the latter part of that decade, in the sixties, and we had an election in 1968 in which the voters of Arkansas had to decide whether to hold a constitutional convention, and then people ran for the one

hundred delegate seats. I guess people were elected from the same districts as state representatives. One hundred representative districts so you had one hundred delegates. So people ran for those seats. Now, when they ran, they wouldn't know if they would have the job or not if they won...They might not have a job.

RT: Yeah.

ED: After they got elected. So you ran for that seat knowing that if you won but the voters did not also approve holding a constitutional convention your election didn't mean anything.

RT: Yes, that's correct.

ED: I guess from a district...

RT: It was a district composed of all of Grant County and part of Jefferson County and I ran unopposed.

ED: You ran unopposed. Did you think that the voters were going to approve a convention?

RT: Yes. I became chairman of the Executive Branch Committee. I was one of the leaders of the convention and we left very optimistic that we had a product that was not only good but would be adopted by the people.

ED: It was a distinguished bunch of delegates, I thought. Unusually distinctive.

RT: Oh, Dr. Leflar.

ED: Dr. Robert A. Leflar, the distinguished Professor Emeritus and former dean of the University of Arkansas School of Law.

RT: Conflict of Laws at the University. Richard Arnold.

ED: Richard S. Arnold, later almost a U.S. Supreme Court Justice and distinguished appellate judge.

RT: Thomas Eisele.

ED: G. Thomas Eisele, later a great Republican federal judge. A great federal judge not just Republican. And a lot of others. Were you a vice president? There were several vice presidents.

RT: I was chairman of the Executive Branch Committee.

ED: Executive Branch Committee. I'll mention this: One of the vice presidents of that convention was a classmate of mine from El Dorado—Richard Mays.

RT: Yeah, I know Richard.

ED: Later, didn't you all run against each other?

RT: Richard [Mays] was in the race against me and Richard Arnold for Congress.

ED: For the Fourth District. So that race occurred in 1972. But in 1969–70 you were delegates there.

RT: Richard is a distant relative of mine.

ED: Oh, is he? I still see Richard. He lives up in Heber Springs now.

RT: Yeah.

ED: We have lunch occasionally. He was a big football and track star in high school.

RT: Right.

ED: In my senior class he was the most handsome guy in the class, an all-state football star, track star and probably about the most popular guy in the class.

RT: Yep.

ED: But now he's a good environmental lawyer, very successful. Anyway, I was going to say there were a lot of—we won't go into it, but there were a lot of very distinguished people at that convention and who later served in the legislature, were judges and so forth. But, any rate, what did you think of the overall document that you all adopted?

RT: I thought it was a great improvement over the ancient document. We worked diligently and got strung out on some issues that ultimately led to the defeat of the instrument. But it was well-thought-out. I thought that Bob Lefflar did a good job of keeping it on track.

ED: Did you say that there were some issues that caused its defeat? What were the issues you think that contributed to the defeat? Taxation?

RT: Taxation was a great concern and all you need to do in Arkansas is raise the ghost of taxation and you get a big negative vote.

ED: In that instance, I think what you did (and I am going by my distant memory) on taxation was that in the old constitution we had an amendment in 1934 that required a three-fourths vote to raise the income tax...

RT: Yes.

ED: ...and nearly all other taxes. It took a three-fourths vote of each house to raise any tax that existed in 1934. But you could pass an entirely new tax with the simple majority so that's why with the sales tax you can pass an increase with simple majority—that tax did not exist in 1934. So you pulled that provision out and you arrived at the consensus that every tax would take a three-fifths vote, sixty percent, which made it a little harder to raise the sales tax and a little easier to raise the progressive taxes like income taxes. So they ran against it saying, "this is going to raise your taxes." I thought that was probably the biggest thing. But probably a lot of it was just people...something drastic and new and people were wary of it. You remember any other issues that kind of dragged it down? Judicial reform maybe?

RT: Yes.

ED: I've forgotten...

RT: Of course we elect our judges and there was, even then, an idea that judges should be selected by appointment like the federal system.

ED: Some kind of merit-selection system like the Missouri system.

RT: Right.

ED: How did you come down on that?

RT: Well, I came down on continuing to elect Arkansas judges. I thought the federal system worked fine but, for Arkansas, it gave people the right to judge the character of the people that they selected into judicial.

ED: And you still believe that, I guess? After serving on the court yourself you still believe that?

RT: Yes.

ED: And I think the record of the Arkansas Supreme Court is pretty good as kind of a courageous group.

RT: As a matter of fact, that goes to my feeling that our judiciary is made of our Judeo-Christian belief in individuals and the rights of individuals to participate—unlike other systems where justice was just imposed by, for example, the Roman law. The Judeo-Christian system pervades our judicial system.

ED: It seems like there might have been something about not including the geographical description of the state. Something about that, some lunatic bunch raised it as an issue.

RT: I don't recall.

ED: I don't remember now but I remember some far-fetched thing. One group opposing it came out with something really radical: we'll become socialists or something as a result of this document. Anyway, it was defeated. I think it got about forty-three percent of the vote. Does that sound about right?

RT: Yeah.

ED: I think it came out about like that. Dale Bumpers was running in the same election in 1970. That document was voted on in the general election. He defeated Winthrop Rockefeller in that election.

RT: Yeah. Dale and I were both candidates that summer. I was running for attorney general and he was running for governor.

ED: That's right. Yes. And some people blamed Dale Bumpers, that he should have played a bigger role in promoting that constitution.

RT: I've never criticized Dale for his position there. He was an underdog.

ED: Yes. Well, actually, by that time he wasn't. He was going to win. The election was over the day he got the nomination. Rockefeller was not going to beat him.

RT: He ran as an underdog.

ED: He ran as an underdog and he favored the new constitution and indicated that he supported it, but Rockefeller really embraced it.

RT: Right.

ED: And almost ran on the new constitution. Of course, that might have...

RT: Oh, and by the way, Dale called on me, because I had chaired the Executive Branch Committee, to help him in the reorganization of the executive department after he won.

ED: Yes. I think you...

RT: I was attorney general.

ED: Yes.

RT: And he favored me. He favored me by asking my advice.

ED: Yes. I remember the night before the election. I was traveling with Dale Bumpers. He was running for governor and I think we all knew he was going to win by that time. We were in some plane flying back from Fort Smith and I asked him about the new constitution. He said, "Oh, it's going to pass."

RT: Yeah, I thought it would.

ED: He said it's going to pass easily. Pass easily and it's going to be a great thing. But then, of course, it was defeated. I know Tom Dillard and some others thought he could have done more. Bumpers could have done more. But, anyway, that's history. You ran for attorney general.

RT: Yes.

ED: I saw some place that one of your ideas for running for attorney general was that so you could help implement the new constitution.

RT: As a matter of fact, one of my reasons for making the race is that I thought the attorney general should be someone who is experienced in the new constitution because there would be questions arising between the two instruments—the old one and the new one.

ED: I've forgotten, who had been...

RT: Richard Earl Griffin.

ED: He ran against you. Richard Earl Griffin, who was a state senator from Crossett, ran against you. Ran a populist campaign against you. My recollection is that Richard sort of ran against your uncles, didn't he?

RT: Oh yeah.

ED: Witt and Jack Stephens, and, of course, they were rich and powerful and...

RT: Right.

ED: I think that was Richard Earl's strategy.

RT: There was an effort to make the race between himself and them.

ED: Witt was the better known and head of the gas company [Arkansas Louisiana Gas Company] and everything.

RT: I am grateful for my family's help. They supported me throughout. There's an interesting story there that I would like to share with you. I had a very strong and good career with Stephens and Arkla Gas. I made a lot of money

and I went over to Witt's office one day and I said, "Witt, I couldn't ask for anything better in the practice of law than what you all are helping me with. But I want to get into politics." He blew on his cigar and he said, "Ray, if you're asking for my advice, I'd stay right where you are and make a lot of money and you'll have more effect on politics than you'll likely ever have as a candidate. But, if you go into politics, I'll support you and the family will support you as long as you don't use your politics for making money." Well, I hadn't heard it that way before. But he told me that if you go into politics, we can support you only if you have a reputation for integrity and honesty. That's the only reward that we have.

ED: Good, good.

RT: And I did it. I really hadn't thought about giving up my outside earnings but I did. I severed my relationships with making money and went into politics.

ED: But, at that time, didn't the attorney general knock down a cool...

RT: Six thousand dollars a year.

ED: Six thousand dollars a year.

RT: Six thousand dollars was the salary.

ED: To be rich you had to be governor—you got ten thousand a year but you had the mansion. Well, Richard Earl, he was a pretty colorful character. Richard also went to my high school, to El Dorado High School.

RT: He's a good man. I like Richard Earl.

ED: He now lives someplace down in Houston and every about ten years I'll hear from him someplace. He was the quarterback for the El Dorado Wildcats. His daddy and uncle were big union organizers. Ermon and Earl Griffin. They ran the big pipefitters and steamfitters union. When he was in the legislature, he was a populist labor guy in Crossett. Later he became a banker and made some money, too. All right...

RT: As a matter of fact, we became friends.

ED: Yes.

RT: Partly because of an unusual thing that Witt would do. After I had defeated Richard Arnold [for Congress in 1974], Witt sent Richard a campaign contribution. He did the same for Richard Earl Griffin. He said the person who needs the help most in politics is the person who has just lost. So he gave money to both of my opponents.

ED: So you were attorney general. You didn't get to help implement the new constitution but you served two years, right? Four years? Two years?

RT: Two years. Right. We reapportioned the first single-member districts.

ED: Yes, let's talk about that. You were on the state Board of Apportionment—made up of the governor, the attorney general and the secretary of state, which was you, and Dale Bumpers and...

RT: Kelly Bryant.

ED: And Kelly Bryant. So you all created the first single-member districts in the Arkansas legislature.

RT: Absolutely, and I was the one who started it. I prepared a plan that was single-member districts throughout. I couldn't persuade Kelly and Dale to adopt single members in some counties.

ED: Yes, so in Pulaski and a few other counties people ran for seats in multimember districts. The other thing, the most important thing about that reapportionment, I think, was that it created the opportunity for the first time since 1890 for African Americans to be elected.

RT: Henry Wilkins.

ED: Henry Wilkins.

RT: Henry Wilkins had served on the Constitutional Convention.

ED: That's right, from Pine Bluff.

RT: Ran for representative and was elected. Good friend.

ED: I guess you and Dale probably did most of the work on preparing the maps.

RT: Another name that needs to be mentioned is Bob Morehead.

ED: Robert Morehead.

RT: He was the first African American to serve as a deputy attorney general.

ED: Under you. That's right.

RT: Right.

ED: Robert Morehead from Pine Bluff. You went out of your way, I think, to create districts where African Americans would be in a significant majority so they would have a chance to win.

RT: That's right.

ED: Henry Wilkins was elected in '74, whenever it was, after the next election. Also Dr. W. H. Townsend of Little Rock was elected. I think [Dr.] Jerry Jewel. was elected to the Senate [from Pulaski County].

RT: Right.

ED: The first African American in the state senate since about 1890. I don't remember if those were the only three but more were elected later.

RT: Right.

ED: From other districts. But it was challenged, that reapportionment. The Republicans challenged it.

RT: And we won.

ED: You did. It went into federal court and I'll tell you a little story about it, which you may not remember. You, of course, as attorney general, were defending it in federal court, defending the reapportionment.

RT: Yes.

ED: And a lawyer named Mazzanti from Lake Village was the attorney for the Republicans and was challenging it, making a case that it was unconstitutional, that it didn't give sufficient voting rights to African Americans, to Republicans, or whatever. You subpoenaed me as a witness at the trial because I had...I worked at the *Arkansas Gazette* and had gone behind you and got all the population figures, the racial breakdown by district, to try to see whether you could have created other districts with an African American majority.

RT: Yes.

ED: I did an exhaustive analysis and I wrote this piece for the *Arkansas Gazette* in which I kind of concluded that you did about the best job that could have been done.

RT: Yes, I remember.

ED: You could have, in a few places, been able to carve out a slightly bigger majority for African Americans by some unusual gerrymandering, but it was...

RT: We did a good job.

ED: That's right. That was my conclusion. So you subpoenaed me as a witness and, of course, I was nervous about it. You called me to the stand and I stepped up on the stand and I got sworn in and you started establishing my credentials—"You work for the *Gazette* and so forth, and you wrote this piece," and you had a copy of the article there. You said, "Now, is this the article that you wrote?" I said, "Yes." You said, "And your conclusion is what?" and Judge Henley—this is J. Smith Henley, great judge...

RT: Oh yeah.

ED: He said, "Stop! Wait just a minute! Mr. Thornton, are you telling this court you are putting a newspaper reporter on the stand as an expert witness?"

RT: Yes, I remember that!

ED: You said, "Well, yes, your honor." He said, "Not in my court. Mr. Dumas, you are dismissed. Get back to work."

RT: [Laughing.]

ED: So that was it.

RT: Oh boy.

ED: So I was on the stand about three or minutes.

RT: I liked Judge Henley. Good man.

ED: He was a great judge. Crusty and funny and he never cracked a smile but he was a funny old guy. He was not going to let a newspaper guy...

RT: We won those cases.

ED: That's right, you won. I don't know whether they got appealed to the...I think it probably got appealed to the Eighth Circuit but was upheld. Well, All right. I just wanted to get that story on the record...

RT: I'm glad you did.

ED: On how you screwed up and called a newspaperman as an expert witness. All right, as attorney general...Consumer protection. You established consumer protection.

RT: I actually...Joe Purcell deserves credit for starting the ball rolling. Tom Glaze helped. But they were unable to get anything passed.

ED: Yeah, they couldn't get a bill passed. But they set some kind of office up without a statute, which had little authority to do anything—little statutory authority. I think Tom Glaze, as deputy attorney general, had gone to a National Association of Attorney Generals conference someplace and heard Christopher Bond, who was later a governor and U.S. senator from Missouri, then the attorney general of Missouri, describe how he had established a consumer protection division. Tom heard him make that presentation and goes back to Purcell and says, "Hey, here's something we can do." Joe wanted to do something. So that's how I think all that got set up. It got set up and got subpoena powers and everything.

RT: The one that they had written had subpoena powers and broad authority so I knew it would not sell. I wrote myself, in my law office, what became the backbone of the actual consumer protection statute and we got it passed. It had borrowed from the work they had done.

ED: Yes.

RT: But it was our bill.

ED: All right, let's see. So we move forward to 1972 and David Pryor had been the congressman from your district in south Arkansas. He was from Camden and you were from Sheridan, in Grant County, which is on the northern edge of that district. He gave up his seat and ran for the Senate against McClellan, the famous classic senator race in 1972 and you ran for that seat. I am trying to think who...

RT: Well, he [Pryor] told me he was going to run and urged me to consider and make it a race. So I began thinking about it and when he announced for the Senate I announced for Congress and Richard [S.] Arnold, who was a good friend of mine, also got in the race and Richard [H.] Mays and Bob somebody from McGehee got in there.

ED: I am trying to think who that would have been from McGehee. Now Jimmie "Red" Jones didn't run in that race? [It was Jack Coleman of McGehee.]

RT: No.

ED: Or Chuck Honey?

RT: No.

ED: That was earlier. Chuck Honey was probably running down there the first time Richard Arnold ran, it was in 1966, there was a big field down there and ran for that seat.

RT: You'll have to fill that in.

ED: Yeah, I'll go back and check that out and see who the other one was. Somehow I was thinking it was Jimmie Red [Jones] because he had always threatened to run for Congress but didn't. That was a pretty...I guess you and Richard didn't go after each other.

RT: We carried on a series of debates. I honestly said at the end of the race that he had almost persuaded me to vote for him. He was so smart and so good. But I overcame my scruples and voted for myself.

ED: Cast a selfish vote. OK. All right. I'll need to go back and get the actual vote to fill in. I've forgotten— was there a runoff? [Thornton received 50.8 percent, Arnold 29.7 percent, Mays 14.2 percent and Coleman 5.3 percent.]

RT: I won with a clear majority over the three opponents.

ED: Yes, you had a clear majority in the first go around. I'll get those figures so we can fill it in. I think, in your conversations with Scott Lunsford, you covered very well, the historic Watergate investigations and so forth and the impeachment proceedings on President Nixon and so forth. I think y'all covered all that very well. So you served three terms.

RT: One term as attorney general and three terms as congressman and then ran for the Senate.

ED: I think there were three great Senate races of modern times. One would be the 1972 race with McClellan and David Pryor, the '74 race in which Bumpers defeated Fulbright and then the '78 race between what we considered the three rising giants of Arkansas politics at that time, which were you, Governor Pryor, and Congressman Jim Guy Tucker. So we have two congressmen and the governor running in that race and a guy named A.C. Grigson.

RT: From Texarkana.

ED: Someplace down there. That was a classic race. Let me read you the figures that came out. It was almost a three-way tie.

RT: It was.

ED: Pryor came in first with one hundred ninety-eight thousand four hundred ten votes, Tucker came in second with one hundred eighty-seven thousand five hundred sixty-eight and Thornton was third with one hundred eighty-four thousand ninety-five votes, and A.C. Grigson got 8,166. And, of course, if you had gotten Grigson's eight thousand...

RT: If I had gotten Grigson's vote I would have been second.

ED: Second place and maybe the senator.

RT: Yep.

ED: Who knows? That was a pretty... That was a race followed nationally at that time. It had been John McClellan's seat. We already had a young senator, and now we had lost two giants in the Senate, great seniority, sixty-some-odd years of seniority between them [J. William Fulbright and John L. McClellan] and we were now going to be down to two new guys. What decided that race, do you think? Looking back at that race you could say a thousand things.

RT: I think I'd have to say I didn't work my remote districts as well as I should have. I won every county that was populated very strongly. I beat Jim Guy in Pulaski County. [Actually, Tucker carried the county but by less than 2,000 votes.]

ED: His home county.

RT: I think I may have beaten David in Ouachita County. [Pryor carried the county decisively.] But the race turned on Grigson. He got all of my conservative votes down around Texarkana and I knew that was happening but I couldn't do anything about it.

ED: Well, when you say conservative votes, and I guess you kind of placed yourself... You were generally placed as the more conservative than the other two, although, to be perfectly honest about it, all three of you would be characterized as moderate to progressive.

RT: Yes. I was progressive.

ED: But no one wanted to run as a liberal and it was better to be a conservative.

RT: Ernie, I have never mentioned this on any public thing, but I can't help but wonder if my stand on impeaching Nixon may not have accounted for some of my negative votes in that race.

ED: Oh, no doubt about it, I think it did because certainly Republicans, who were not voting in their own primaries in those days, would have held that against you. He still had a pretty good following, Nixon did. People thought at that time that he was unfairly treated. But let me mention another thing to you that I thought might have had a role. You remember a few days before the election—I've forgotten, maybe a week before the election and we're talking about the preferential primary—*The New York Times* ran an article in its business section by a guy named Jeff Gerth.

RT: Yep.

ED: An investigative financial reporter for *The New York Times*. That story, which was picked up here—I've forgotten the details of it but basically it suggested that there was some impropriety in Witt and Jack Stephens in the operation of... Your uncles had a little gas company named Arkansas

Oklahoma Gas Company, which operated generally in Logan County, Franklin County and maybe Sebastian County. A fairly small gas distribution company over there. It was a murky story, but the suggestion was there was something improper about the gas-pricing arrangements of Arkansas Oklahoma Gas Company. That story, of course, was in *The New York Times* and picked up down here and run on the front pages, and, of course, down in the story it mentioned that their nephew, Ray Thornton, was on the ticket as a candidate for the United States Senate.

RT: Yeah. I didn't have any problem about that. The story was poorly based and it attacked Witt and Jack and I had a career where they had kept their hands completely clear of my political votes. They had done a good job of it and I have always been happy that I had a relationship with them where they helped me as a family member and not on the basis of trading votes.

ED: I don't know whether it was the result of that story or not, which got prominence over in Fort Smith and that area, that you lost those counties over there.

RT: It could have hurt.

ED: You lost those counties over there.

RT: It could have hurt.

ED: Now, I'm going to tell a story.

RT: OK.

ED: You may not know not know all of this. I think that incident changed the course of world history. It's kind of complicated, but this is my theory anyway. Since it affected your life and your career, as well as the history of the world, I'll go into some detail about it. I had some role in it. I was the correspondent, the stringer we called it, for *The New York Times* for Arkansas. I got a call one day from this guy named Jeff Gerth, whom I'd never heard of. Now he's fairly well known. Jeff Gerth, I'll say it right here, was also the guy who wrote the story in *The New York Times* in 1992 about Whitewater that resurrected that and created the crisis for Bill Clinton, his presidency, the suicide of Vince Foster and his [Clinton's] impeachment. All of that flowed out of it, and I traced it all back to this incident. Here's what happened. I get a call from Jeff Gerth and he said, "I'm doing a story about the Stephensens and I understand you did a series of articles on them." I said, "Yes, I did. Three or four years ago, how they built their financial empire. A three-part series that covered about three or four thousand words. Covered about seven or eight pages of the *Gazette* back in 1976." So I copied and sent it to him. No, I didn't. He said, "I'd like to see that. I'm flying down to Little Rock and I'm going to do a feature on them, going to interview them and so forth and I'd like to have that background." He also said, "I'm also

going to need something about the Union Life Insurance Company [owned by Witt and Jack Stephens] and I wonder if you could get whatever records you could get on the Union Life Insurance Company.” I said, “Sure.” I go out there [the state Insurance Department] and get some documents [annual reports and the like]. Jeff Gerth arrives. I meet him down the street from the *Gazette*. We had a beer and he told me about this story. Turns out, he had already...He had arrived earlier in the day and had been out to the Public Service Commission. He had already been there. So he’d gotten a tip. The tip, of course, came from Sheffield Nelson.

RT: Sheffield Nelson.

ED: Sheffield Nelson, at that time, was the president of Arkansas Louisiana Gas Company and had once had been a protégé of Witt and then had a falling out after he became president. That’s another long story we don’t need to get into here. But there’s kind of bitterness and rivalry there. And so he had tipped Gerth on that and Gerth had gone out to the Public Service Commission and had gotten some documents about the pricing arrangements at Arkansas Louisiana...No, Arkansas Oklahoma Gas Company. It had a rate increase pending and so they had filed all these documents and somebody at the P.S.C. had tipped Sheffield and Sheffield tipped this guy and he comes down. So what Jeff Gerth told me there... he didn’t share anything...he just said, “I’ve been out to the Public Service Commission and I’ve got a story that’s going to blow Ray Thornton out of the Senate race.” I said, “Wow, what is it?” He said, “Can’t tell ya. Can’t tell ya.” But he said, “But I need to talk to Witt and Jack Stephens. I’ve got to talk to them. But I’ve got the story.” I said, “What does that have to do with Ray Thornton? Can you tell me that?” He couldn’t tell me anything but that it’s going to blow you out of the Senate race. So he stayed around for about two weeks and he could not get Jack Stephens on the phone or visit him to ask him these questions, or Witt. So he’d call me, frustrated, “Can you call and make arrangements for me to talk to him?” I said, “Well, no. I can’t do that. You’ll have to do that yourself. I might be able to interview them for you but I’m not sure about that.” No, he had to do it himself because he’d have to tell me then what the story was and he was afraid I would break the story, I guess, in the *Arkansas Gazette*. At any rate, he was frustrated hanging around. I said, “Well, why don’t you just go down to the Stephens building early in the morning and park out there in the parking lot. Mr. Witt comes in early. He gets there by daylight and you can talk to him on the parking lot if nothing else.” He said, “All I want to do is just...They’ll refuse to talk to me. All I need to do is give them a chance to say ‘No comment’ or ‘Don’t talk to me.’ That’s all I need.” Little bit dishonest but, anyway, he says he needs to give

them a chance to talk and that's all he wants. So he finally has to fly back to New York, or wherever he was, and gets back up there and calls me from time to time. He is still just more and more frustrated because *The New York Times* is not going to run the story unless he gets their side of the story or a comment from them, out of fairness. That was their rule. Finally, he called and said he had gotten from...Craig Campbell had set him up to play golf with Jack, and he was flying down and he was flying down and going to play with Jack on the golf course, at the Little Rock Country Club, I guess. He gets down here and it turns out that Jack is at Augusta, Georgia, at the Augusta National Golf Club. So he's again foiled and he goes back. Finally, a few days before the election, he persuaded these editors at the *Times* that they were avoiding him and they were never going to talk to him so they agreed to run the story. And they ran the story and the story, frankly, made little sense.

RT: Yeah.

ED: It was just a routine way of pricing your own gas and passing it on to customers, as I recall. Something like that. Old issue with gas companies. Nevertheless, you had this big blockbuster story. Of course, I had told the editors at the *Gazette*, "This guy at the *Times* has got this story. I don't know what it is but he says it's going to blow Ray Thornton out of the Senate race." So they were anticipating some bombshell down there. When the story comes out, I think one of us had to rewrite the story and try to make some sense of out of it. But we re-ran it in the *Gazette* and I guess the *Democrat* and the A.P. [Associated Press] picked it up and ran it in papers all over the state—Fort Smith papers, Van Buren, all those over there. So that's the story of that thing.

RT: Wow, I never knew that. I knew that there was...Jeff Gerth had been trying to get a story to blow me out but I never knew you were involved.

ED: Well, that was the extent of my involvement.

RT: You helped! You helped.

ED: Well, I gave them...All I did was give them that stuff back there on that series I did.

RT: Well, in the first place, there wasn't anything wrong with Witt had done.

ED: No, nothing at all. Of course nothing came out of it all. They got the rate increase. Of course, the rate increase became a big issue in the runoff then between Jim Guy and David...

RT: Thank you for sharing that.

ED: Let me finish the story about the impact it had on history, because this is my own theory about it, but I think it holds together pretty well. That all this stuff, including the impeachment of Bill Clinton, goes back to that episode

and that rivalry between Sheffield Nelson and your uncles, that bitter rivalry and hatred. I guess you could call it hatred. I don't think that is too dastardly a word. Nevertheless, several years pass, Sheffield is running Arkansas Louisiana Gas Company. He makes a deal with Jerry Jones, his old buddy, Jerry Jones, who has a...He's a partner in a little gas exploration outfit over in west Arkansas. They make a bargain and he's essentially going to give...

RT: Yes.

ED: Rights to...exploration rights [on lands where Arkla had mineral rights] to Jerry Jones and lend him...

RT: And agreed to buy it back.

ED: And agreed to a contract to buy it [the gas produced on those lands] forever, no matter whether they needed the gas or not. They called it "take or pay."

RT: Incredible.

ED: Then Arkla lent him three million dollars to start the drilling interest-free. At any rate, an outrageous deal. One of the crimes of the century, I always thought. Nevertheless, Jack [Stephens] got to be big pals with Wendell Rawls, who was another investigative reporter for *The New York Times*. And "Sonny" Rawls, who had won a Pulitzer Prize a year or so before at the *Philadelphia Inquirer*, and I think they had got to know each other through the Bert Lance episode. I think Jack and Bert Lance had been friends and partners in some kind of deal. Wendell went down, I think, and played golf in Augusta. But he and Jack had gotten to be kind of pals. So he tipped Wendell on the Sheffield deal with Jerry Jones. So Wendell Rawls comes down and writes a big story for *The New York Times* about Sheffield's deal with Jerry Jones. Sheffield threatens to sue *The New York Times* and there was a hoorah about that for several years. Well, that went on forever, quite a while. I think that story and stories about the Arkla-Jones gas deal in the years afterward ultimately killed Sheffield's political career. Without that, I think he might have been elected governor and had a great career. Sheffield's a smart guy, might have been a good governor. Might still one day be governor. Who knows?

RT: Right.

ED: I doubt it.

RT: Let me tell you something. That's smart to be able to give something away and agree to buy it back at a price that pays for the Cowboys. [Jones subsequently bought the Dallas Cowboys professional football franchise.]

ED: Yes. You can almost thank Arkansas Louisiana Gas Company, ultimately, for that whole deal. But anyway, it enabled Jerry Jones to buy the Dallas Cowboys and become a national figure. That was the immediate follow-up, two or three years after...

RT: Ernie, how has Sheffield stayed away from all of this?

ED: Well, the *Democrat-Gazette* for one loves him.

RT: *Democrat-Gazette* protected him.

ED: Loves him.

RT: Hussman. [Walter Hussman, publisher and owner of the *Arkansas Democrat-Gazette*.]

ED: Yes, and Paul Greenberg. Any rate, then, as the third step on that, 1992 comes along and Bill Clinton is now running for president. Sheffield now is going to retaliate for all of the Arkla stuff, the Jerry Jones stuff. He knew that Jack caused that to happen, I'm pretty sure. So Jeff Gerth comes down to investigate Bill Clinton's background and Jim Guy Tucker's. So, by that time, he [Nelson] and James McDougal, had become big pals and Sheffield sets up Jeff Gerth with Jim McDougal, who tells him that Clinton is...that the Stephenses support him and so forth and all of that. He mentions this Whitewater Development Corporation. Jeff Gerth writes that story and, of course, everybody knows what happens. That eventually led to a snipe hunt of eight or nine solid years over Whitewater Development Corporation. the Stephenses from time to time and eventually to the impeachment of Bill Clinton and all of that. Anyway, that's why I say that little incident to try to destroy your career in 1978 had worldwide implications for the next thirty or forty years. You changed the course of world history and you didn't know it.

RT: Yeah. No doubt.

ED: OK. Betty Jo needs to...You can tell her that story later. She's here now. You can tell her that story later.

RT: I love it. Thank you.

ED: Yes. All right.

RT: I'm glad to know you have that inside information because I haven't known what to do. I think Sheffield has trampled on the rights of the owners of Arkla, the people...

ED: The biscuit cookers. The biscuit cookers, too.

RT: Yeah.

ED: I was just telling him, Betty Jo, that I had a role in the destruction of his political career in 1978. A minor role. I didn't know what I was doing at that time. But any rate, you can relay that later. Well, all right. I needed to tell that story. Let's see, let's go back to you now. Let you talk some more. We've told the Jeff Gerth story. All right, so we've covered...I think Scott [Lunsford] had covered the years after 1978, your work with the Arkansas colleges, independent colleges, the foundation, and your presidency at Arkansas State.

RT: Yeah. University of Arkansas.

ED: University of Arkansas—we've got that covered. So 1990 you decide... You're living in Pulaski County now, right?

RT: Yeah.

ED: You decide to run for Congress from the Second District.

RT: Yeah.

ED: Had Grant County... it was not a part of Second District.

RT: Well, first of all, I enjoyed doing what I did at the University of Arkansas. I took a shipwreck that was really in trouble and we got it straightened out, we got Dan Ferritor and Willard Gatewood and other people and we came in and gave them a stable base. And I had this idea, and it really was kind of my Marshall Plan for America. The idea was that instead of nibbling at "how do we cut our deficit?" it should be, "how do we make an investment in education and research that will then increase our income? We will develop a domestic Marshall Plan to put America back in front. Well, the idea caught on. I can't think of the columnist for *The New York Times*, but he picked it up and he started publicizing it and it got a lot of circulation. I think it led Bill Clinton to develop some of those ideas in his proposal.

ED: You need to go up there to Washington today and...

RT: What's that?

ED: You need to go to Washington today and sell them on it.

RT: That's right.

ED: That's what's missing there now. So you decided to run for Congress. Tommy Robinson was the congressman and I think you pretty much announced before he eventually...

RT: I had decided I was going to run whether he did or not.

ED: Whether he did or not. Well, you were going to beat him. He had been a hero for a while back in 1984 when he had been elected to Congress. By '90, everybody considered him a flake. He lost his charm, except in a lot of the rural areas. So you ran and you didn't... you didn't have an opponent in the Democratic primary, did you?

RT: Yeah.

ED: Who did you...?

RT: Not a Democrat, but Jim Keet.

ED: Jim Keet. Jim Keet was a Republican.

RT: And Jim Keet caused me to stand my ground, and I want you to know that I took a lot of heat in that race against Jim Keet. He picked up on the Texas millionaire's idea of a gasoline tax. The way to solve our problems was to impose a tax on gasoline. Well, I had done my research and, all of things, Arkansas and Montana had the highest level of gasoline consumption per capita of any state.

ED: Because they are rural states. People commute long distances to work.

RT: And it was unfair to Arkansas. So I jumped on Jim Keet and said I could never vote for a tax increase on gasoline because it's unfair to Arkansas. The *Democrat-Gazette* gave me a banner headline: Thornton Can Never Vote for Sales Tax on Gasoline. It was three years later. Jim Keet's out of it. But there's my statement, when the White House pulls the rug out from under me, I had voted for their energy package, which had a consumption tax, a B.T.U. tax on gas for everyone, whether it was gasoline or fuel oil or whatever, that was fine. Then the White House changed and went with a gasoline tax and I was staring in the face of the banner headline: Thornton Says He Could Never Vote for a Gasoline Tax Because It's Unfair to Arkansas.

ED: Now, was that the budget... Was that gasoline...?

RT: That was the Clinton deal.

ED: Yes, that was under Clinton, two or three months into his term.

RT: Yeah.

ED: And it was part of the budget and reconciliation act of 1993.

RT: It was the budget reconciliation that really pulled us out of the mess that we were in and it first went through and it was a use tax on B.T.U. and I supported it. But it came back and they changed it to be a tax on automobile gasoline.

ED: But it also had some income taxes in there as well.

RT: Yeah.

ED: It had a package of tax increases including income taxes.

RT: That wouldn't have made any difference to my electability. But I had a headline story that I would never vote for a gasoline tax.

ED: Yes.

RT: And they tried to get me to change my vote.

ED: They put some heat on you, didn't they?

RT: Yeah.

ED: Clinton was furious that you...

RT: So I figured it out, Ernie. I figured it out. My vote could have sunk it. But, if I either voted with them, you know, voted against the tax, or if I abstained, my position would be OK. So I went down to the last minute not knowing whether I was going to abstain from a vote or vote against the tax. It turned out I could vote against the tax and I did. But, boy, it put red on my face.

ED: Clinton was furious at you. Did he call you and cuss you out?

RT: Oh yeah.

ED: I ask because I've been on the end of those calls from Bill Clinton.

RT: Clinton called. Hillary called. Man, they...

ED: Chewed you out? After the fact?

RT: Yeah.

ED: You don't remember any of the language, do you?

RT: No, I didn't. I'm not going to try to fix it. I shouldn't have made a statement that I could never vote for a tax that...

ED: Well, that's easy to say now. We regret things we say years later.

RT: It was my fault. But, boy, that left me with a bloody nose.

ED: Yeah. Yeah. So that would have been in the spring of 1993. Clinton was elected in '92 and took office in January. This was his big package. He got the two hundred and eighteenth vote. I think that Chelsea Clinton's mother-in-law cast the two hundred and eighteenth vote.

RT: Yeah. Mezvinsky. [Representative Marjorie Margolies-Mezvinsky]

ED: So it worked out. It worked out for everybody pretty well.

RT: Except her. [She had pledged in 1992 not to vote to raise taxes, cast the 218th vote for the Clinton taxes and was defeated in 1994.]

ED: Except her and you had to endure a little bit of righteous anger from Clinton and Hillary. So both of them called you.

RT: Have we missed anything?

ED: Well, I am going to cover a couple of other things. So you served under Bill Clinton from '93 to...One more term, right? Through '96.

RT: Yeah.

ED: Did y'all patch up relations? Did your relationship with Clinton warm up a bit?

RT: I've always had a cordial relationship with Bill Clinton.

ED: You weren't around for another impeachment proceeding. You're probably grateful for that, that you weren't around for a second impeachment ordeal. All right, so then we're down to Supreme Court. 1996—why did you decide to leave Congress? Obviously, you could have been reelected handedly, probably without opposition. Why did you decide? Were you sick of Washington?

RT: I had decided I was nearing the time where I would like to reflect and consider issues rather than being out front carrying change. The idea of going on the Supreme Court had great appeal to me. I had known some good Supreme Court justices—Sam Robinson, of course, George Rose.

ED: George Rose Smith.

RT: George Rose Smith.

ED: George Rose Smith, yes.

RT: All were such good examples. I decided that I would enjoy sitting back and reading cases and writing the law. So it was a matter of personal pleasure that led me to go to the court. And the fact that I said at the outset, that our

system of government is based on our dependence on the judiciary. The fact that it's got to stand there and decide what's right and what's wrong. It's not a political job. It is one based on the very foundations of our civilization. The idea of Roman law and coupled with the Judeo-Christian emphasis on individuals.

ED: No, I forget. Did you have an opponent?

RT: No.

ED: You ran without an opponent.

RT: I ran without an opponent.

ED: I've forgotten who had retired.

RT: Dub Arnold.

ED: Dub Arnold?

RT: He ran for chief.

ED: He ran for chief justice, but whose seat did you take? Bob Dudley's? You remember whose seat you took?

RT: Bob Dudley.

ED: Bob Dudley. OK. He retired in '96. So you got a free shot.

RT: Yes.

ED: I think, at the same time, Brad Jesson [Bradley D. Jesson] became...

RT: Brad was on there.

ED: [Governor] Tucker appointed him chief justice. Was he going off at that time?

RT: He was going off.

ED: That's right. He was going off and Dub was taking his place.

RT: Annabelle came on.

ED: Annabelle [Clinton Imber] came on at the same time. So you and Annabelle came on at the same time. I am trying to think who else you would have served with. Steele Hayes had retired. He was no longer on there. Tom Glaze [Thomas A. Glaze] was still on the Supreme Court. Donnie [Donald] Corbin.

RT: Yeah.

ED: Dub. Jim Hannah came on later, I guess.

RT: Yeah, Jim came on next after I did.

ED: Yes. I've forgotten who else would have been...Bob Brown.

RT: Oh! Yeah.

ED: Robert L. Brown was on the court. That's probably it.

RT: He's the poster boy of what a Supreme Court justice ought to be.

ED: Well, I guess before that it would have been George Rose Smith, two quite different characters. One of the fun parts of all these interviews I've done with the ex-justices has been those who served with George Rose Smith

telling me George Rose Smith stories. So you'll enjoy reading some of those, particularly with Conley Byrd when he and Conley Byrd...

RT: I've read almost everything I could find on George Rose Smith.

ED: Well, you'll enjoy reading these. Conley Byrd...They didn't care for each other.

RT: Yeah.

ED: I don't know if you knew that or not. Conley Byrd was down at Redfield so Conley didn't have any...He started talking about how he didn't like him. They almost came to blows one day when George Rose called him a name in conference.

RT: Well, we've had good judges.

ED: Yes.

RT: But George Rose Smith is one of the best.

ED: He's one of the greatest, he was, and everybody had stories about George Rose Smith. All of them kind of funny and, generally, all reflecting very well on George Rose Smith. But one or two not. Anyway, they were all very respectful.

RT: Well, Ernie, I've enjoyed it.

ED: Well, let me ask you about a couple of...What about the Lakeview case? The Lakeview case...

RT: I'm glad we got it done. We did what we had to do.

ED: Yes, it was a unanimous decision.

RT: Yes.

ED: I guess the most historic and far-reaching in thirty or forty years.

RT: Annabelle deserves a lot of credit.

ED: The last thirty or forty years. Not that case, but the issue had been around for half a century.

RT: Yeah.

ED: The equalization of school spending and so forth. Then you had the Alma case, *Dupree v. Alma* back in 1983 or so under Bill Clinton. The court kept handing down these decisions [to equalize school funding] and nothing much ever happened and finally...

RT: The court acted.

ED: The court did and was firm about it. Came back and "No, you're going to address this issue and you're going to get it done." They finally did to the great unhappiness to a lot of legislators.

RT: It had to be done.

ED: It did, it had to be done and the court stuck to its guns and was firm about it. I wonder whether you realized the consequences, perhaps, the political consequences. All of you were elected judges. Of course, you weren't going

to run again, I think Annabelle ...Nevertheless, you knew the issue would be “Well, the Supreme Court is making us raise taxes.” That’s what the legislators said. The Supreme Court makes us raise taxes. So you had this whole taxation bugaboo ahead of you. Did you all talk about that in conference? That’s just what had to be done.

RT: No.

ED: You didn’t. Did you favor the death penalty? Do you favor the death penalty? Seems like I read somewhere that you personally were...

RT: I have supported the law as it is written. But, I’m very proud that I offered the court decision that said you could not send a person to death without a review by the Supreme Court. Until I wrote the decision, a person could be convicted and sentenced to death in a circuit court and not take an appeal and the sentence would be carried out. My decision says that with such an important penalty, that it must go forward on appeal to the Supreme Court.

ED: In these interviews with judges I have been...There were a number of them who were personally opposed to the death penalty.

RT: Well, I have great questions about the death penalty.

ED: Of course, Steele Hays was always openly opposed to it.

RT: What I did was to make sure that the death penalty had to be conducted in such a way that it passed muster in the state Supreme Court.

ED: OK. I think we’ve about covered everything unless there’s anything else about...Let me just ask you...I’ve gotten most of them to talk about the atmosphere in the chambers. Serving on the Supreme Court was a different thing.

RT: During the time I was...

ED: Very collegial?

RT: There was a camaraderie among the court members.

ED: Yes.

RT: It was really good.

ED: And this was a different kind of experience to where you got into politics. You were out there with Republicans and Democrats, whether you were in the executive branch or legislative branch, there was kind of an open warfare. Here you go into private chambers, very quiet and private chambers and you work with six people.

RT: And you really get to dealing with issues; issues rather than personalities.

ED: Sometimes you strongly disagree. Sometimes you very strongly disagree in opinions and so forth but then you come back and have to work together the next day. But you’re well-suited for that.

RT: That’s why it’s not proper for me to talk about any of those because we talked about it at the time.

ED: Sure.

RT: We expressed our views, others expressed theirs. You don't want to go in there and refigure any of these cases.

ED: But I never detected, in those years, that there were any personal rivalries or bitterness. That hasn't always been the case. Over the years, there have been factions on the court and personal animosities and sometimes you could see dissension.

RT: There's some bad cases.

ED: Yeah, there are. Well, all right. I've gotten you to talk a little bit about the election versus merit selection of judges. We've covered that. I tried to get everybody to talk about that issue—the issue of merit selection of judges versus elections. We've covered that.

RT: I'm in favor of electing.

ED: Yes. So I think we've covered all. We've gotten the stories I wanted to get on the record.

RT: Ernie, it's a pleasure.

ED: Thank you so much for doing this. We'll shut it down and if I think of anything later I'll just call you and we'll talk about it and I'll record it. But I think this will do it. Thanks.

RT: If there's anything else, just let me know.

ED: OK.

[End of recording.]