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FRONTIER JUSTICE

By Caroline P. Stoel

Lawlessness and violence on the frontier have long been popular themes of American history. Movies and television shows about the settlement of the West portray gun-slinging cowboys, rowdy saloons, cattle rustlers, and happy prostitutes. In the Northwest, however, the frontiersman was more likely to be found in the courtroom, suing his neighbor for debt or defending a foreclosure suit.

What was there about the Oregon frontier that created a fertile environment for law and order? One obvious answer is that the population was sparse and land abundant, increasing the need for cooperation and eliminating a basic cause of conflict. Further, many of the early settlers brought with them strong moral beliefs as well as a deep respect for government and a stable legal system. It has been said of the Oregon pioneers that they came primarily to settle down and cultivate the land and that those who sought to get rich quick took the trail south to

California and the gold fields.

No matter what moral platitudes they might express, the early Oregonians were opportunistic—often seeking positions of political importance as well as personal gain. The Northwest frontier was robust and lusty, but it was never openly opposed to an orderly society, as evidenced by the fact that the settlers formed the Provisional Government—to regularize their legal relationships and to protect their land claims.

THE COURTS

Under the Territorial Act of 1848, the Oregon Territory was divided into three judicial districts, with a judge appointed by the president of the United States for each. Together, the three judges also comprised the territorial supreme court. This meant, of course, that the justices of the territorial supreme court were ruling on appeals from their own districts, a situation that was not corrected until Oregon became a state. In addition to the supreme court and the three district

courts, the act also provided for probate courts and justices of the peace.

The district court judges each had several counties within their districts. They held court for several weeks at each county courthouse, heard the cases that were pending, and then moved on to the next county. The district courts had original jurisdiction in all cases arising under federal law and under the laws of the territory. They heard cases in chancery and admiralty and appeals from the probate and justice courts.

THE JUDGES

The territorial judges were political appointees and came primarily from the East, each with his own agenda. Some believed the position offered political advancement, while others sought adventure and possible wealth. Almost all were well educated by the standards of the day and capable of administering and applying the law according to prevailing standards. However, perhaps because of the rude conditions on the frontier or because they felt far from supervision or censure, many of them behaved in unjudicial ways.

William P. Bryant (Polk).

Among the most blatant offenders was Judge Bryant, who only served seven months of a four-year term (though he undoubtedly received a salary for a much longer period). He managed during that brief period to become personally involved in the dispute over Hudson's Bay Company Chief Factor John McLoughlin's land at Abernathy (Willamette) Falls and was one of several responsible for depriving McLoughlin of his lawfully held lands.

Orville C. Pratt (Polk). Another offender was Orville Pratt, who became

Continued on page 3



Frontier justice in Oregon didn't fit the pattern we associate with the Wild West. Here, law and order usually prevailed and scores were settled in courts.



President's Message

By Outgoing President
Joyce Hyne

As we enter the new year and Al Bannon takes over as the society's new president, I want you to know how much I enjoyed my year as president. We accomplished some important things, had a lot of fun, and can look forward to more progress in several areas.

Earlier this year, historical writer Harry Stein came to us with an exciting idea: he wants to research the life of Judge Gus Solomon, with the eventual goal of writing a biography of this interesting, long-serving federal judge. The project has the support of the late judge's family. We hope to have all the details worked out by the time you read this column and be able to begin our role in supporting this research. What a fascinating project this should be.

Diane Rynerson has taken charge of our Oral Histories Project and has enthusiastically moved to continue expanding our coverage to regions outside the Portland area. Our chief judge, Michael Hogan, is of course resident in Eugene and has already begun encouraging interest in our society and the Oral Histories Project in and about Lane County. A training program for volunteers is in the works for 1996 in the Medford area. In the meantime, the histories of Judges Owen Panner and James Redden are being taken and we're working on completing Judge James Burns' history.

Our annual picnic moved this year to the Bull Mountain ranch of Judge Owen Panner. He and his wife, Nancy Panner, graciously hosted over 75 of our members for a barbecue in early September. The kids got to see the judge's horses and join some brave adults for gunny sack races and the "raw egg toss," organized by Judge Ellen Rosenblum and Judge Don Ashmanskas. Attorneys turned into barbecue chefs, and everyone agreed that the weather couldn't have been better.

Thank you all for your hard work and support this year. I wish Al the best in his term as president.

Remembering The Hon. John Francis Kilkenny

A special joint session of the U.S. District Court for Oregon and the U.S. Court of Appeals for the Ninth Circuit was held May 1, 1995 to honor the memory of The Hon. John Francis Kilkenny. The ceremony took place in Portland's 1868 Pioneer Courthouse, which Judge Kilkenny fought to save 100 years later.

Bagpipe music, provided by attorney John R. Osburn greeted friends, colleagues, and family members as they filed into the historic courtroom, which is furnished with period pieces acquired through Judge Kilkenny's efforts. Speakers recalled the judge's devotion to his family, his love of history and of work, his wonderful sense of humor, and his importance as a role model to young lawyers embarking on their careers.

"A giant among giants, a leader among leaders," said The Hon. Otto R. Skopil, Jr., "he showed us that loving and caring for one another is the greatest of achievements." Said another speaker, George Corey, "He was a lawyer's lawyer; he charmed juries and impressed judges."

As the ceremony ended, The Hon. Michael R. Hogan, chief judge of the U.S. District Court for Oregon, observed, "Many of these comments can be summarized in the concept of wisdom that says wisdom is seen in cheerfulness."

Judge Kilkenny, who served as United States District Court judge from 1959 to 1969 and as U.S. Circuit Court judge from 1969 to 1995, exemplified the best traits of his Irish ancestry and inspired happiness in those who knew him.

Another Kilkenny Anecdote

By Randall B. Kester

Before he was appointed to the federal bench, John Kilkenny was an outstanding trial lawyer—probably the most prominent in all of eastern Oregon. Once, in the late 1940s or early 50s, I was trying a railroad case in Pendleton before Judge Fee, with Pat Gallagher on the other side. I had associated John Kilkenny on the defense—not only because of his ability, but also because his wide acquaintance made him invaluable in picking a jury and his standing in the community gave stature to our side of the case.

When we arrived in court, we noticed Orval Yokom, an attorney from John Day, sitting in the courtroom. We didn't know his interest in the case until he came up and entreated all of us, "Fellows, my secretary is on the jury panel, so I shut up my office and drove her over here. Won't you please find some way to excuse her or challenge her so that we can go back to work? I can't practice law without her."

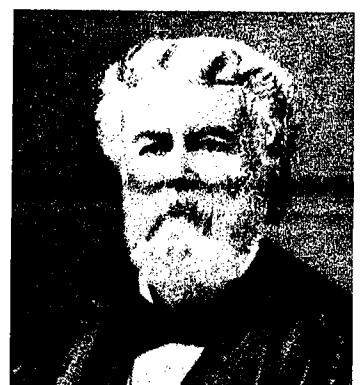
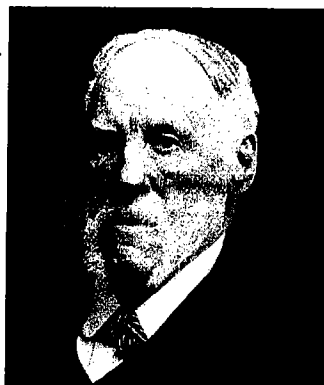
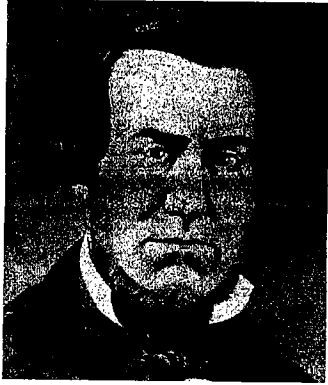
Of course we all agreed, but his secretary didn't know of the plot so she figured she had to get herself excused. During the voir dire, most of which Judge

Fee conducted, he asked her, "I see that Mr. Kilkenny is one of the attorneys for the defense. Now if I tell you what the law is but Mr. Kilkenny says something different, will you believe me or him?"

Orval's secretary replied, "Well, Judge, I have the greatest respect for Mr. Kilkenny...."

She didn't need to finish her sentence, because Judge Fee promptly excused her.

She echoed the sentiments of all of us. We had the greatest respect for John F. Kilkenny.



Dispensing justice in early-day Oregon were Judges William P. Bryant, Orville C. Pratt, George H. Williams, and Matthew P. Deady.

a wealthy man engaging in business enterprises while serving on the bench. It was he who presided over the trial of the Cayuse Indians for the murder of Marcus Whitman, and while it is difficult to place full blame on him for the hanging of the defendants on very thin evidence, it is obvious from his rulings where his prejudices lay.

Pratt was deeply involved in the politics of the day. This involvement is reflected in two controversies in which he participated while on the bench: the *Location Case* and the *Battle of the Blue Books*. Each had to do with the "single subject" requirement contained in Section 6 of the Territorial Act. Pratt, a Polk appointee and part of "the Salem clique," opposed the interpretation of Section 6 advanced by his fellow judges Strong (appointed by President Taylor) and Nelson (by Fillmore). None of the judges was willing to compromise. As a result, the functioning of both the government and the courts was held in abeyance for over a year until the matter was finally resolved by the U.S. Congress, which held that the legislative acts designating Salem as the capitol and the Big Blue Book (1843) as the proper statutory code were valid. The conduct of all the judges in these incidents was immature and irresponsible, and especially in the case of Pratt was politically motivated. Malcolm Clark, in *Eden Seekers*, describes Pratt as "dishonest, deceitful, egocentric and cunning in roughly equal parts."

George H. Williams (Fillmore). Perhaps one of the best of the judges on the bench was George Williams, who was responsible both for putting the disorderly schedule of the court into a workable routine and for formally publishing the court's records,

making the decisions available as precedent for the first time. His efforts led to the publication of the Oregon Reports, beginning with the December term 1853. After he resigned from the bench, however, Williams managed to get into trouble—some said because of his extravagant second wife—and was accused of using public funds for the purchase of a landaulet and a pair of horses. He is remembered as a not so skillful politician, but as a good judge.

Matthew P. Deady (Fillmore). Deady was a territorial supreme court judge as well as the first U.S. District Court judge. He also was involved in politics as a member of the Salem clique and was active in supporting Pratt's position in the *Location Case*. At the time of his appointment to the territorial court, his name erroneously appeared on the commission as "Mordecai P. Deady," Since there was no such person, Obadiah B. McFadden was appointed instead. In the ensuing controversy, Judge Olney ruled that Matthew Deady was indeed Mordecai and therefore a judge of the supreme court. This decision is probably the only Oregon case holding that a judge was not who he claimed to be. Although Olney's ruling was not the end of the matter, the mistake was eventually corrected and Deady took his place on the court in 1854.

THE CASES

Serious crime does not appear to have taken up much of the courts' time. While there are anecdotal accounts of shootings and death, few of these cases have appeared on the supreme court docket. It seems logical to assume that most cases of felonies—murder, arson, rape—would have been appealed (unless, of course, all the defendants were acquitted by the jury, which is highly unlikely). Because

the records of the territorial district courts in Oregon are still largely unexamined, it cannot be said for sure how much crime existed. However, the state of Washington has compiled some of these statistics and most likely Oregon was not too different. (The territory of Washington split from the Oregon territory in 1853.)

In Washington Territory during the 36-year period following its establishment, only 257 cases of murder were tried. Almost half of the criminal cases could be categorized as "substance abuse," including sale of liquor to Indians and opium use by the Chinese. The courts dealt mostly with civil disputes. As revealed by these case files, life for the majority of pioneers was difficult and not very exciting. They show the agony of families who moved to the West for a better life, only to lose everything they had in foreclosure procedures and lawsuits.

The first volume of the *Oregon Reports*, which contains cases appealed to the territorial supreme court from December 1853 through the last term of the territorial court, August 1857, reveals remarkably few criminal cases. Out of some 65 cases there is only one murder case, two extortion cases, one riot-as-sault case (actually a whipping), and three involving intoxicating liquors. Undoubtedly the district court records would reveal many more criminal cases but the fact that they were not appealed indicates they probably did not involve the death penalty and were not felt to be too serious. This assumption is subject to criticism, however, when one considers the murder trial of the Cayuse Indians, which was not appealed due to a conspiracy between Judge Pratt and the sheriff, Joe Meek, to see that

the execution took place immediately. This was, however, a very unusual case in which it was a virtual certainty from the beginning that the Indians would be executed as a matter of public policy. On the basis of the evidence available it seems highly unlikely that in the "Wild West" of Oregon, crime was a major problem and certainly not one of the settlers' chief concerns.

The one murder case heard by the territorial supreme court during the period 1852-58 is an interesting example of frontier justice as practiced in the Territory of Oregon. It was *Nimrod O'Kelly v. Territory of Oregon* (1 Oregon 51, Dec. Term, 1853).

Facts. Prior to 1852 Nimrod O'Kelly took a claim under the Donation Land Act (1850) of 640 acres of land—the amount allowed to a married man and his wife. According to an article in the *Oregon Historical Quarterly* (36 OHQ 359) by Lawrence A. McNary, "O'Kelly was beset with obstacles in obtaining title, and especially did one Jeremiah Mahoney attempt to take possession of a portion of the land claimed by him, on the ground that O'Kelly was single, not being accompanied by a wife. Enmity arose, and on May 21, 1852, the parties met and Mahoney was shot and killed by O'Kelly." O'Kelly reported the killing to the proper officer at Marysville (now Corvallis) on June 3, in these words:

this irishman has been an intruder on my land or claim for two or three months. I was not afraid of his holding claim but he would threaten me every time I would meet with him on my own claim. On the twenty first of this inst I started out around my field where I was expecting to find some crows intruding on my farm when I met this Irishman or come within a few steps of him, but neither of us spoke. as I had told him to keep off my claim he did not speak to me. I went home & got my horse & went to the field to plowing & continued to work until dinner time of day, after which I started he met me again near my house coming towards my house. When a about ten steps apart he asked me what I was always carrying my gun for. I remarked to him it was none of his business it was my own. He continued coming towards me say-

ing if I did not mind I would get it thresbed out over my head. I made no reply for a short time but told him to stand off and get out of the path. he got out of the path also, rather sidling up towards me in a stooped position before however getting near enough to me to get hold of the gun. the gun went off in my hands hitting him I knew not where. I have no recollection of ever cocking the gun but held her down at arms length. I saw him set down. I left immediately. after traveling some distance I saw him lay down. I come down to town directly & give myself up to the proper officer, where I make this declaration. (36 OHQ 359)

Trial. Judge Pratt called a special term of the court to try the case on June 29. The trial took place on that day, and the next day the jury returned a verdict of "guilty of murder in the first degree...as charged in the indictment." He was sentenced to be hanged a few days hence. By appealing to Governor Gaines, O'Kelly was able to secure a reprieve until August 24, while an appeal requesting a new trial was prepared.

Appeal. On appeal, the case first came before Justice Nelson and Associate Justice Strong on August 24. It was set over for consideration at a later time because the two justices disagreed. The case remained pending until December 5, 1853, when it was heard by a new court. At that time the court was composed of Chief Justice Williams and Associate Justices Olney and McFadden (Deady having been disqualified by the name mixup). Olney did not sit because of a conflict of interest and it is unclear from the record whether McFadden was present or not. Chief Justice Williams wrote the opinion. The errors assigned were all procedural, and were rejected by the court in affirming the conviction. Judge Williams:

Time was when the unfortunate accused was dragged to trial without counsel, or a fair chance for self-defense; then other rules prevailed, and courts tried to make technicalities the means of justice; but, when a prisoner comes before our courts with more privileges and presumptions in his favor than he otherwise could have, these olden rules cease with the reasons on which they rested, and criminals cannot be allowed to take refuge from the judgments of our liberal laws in the

cobwebs of an antiquated practice. The awful import of these views to the plaintiff in error is not forgotten; but criminal laws were made to prevent crime, and their firm enforcement by the courts is a duty as plain as it is painful. Executive clemency may be interposed in one case and withheld in another, as a matter of discretion, but this decision must be followed hereafter; and if judicial compassion now bends the law to suit a seemingly hard case, a door may be opened through which the midnight assassin and mercenary murderer may escape from the punishment due to their crimes. (36 OHQ 361)

Post Trial. Nimrod O'Kelly was NOT HANGED. It seems that at the trial no conclusive evidence of O'Kelly's marital relations had been given, but in 1854 O'Kelly's wife and several children arrived on an emigrant train from Missouri or Tennessee to Oregon. One of the sons, who had heard news of the murder conviction, rode ahead and informed the authorities of the existence and imminent arrival of the family. The sheriff holding O'Kelly in jail assumed that if the jury had known of the existence of the family the verdict would have been different. He reasoned that if O'Kelly were defending from intrusion the land to which he was lawfully entitled (the second 320 acres), the killing would have been justified. Without orders from the court or further ado, he opened the doors of the jail and freed O'Kelly, who remained in Oregon farming his claim until his death.

It is ironic that O'Kelly, who had based his assignments of error on the lack of procedural safeguards at his trial, was freed when the sheriff of Benton County ignored the entire procedural framework then in existence and freed him!

Carolyn P. Stoel is a founding member of the U.S. District Court of Oregon Historical Society and a co-author of *The First Duty, a history of that court.* This article is the text of a speech she delivered to the Society's board on July 19, 1995.

ROBERT A. LEEDY REMEMBERS HIS DAYS AS A COMMISSIONER FOR THE DISTRICT COURT

From an interview by The Hon. Anna J. Brown and Katherine H. O'Neill

From the U.S. District Court of Oregon Historical Society's active oral history program have come numerous intriguing accounts of the court's history. The following article contains excerpts from an oral history of retired Portland attorney Robert A. Leedy.

In 1943 I had a call from Judge Fee's secretary, would I come up and see him. You know, you break out into a sweat, "What have I done now." I wasn't too easily intimidated in those days I don't think. So I called on him and he told me what he had in mind, that he was thinking of appointing me as commissioner.

They had had a commissioner—I can't remember his name. And he had retired under a bit of a cloud, I think, and I never knew the details. I don't think he was ever disciplined in any way. I don't know what the problem was. But Judge Fee said that I was not to communicate with him. Well, of course, I wanted the benefit of the experience that somebody else had had, but in any event I didn't get it.

They provided me with an office and a small courtroom. It was just kind of a big meeting room with a big table in the middle. They took me down in the bowels of the courthouse and showed me all this old furniture and I picked out a roll-top desk and a chair, and then a bench. So I had a little courtroom, my name on the door up on the floor right close to the U.S. Attorney's office.

And in those days the commissioner was purely and simply a committing magistrate, and prosecution that was commenced otherwise than by grand jury indictment would be commenced by filing a complaint with the commissioner. The U.S. Attorney would make it out.

They were very perfunctory—defendant violated such and such a statute—and I would issue a warrant. The marshal's office was off in the other corner of the 5th floor and I got to know those people. They were wonderful people, and worked very closely with them. I think Jack Caulfield was



Robert A. Leedy

And Lowell Mundorff either was or became the clerk of the U.S. District Court. They were all just one floor up.

So there I was with my little old typewriter and all the forms and I would make out these warrants and mostly when I would issue a warrant the defendant was already in jail, in custody over in the Multnomah County Courthouse jail. So the marshal would manacle the defendant and bring him over to the marshal's office and put him in the holding cell and they would call the commissioner and my office, and I went up twice a day lots of days to hold hearings. I would advise them of their rights and their right to have an attorney—all the usual. If probable cause was found, which was a common situation, I would commit them to jail to await trial and admit them to bail. I would fix the bail.

I think the main concern they had at that time was that they wanted to use the commissioner's office as an adjunct of the selective service system. They were looking for all of the young men who were supposed to be drafted and who hadn't turned themselves in to be inducted. They had a special deputy U.S. Attorney but I don't remember his name. He was a former corporation commissioner of the State of Oregon, and he handled all those selective service cases.

I would have maybe 30, 40 in a week's time. I had hundreds of them. And they would bring these defendants in. I'd give them the customary caution and then I would ask them, "Are you willing to present yourself for induction into the army?"

And if they said "yes," the marshal

marshal the whole time I was commissioner. There could have been somebody else who was there. Henry Hess was the first U.S. Attorney I worked with.

took them down to the induction station. If they were inducted, fine. If they were rejected, they were turned loose. They weren't prosecuted, except the conscientious objectors who were not willing to go down there, and they were indicted and stood trial mostly.

The bail situation was a situation of its own. I had explicit instruction from Judge Fee as to how I was to handle things, and believe me I paid attention. He said I was not to accept personal signatures of the bail bondsmen. I had to have money up front—cash on the line in full, not 10 percent of it—and bail was often \$20,000, \$40,000, \$50,000.

Joe Levy, and later Estelle Berry, the people who were doing all the bond business in those days, would come in and I would prepare a written bond and they would give me cash. I dare say I had a little over a million dollars in cash in my term as commissioner. The worst of it was, they would do it in the evening and they would come in and say, "Here is \$20,000 bail." What am I going to do with \$20,000 in the middle of the night when the banks are closed?

But I had a bail account down at the Sixth and Morrison branch of the First National Bank and somebody went it and when the bail was released by the court, I would refund it to the bail bondsman. And that was quite a responsibility. And it was an unfair burden in the sense that a lot of criminal element crossed my desk. Anyway, if they ever had any idea I was walking from my office down to the bank with \$20,000, my name would have been mud.

They paid the commissioner on what they called a laundry list. I got 75 cents for filing a complaint. I got 50 cents for issuing a warrant. I got 25 cents for a return on a warrant, and I had to detail that—and I had to file a record of every case. In order to make a claim for a commission I had to file it with the clerk's office anyway, and my bill for a quarter would be two or three inches thick.

When I submitted a bill, when I first undertook the job, I thought maybe

that it would be a key to a personal retirement plan by deferring filing my statements and deferring my compensation. And then I found out that they outlawed that after about six months and I think I lost the first couple of quarters on that account. But I don't think I ever made as much as \$2,000 a year and I was up at that commissioner's office morning, night, and noon, working away at those papers and keeping up dockets and all this. It was unbelievable.

The upshot of the bail story, too, was that when I was in my last-minute rush on my income taxes I was preparing—I'd say maybe in 1944 or '45—about noon this man came to see me and showed me his credentials, "Now, I'm from the General Accounting Office. I'm here to check the bail account. I'm under strict instructions not to let you out of my sight until it's all been audited." The last day for income taxes and here I was up to my ears.

Well, in any event, he and I went down to the bank and everything was in order and the money was all there and there was no problem.

We had a lot of cases, criminal prosecution besides selective service. And in those days I'm not sure that dealing in drugs was a crime. It might have been under state law but in the federal situation they had the Harrison Narcotics Act. It was a tax law and the tax required if you were selling or buying narcotics to have a license and pay a tax, so we prosecuted people under the Harrison Narcotics Act. We also had the Mann Act, and



Three loyal University of Oregon football fans cheer their team on to victory.

the Mann Act was something else. You know what the Mann Act purportedly is. It says, I think, that it is contrary to law to transport a woman in interstate commerce for immoral purposes. And there was a big argument afoot about what was an immoral purpose. The classic definition and I think the original purpose of the act was to get pimps who transferred their stables from Seattle to Portland in order to rotate and get some new faces in the act.

And, so, the other view was that it applied to private vice as well as public vice. And if I would take Kathy O'Neill over to Vancouver for lunch and we stopped in at a motel, that was a violation of the Mann Act according to some interpretations. So we have this, what I think should have been a famous case.

This man was going to be charged with the transfer of this woman in interstate commerce by taking her away from Oklahoma to Coos Bay, Oregon, where they set up housekeeping. He had left a vengeful wife in Oklahoma. According to my view that wasn't what the Mann Act was supposed to prevent. It was supposed to deal with the commercial prostitutes and not people who were just out for a good time. Anyway, I turned him loose. I think this is the only time I ever had one of my decisions appealed because they weren't controversial, mostly. They took it up to the federal judge—I don't know which one. He looked into it and he agreed with me.

So this man had a perfect asylum in Coos Bay, Oregon. But that isn't the end of the story. He was home free but he foolishly went to Montana. I heard about this afterward but I wasn't involved in it in any way. They took him before the United States commissioner in Whitefish, Montana, and they had a hearing and the commissioner turned him loose. So they went to another commissioner over in Kalispell, Montana, had another hearing, and that commissioner said, "Take him to Oklahoma." So they removed him to Oklahoma. I don't know whether he was ever convicted or what, but I thought what a man won't do for love. Well, that was one of the interesting cases I had.

And another situation I thought was interesting involved some civil clients I had by the name of Spiering. The young man was in the military service stationed over at Vancouver. He was court-martialed and I represented him in the court-martial proceedings and he was found guilty of something or another that doesn't have anything

to do with the sequel of this. I think it was two or three years later he called me on the phone and he said, "Are you still the commissioner?"

And I said, "Yes."

"Well," he said, "the FBI has been looking for me and they have a warrant for me. I want to turn myself in. I want to come down to your office. And if you will arrange with the FBI, I'll turn myself in to them."

I said, "Well, if that's what you want to do. Are you sure? If you are, come in this afternoon at two o'clock," and I called the FBI and got one of the men I knew and they looked it up and they said they had a warrant for him.

At the time, I had a client—a young man—who had been on the dissolute side, kind of a young maverick with marital difficulties and everything. And just before this Spiering boy came to turn himself in, my "difficult" client walked in the door. And I had the almost absolutely irresistible urge to put the finger on him. I don't know how I restrained myself. I do some foolish things like that once in a while, but I didn't. And so that first one escaped, but they got the second one.

Another time I had a Russian spy—it was after the end of World War II, but they had apprehended this man with a set of naval plans for a naval ship and he was a Russian. There wasn't any doubt about that. And that was kind of a seven-day wonder around there.

The upshot of most of these criminal cases that I had was that they were wanted in another district and I would order their removal and they would have a right to appeal that to court, as they did with the Mann Act case. So, we did have the Russian spy case and I guess they had the goods on him and they had the plans, I think.

We had people who were accused of mailing obscene material. One man had mounted a camera in his bedroom and taken all these very explicit pictures and mailed them, and they were after him. So I saw the pictures. They weren't anything you'd want to look at very badly, I can assure you.

But I am proud of the fact that I served as commissioner under James Alger Fee for as many years as I did. I'll tell you a wonderful experience I had that pertained to Judge Fee. I came to my law office one Monday morning. A



Mr. Leedy, now retired, enjoys a festive family gathering with his grandchildren.

note on top of my mail says, "You're to appear in federal court in Medford at nine o'clock to testify in connection with a case against so and so." It was a homicide case involving an Indian. Because the offense was committed on an Indian reservation, it was a federal crime. This was eight o'clock I guess.

So I got busy, you can believe, and I found there was an airplane that would finally get me into Medford about four o'clock in the afternoon and that's the only way there was to go. So I went out and got on the airplane, and it went to Coos Bay and Roseburg and I don't know where all and finally wound up in Medford around four o'clock.

I had found a taxi and headed into the Jackson County Courthouse, where the case was going on. And I walked in just as Judge Fee was admonishing the jury before putting it to bed for the night. I hadn't much more than got seated in the back of the courtroom before Judge Fee's clerk, whose name was Ross Demott (an awfully nice fellow) came back and handed me a note that says, "The judge will see you on the first tee at Rogue Valley Country Club at 5:30." There I was, it was about 100 degrees. I was dressed for court in a suit and a neck tie—no pajamas, no toothbrush, nothing. And I was going to stay overnight because I was to report the next morning.

So I went out to the Rogue Valley Country Club and met Judge Fee and he and I and Ross Demott played. I borrowed Otto Frohnmayer's clubs. And I couldn't go out there and play golf in a dress shirt and be bathed in perspiration and show up in court the next morning, so I went in the golf club and I bought

myself a golf shirt to play in. So I wore that. I don't think I even had golf shoes. I played in street shoes. Judge Fee always did, too.

And, incidentally, he would go out and play in the Multnomah Club tournaments, Multnomah Bar Association tournaments; on the hottest day he would wear a suit coat with the collar turned up around his neck. And it was always explained to me (I won't say he said this) that he had some Indian blood and the theory is among Indians when it's hot, the more clothes you wear the more it keeps the heat out.

So we played and I went out with some of the U.S. Attorney marshal's staff. That night we went to a night club out there on the town. I remember it was a big night. I went into the courtroom the next morning, but I was soon out of there. I think one of the marshals told me afterwards that they didn't have too good a case on this murder charge or whatever it was, but when the case was finally submitted to the jury the defendant looked up at the jury members and drew his hand across his throat with a cutting motion. Needless to say he was found guilty.

I asked Ross Demott a week or so later if the judge had anything to report about our golf game. Apparently Judge Fee said that, "Leedy isn't a bad golfer, but he has to buy a special shirt. He's quite a dude. He has to buy a special shirt or he can't go out and play golf." I thought that was hilarious. That was an experience in and of itself.

Judge Fee was very imposing and intimidating. He was a tall man and very positive in his speaking. There were a lot of anecdotes about things that went on in his courtroom but the only one I remember particularly involved a lawyer in Oregon City named Glenn Jack who was president

of the Oregon State Bar immediately after I was.

Glenn Jack was quite a trial lawyer, and he was trying a case in federal court before Judge Fee. It was a personal injury case of some kind—a veteran with an injury. Glenn Jack knew that if he was manipulated in a certain way he would go into a convulsion. And so in the courtroom he was demonstrating about convulsions, and Judge Fee declared an immediate mistrial, discharged the jury, and told Glenn Jack to report next morning on contempt charges. But the judge relented before the time he was supposed to appear—I think he thought better of it and didn't pursue it.

I remember I testified in Judge Fee's court. Sometimes a defense lawyer would require the prosecution to prove the steps that were taken in the initiation of the prosecution. I would go up there with my docket and say the complaint was filed and served and so forth.

So those are the main situations that come to my mind of things that happened when I was commissioner.

Jack Collins Retires

A sterling career in public service was recognized at a September 15 dinner in Portland's historic Governor Hotel, marking Jack Collins' retirement after 32 years in the U.S. Attorney's office for the District of Oregon. The dinner was hosted by the Oregon chapter of the Federal Bar Association.

Jack was appointed an assistant U.S. Attorney in 1963 by Attorney General Robert Kennedy. During the succeeding years he held key posts, including First Assistant U.S. Attorney, Chief of the Civil Division, and—at his retirement—Chief of the Forfeiture Unit. He always carried a large caseload and took important steps to protect the environment and the public. In the U.S. Attorney's Office, Jack introduced several managerial innovations, including the paralegal program. Outside the office he carried on a teaching career that took him to the Attorney General's Advocacy Institute in Washington, D.C. and both the Northwestern School of Law and the Graduate School of Public Administration at Lewis & Clark College.

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A western theme drew members and guests to the ranch of The Hon. Panner (in straw hat) for the society's annual picnic, held September 9, 1995.



Bill White sends us this photo, taken at the November 29, 1995 Annual Meeting.

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