

Int Thank you very much for doing this interview, Jamie. I appreciate it. Basically, what I would like to do, as I mentioned to you earlier, is really get a sense from you about your own personal background in terms of formative influences and how this may have actually influenced the direction you took, with regard to choosing the legal profession...You could start wherever you'd like.

JK The legal profession? Well...I actually never thought I would go into the legal profession since for generations my family had been lawyers, although my father never practiced. But I got...very involved in the anti-war movement and ended up spending a lot of time in political trials, working with lawyers.

Int This was the sixties?

JK Ya, late sixties, early seventies.

Int Prior to that, when you were growing up, was there any sense of how you felt about the legal profession?

JK I actually didn't think about it at all. I was actually originally thinking about becoming an academic...to the extent I thought (laughter) about anything.

Int So, this really happened at university, when ...

JK Harvard

Int ...you became involved in the anti-war movement?

JK Cambridge, as some people call it

Int Yes (laughter) Touché. And so actually during the 1960s becoming involved in political trials, could you talk more about that?

JK Well, it started when I got arrested, along with several other people for the Harvard building takeover. And...I was subsequently indicted and tried for, what they described, as an assault and battery on a Dean for escorting him out of the building. And, that...prosecution was based on testimony I gave in someone else's trial and that was the only testimony they had. But I was struck at the time, by, how, arbitrary and political judges can be...the most striking thing about that was that, we went through the whole trial was the Dean who was allegedly the victim said he hadn't been injured and he couldn't remember me doing anything. The only evidence that they had was the statement, as I said that I made at somebody else's trial, in which I had said I touched him on the elbow and made a

political speech about the war, and all of that. So the jury went out, there were two of us on trial and they didn't have any evidence against the other guy either, particularly. And there was no dispute that there was no injury involved. And the jury came back in half an hour and they asked the judge "Do we have to convict them if there is no injury" and the judge said "if they laid a single finger on him, they're guilty". So, they found us guilty and we were sentenced to nine months, which at the time at least was the only time, that anyone has gone to jail for assault and battery, with no injury. So, then, I got out of jail and I got arrested a few more times in demonstrations

Int So, you spent the entire nine months...

JK A little under nine months.

Int And what was that like for...?

JK Well, it was...I'd say predominantly boring. When we first went in, there was a...I think we were nervous because we were two middle class white kids going into, you know, we didn't know what, and the warden (laughter) the warden when we were transported there, had us come into his office and said "Now, we don't want you spreading any of your commie propoganda around here". And, if my guards don't get you if you do, the inmates *will*. So, we were...but as it turned out, the inmates were fine. And at some point, about halfway through it, for a variety of reasons, none of which was particularly, our impetus...there was a big sort of...I don't know how to describe it, refusal to go back into your cells after a rest period. It was a big throw-up and the next...eventually everyone went back and in the middle of that night, we were transferred to another jail; and the difference between the two was that in the first one, the warden was *totally paranoid*. He wouldn't let us have books from the outside because we might smuggle in LSD in the pages. And in the next one, the guy was totally relaxed and he said, "Well, why don't you be the librarian?" So, I read everything, *anything*...but you also met a lot of *different* people and some pretty nasty people, but even then, it was pretty clear, what was happening with drugs and the number of people who were in solely because of drug related problem. So, anyway, after that I went through some other things and got involved with some lawyers...I spent a lot of time on other people's trials and eventually decided to go to Law School.

Int Okay, that's an interesting background...

JK Which is why, which I'm sure you'll get to, I was so struck when I first went to visit the LRC with, not just Arthur (Chaskalson), whom we can talk about a lot but the younger guys, who were basically all my age and you know, just like me (laughter).

Int So, you chose the legal profession. Prior to your involvement with the LRC and the SALSLEP foundation...what had been your impressions of South Africa, during the 1960's etc?

JK ...I had, I didn't have a lot of concrete knowledge. I hadn't been and I didn't....but I knew generally about apartheid. I knew some things about the Boer War and...I had some friends who were pretty active in human rights issues in the Lawyers Committee for Civil Rights, so you know, I had some pre...a decent understanding of what was going on over there.

Int So when you became a lawyer, at what point did you become involved with South Africa and the SALSLEP foundation? How did that happen...what was the genesis of that?

JK The genesis of that was that, in 1979, I can't remember the year the LRC started or was '78, Arthur (Chaskalson) and Felicia (Kentrige) came to the States and they had...obtained a grant from Ford and I think Carnegie and they were talking to people about how to raise money. And Felicia (Kentrige) knew Lloyd Cutler so she asked Lloyd (Cutler) if she and Arthur (Chaskalson) could come by to talk about what they were doing and whether he might be able to help them. So, they came into the office and Lloyd (Cutler) called me up and said "I want you to come down to this meeting". So, I met Arthur (Chaskalson) and Felicia (Kentrige) with Lloyd (Cutler) and we talked about what we might be able to do and Lloyd (Cutler) basically wanted to set up a 501 C3 to help raise money, which at the time, we were clearly thinking in terms of really, modest amounts of money.

Int Okay...

JK So I went ahead and set up SALSLEP.

Int Before we come to that, so you had... just started at Lloyd's, actually Wilmer, Cutler and Pickering?

JK Wilmer, Cutler and Pickering, I had been there about 3 or 4 years.

Int Were you a junior lawyer? How did it work?

JK ...well, I started straight out of Law School as an associate and typically you are an associate for about seven years.

Int Okay. So, why do you think you were called up? Why do you think Lloyd (Cutler) called you up?

JK You know, I actually have no idea...it could have been as simple as I, I was, I think had rotated into a group, but it could have been, it might make sense given my history. I really don't know.

Int Okay...and...what were your impressions of Felicia (Kentridge) and Arthur (Chaskalson) when you met them?

JK Well, I think it was...incredibly exciting and I think that Lloyd was trying to be realistic and I think was appropriately sceptical about what we really might be able to do. Because at that time we were focused on trying to raise money from lawyers, which is a pretty hard thing to do...but I think we both thought it was incredibly exciting and they were both very impressive. Arthur (Chaskalson) is...very impressive person and Felicia (Kentridge), as I say Lloyd (Cutler) knew some and with...so we thought it was great.

Int How is Reuben Clark (Sr.) associated with this, at this point?

JK Reuben (Clark Sr.) was a partner in the firm and at this point was not associated. It was really kind of interesting how this happened. So, you know, I go off to begin to set it up and Lloyd (Cutler) is supposed to be doing this, and I can't remember the exact timing but maybe six months later, Lloyd (Cutler) is gone off to the White House as Counsel to the President...as he's leaving, Reuben (Clark, Sr.) gets, takes over basically. Now, Reuben (Clark Sr.) would have to tell you whether he had...whether there had been any other discussions with him. But my memory is that Lloyd (Cutler) basically asked Reuben (Clark Sr.) to step in and take his place and get this thing going, because he was leaving and had to take himself off all of those kinds of things.

Int Okay, so when you went off to set-up SALSELP, what are your memories around that period? What were your concerns...and how did you proceed to set that up? I think it is very important to link it...the founding of SALSLEP to the LRC?

JK Well, it was, it was created solely because of the LRC and its entire objective initially was to fund, was to assist the LRC. We ran into a...I, I think that it may have been...well, I can't remember the timing of this but at some point we were aware of the...the, the tax code's limitations on being what is called a conduit. So, when we created it, it had a broader mission than LRC and South Africa, which is why it was named the Southern Africa...and I should say that Lloyd (Cutler) when he set it up talked to Bernie Segal and...Louis Loss and Erwin Griswold about coming onto the Board. So, we had a...with the intention of creating a...among lawyers, a very high calibre, high powered, you know, group and Bernie (Segal) and Erwin (Griswold) and Louis Loss had all been involved with civil rights issues and some of them had been involved with South Africa issues...and they were...(Erwin) Griswold was a former Dean and Solicitor-General and (Louis) Loss was a Professor at Harvard Law School; Bernie Segal had been President of the ABA, so they were significant players and...Its actually,

this name was originated by Bernie Segal in part because of this consideration, but he always liked the idea of having legal services and legal education in the name.

Int And you'd not set something up like this before?

JK No, I'd been doing basically all litigation. I had done some corporate things but this was my first foray into setting up something like this.

Int Was it exciting? Was it a bit anxiety provoking?

JK Well, it was...I wouldn't say it was anxiety provoking but it probably took me longer (laughter) than somebody who knew what they were doing. –but it was, the *whole enterprise* was *very exciting*. I had actually been involved in a case for three years and it was driving me and everyone else on it crazy, so this was a *very happy change*.

Int So, when you set it up, did you get an administrator? How did it work; were you just involved in running it?

JK Well, initially, I was sort of doing all the paperwork and grant applications . I may have had a paralegal...who helped ... When Reuben (Clark, Sr.) came on, he and I went to see, I can dig it out, I can't remember his name right now. I think his name was Jack Clark, an Exxon lawyer. So, we made some fundraising trips. We did raise some money and in fact, Lloyd (Cutler) raised some money from Cummins and we got some foundation grants that Felicia (Kentrige) steered our way. One of the main things that was happening was that Felicia (Kentrige) was raising some money from Foundations so, we got grants but it was really LRC, mostly Felicia (Kentrige)'s efforts that produced the grants.

Int So, this must have been Ford, Carnegie and Rockefeller?

JK Well, in the beginning, I was just looking at that... (Shuffling of papers), actually, I don't know how interested you are in this but I actually have a copy of this application and I think we ended up filing it (thumbing through papers). Here, we got some money from a thing called the JM Capital Fund and from Exxon (more shuffling of papers)...

Int So, initially from going with the idea that you were going to fund solely with lawyers, you moved slowly to corporations and foundations?

JK (shuffling of papers), people just knew various people who...we raised some money from individuals and some from foundations and again, I'd say we didn't raise much money from lawyers... (shuffling of papers), 1982, this is a schedule of audits, oh, this is the tax return. ...

Int So, this brings back memories?

JK It does, but my sense of, the timing, I'm gonna get too screwed up unless I get it all up here dated chronologically...

Int Well, let's look very broadly and loosely at the actual dates. It sounds...it seems to me that this may have occurred in the early '80s, if Felicia (Kentridge) had come to you in the early '80s, would you say?

JK I, I, it was either the end of '79 and early '80 and it wasn't very long after that Lloyd (Cutler) left and Reuben (Clark, Sr.) came on and so, I think that, by, we know, we got the ruling (papers rustling in the background), the 501C3 ruling in August of '80, so I'm, so, whether, whether Arthur (Chaskalson) and Felicia (Kentridge) came in '79 or early '80, I just don't remember...

Int Was there much contact at this point, while you were setting up SALSLEP between you and maybe Felicia (Kentridge) or Arthur (Chaskalson), or other staff at LRC, or where you tending to just focus on getting it set-up?

JK At this time, we were just getting it set up and beginning to think about...limited fund-raising and...we did some requests for some grants. You know the first grant we made, as I remember, was for the Fellowship program, and I think we did that because we, we had raised somewhere between 25 and 50 000 dollars from these various sources and I think we gave about 25 000 dollars to the start, I think it was three Fellows in the Fellows program...and one of the things that... again, if it is important, I can figure out when that was, it was late'80 or it could have been '81 but it was definitely before... I think it was early '82 we took the first trip over there.

Int Okay, was this with Reuben (Clark, Sr.) and his son? So, that would have been 1982 from Reuben (Clark, Sr.)'s memories.

JK Ya, that, I just, I found some stuff on that... I think it was March of 1982.

Int Would you tell me more about that, what your memories were...what were your impressions because I think that is really quite important?

JK It was an amazing trip. I'm sure that's why Reuben (Clark, Sr.) (inaudible)... I think the three of us were mouths gaping the whole time. It was just stunning on several levels. I'd say in a way, what...for me personally, the thing that was the most significant about it, was that...it really made me examine what I was doing, because I'd been, I was, I liked the firm, I liked practicing law but, I didn't feel, and I actually was pretty involved in a number of political things so I didn't feel like I was totally useless but I wasn't totally engaged, as I had been. And on two different levels, it really struck me that I should reconsider what I was doing and one was Arthur (Chaskalson), who is just an extraordinary human being and...he

is one of the few people that...you, I mean I think. My cousin asked me about this once; he said "so who are your heroes?" He (reference to Arthur Chaskalson) is the one of the first persons who comes to mind...

Int Interesting...

JK He's just...and its not just that at the time, he had obviously walked away from a very successful practice, but that he was so committed to trying to do the right thing, that he didn't, he believed so firmly in the concept of law, that he could find a way to apply it in that circumstances. You know, I found remarkable. The other piece of it, as I said, he had these guys working for him, all my age and three or four of them had all been former presidents of the National Union of South African Students (NUSAS), which was like SDS, which I'd been in. One of them had been banned for nine months, you know, two of them had been tried for treason. So, we had a lot in common.

Int This was Geoff Budlender.

JK Geoff (Budlender) was one of them, although, I don't think Geoff (Budlender) was...Paul Pretorius had been banned and I think Karel Tip and Charlie (Charles) Nupen, who had been charged with treason, I don't think Geoff (Budlender) who was tried, Geoff (Budlender) had some other things, but, but that was basically...

Int So, Paul (Pretorius), Karel (Tip) and Charles (Nupen)...

JK Yes, Karel (Tip), But Geoff (Budlender) was again NUSAS. Same age and I just thought there were, you know, in a way that Arthur (Chaskalson) was giving up more and you know, they were much more, as I say the fact they were the same age, so anyway, it made me think a lot about what I was doing and...its not the only reason, but it was one of the reasons, that I ended up moving up here, because I got a chance to work in the Attorney-General's office with a guy who's my age but was ... and here what was different was, you know, I didn't feel the need to be in a public interest kind of group, but in a service situation and being able to do things, you could...do that here, as a government lawyer, whether its government or state, you obviously couldn't do in South Africa at the time. So, this was an exciting kind of chance to get back involved in public sector work and in *politics*. And that trip for me had, had an impact on my thinking. So, that's the personal side.

Int Your impressions of South Africa, when you arrived? I am assuming that this was the first time you were visiting.

JK It was the first time...I was, I can't say what I remember the most. You know, we went to Soweto; when we went to Cape Town, Crossroads, so I was obviously...incredibly moved by the consequences of how this whole system affected people... we went to Pass Court and saw...a sort of... if you can call

it...it was supposedly justice, but it was for violations of the Pass Laws, people being in the area that didn't have a work permit or a resident's permit. And it was right around the time that Legal Resources Centre had been litigating the Komani and Rikhoto cases, which I think ultimately were the thing that were responsible for eliminating the pass laws. So, that was, to see what was going on there and to get a sense, not just of, you know, physically you could go and look at how people were shuttered in the different areas, but you could see how that system was enforced in court and the consequences of the cases, that the LRC was bringing to put an end to that, was brought home pretty vividly. So, that was a pretty big impression...I was really struck by what the lack of bitterness. It really did amaze me that, its not people were sort of accepting, but that...there was a quality to people there and their way of thinking about what was going on, that was much different than I would have expected. And overall, people were generally very friendly and we had a chance to do a...we took a trip with a South African family to Kruger Park. Did Reuben (Clark, Sr.) tell you about that?

Int Not sure...

JK He didn't? So, we, that was a wonderful part of this, and he became a judge and eventually became when the government came into power, he was on the Constitutional Court.

Int This was Johann Kriegler?

JK It is.

Int Yes, I think he did mention that.

JK Ya, so we went with Johann (Kriegler) and his family to Kruger Park. It was a great trip but it was just...an amazing experience not only to go to the Park, which is extraordinary, but to do it with Johann (Kriegler) and his family was, was fabulous...and we met a tremendous number of people who were engaged and you know, I would say that we were pretty inspired by the whole thing.

Int The people you met, do you remember them? You don't have to remember...but I am just wondering whether the people that particularly stuck out in your mind?

JK Well, I remember on a couple of different levels, You know, we met...LRC people obviously and at the time, it was mostly the people I mentioned in Jo'burg and we went to Durban and met...where they'd just opened an office...Chris Nicholson. We met some law professors there but I remember Chris (Nicholson) very well. You know, some of these people, a few of them actually made their way up here. Chris (Nicholson) made it up here once; Geoff (Budlender)'s made it up here, made it up here once. You know, I actually regret that as I've got older, we lost a little contact but...for a long time; we were in pretty good touch. And we met with Bishop (Desmond Mpilo) Tutu.

Int Yes, tell me about that?

JK I, I don't have a clear memory about that. What I mostly remember was that both he and I think his name was Mdlana...who was I think was a dentist but he was a leader in Soweto of an organisation whose name I can't remember but...the thing that I remember the most about the both of them was their enthusiasm for the LRC.. It was, you know, you came away from the meetings, feeling that this was important and this was a good thing to be doing...

Int At the time that you met Bishop (Desmond Mpilo) Tutu, in your mind, he wasn't as famous, as he is now, as a figurehead. But did you get a sense of this, you know of his importance in South Africa, as a ...?

JK Well, I think it was certainly, I mean, it was clear that he had importance...in the eyes of the LRC and that they understood his importance, so I think derivatively we had some idea. I don't know whether we had independently any understanding of that. Although he had, I would say, he was not unknown at the time...

Int Sure, sure...

JK Dr. **Mdlana**, he was, I had not heard of...and then we met with a bunch of lawyers in Cape Town to talk about whether it was a good idea to have a... a Cape Town office at the LRC...which I think generally a number of people did and some people said well, the Cape Town Bar does a lot more than they do in Johannesburg, so you don't need that, really. So there was a debate. One of the issues that came up in Johannesburg was that we talked to a group called the Black Lawyers Association and they were kind of unhappy about the LRC and said, you know, it is really just a white thing. They didn't consult with us and in both Durban and Cape Town...in Durban, they had, I think three out of the five lawyers were I think two black, one Indian maybe. But they were hard to describe as a white thing and in Cape Town, they were having a lot of discussion about this, because in Cape Town there's a much, the, the, and Dullah Omar was one of the people we met with, who was very impressive and was very supportive and interested in getting this started. So...one of the things that was interesting to me is how the racial politics was different in each of these places... and I remember meeting with the black lawyers, it was...and in this whole discussion of this fellows program, one of the things that was clearly...a huge issue there, was how do you fix the education and training and opportunities for black lawyers and...that's something that SALSLEP talked about and at some point, even willing to try and help the Black Lawyers Association, but they, they couldn't, you know, they said they would make a grant application, but they never did anything, so nothing much came of that. But I think that the one thing that did persist out of that was that there was a perception amongst some that the LRC was a white thing. I mean, in the States too.

Int Really, where did that come from in the States?

JK Well, I think that it came in part from, at the time, the Lawyers Committee for Civil Rights was very active and in...South Africa and they were very...I don't think the BLA (Black Lawyers Association) may have been in existence only a year or two, when we made that trip but they had, some of the members of the BLA had worked with and knew the people from the Lawyers (Committee) and I think that's where some of that came from. And I remember, I think, it was in '83...Charlie Nupen came over here and he and I went to meet with the Lawyers Committee and just talked to them and I mean, it was an issue. I think it eventually got worked out but...it was...I think that was one of the things we came away with from our trip, that was going to be an ongoing sort of – sensitivity...

Int Sure, I am just wondering as someone who studied in the US, is American and your sense of how law was being practiced in the US and then South Africa and the whole argument around the rule of law and apartheid; what was your sense and impression of...the difference? That juxtaposition of being American, having experienced the legal framework within a particular system and then going to South Africa, what were your impressions?

JK I think that the biggest difference that we noticed and that was a concern was that we don't have parliamentary supremacy here. So, over there, one of the worries that if you took a case like Komani and you got rid of the Pass Laws, Parliament could turn around and reinstitute it some other way. And the arguments were, were...I think, to an American lawyer, were pretty strange because the arguments, that were being made which succeeded were that whatever level of bureaucrats that was adopting these regulations, didn't have the authority, had exceeded his authority, an *ultra vires* kind of argument as opposed to the whole thing being an outrageous violation of the Constitution. So, the whole thing was very different...and that's why I go back to, it was just so remarkable that Arthur (Chaskalson) could see a way in that system to change things and actually do it. It would be so easy to undo it because you can, even if we win at this stage, it can just be undone.

Int What was happening in the US at this time, was this still...during the anti-war movement?

JK No, the anti-war movement was over. This was the time Ronald Reagan had just been elected President okay (laughter) and so I would say politically...one of the things that was going on was this nuclear freeze movement that was going on here, which I was actually representing a group that was doing that. There was no McCarthyism but there was no anti-war movement either. I think that by the middle of the seventies, that kind of movement had sort of settled down.

Int You'd actually lived through the anti-war movement. You'd experienced it, you'd experienced repression. So, do you think that somehow made going to South Africa and experiencing apartheid and what that was like, did it make it real and tangible to you?

JK I think that I would never say it was the same. I think that the whole idea of being – shunted around or precluded from going to places because of your skin color, that is a level of injustice that somebody has to deal with. You know, you can see it, back when apartheid was there...I think that the thing that I could identify with the most, is the way that the government tried to enforce that system, you know, in terms of banning people and in terms of informants. One of the, you know, one of the things that was...you picked up pretty quickly because everybody was conscious of it, was...given that system, it was a real risk that people would not, not because they wanted to necessarily but because they had to cooperate with the government in ways that meant that they informed on people, so...I think that was a constant level of anxiety and it really got much worse. That first trip...I think we struck by the system, but I never got the...sense of immediate, physical threat. I went back in '84 and I went back in '87 and '88. Over that period of time, it had really changed. It was getting really scary...but...I certainly got, that's what I meant when I said that that I was just sort of talking to Charlie (Nupen) and Paul (Pretorius) and Karel (Tip) and Geoff (Budlender) about this. You know, they had everyday faced the risk that somebody might do something to them and that's...So I had tremendous admiration for all those guys.

Int What about your sense of the legal... thinking? You had obviously been in a great law firm and going to South Africa, what was your impression of the actual legal calibre of people that you met?

JK Well, I think our impression of the LRC lawyers was that they were top-notch. They were Arthur (Chaskalson) and Geoff (Budlender), and...were fabulous lawyers, you know and I think that was really the key to their success in a way... Because of, I think it started with Arthur (Chaskalson), because of the respect he commanded, they had the support of the Law Society and the Bar and that was tremendously important...They had *a lot* of insulation from...possible attacks from the government, although...it, it has always surprised somewhat that the government did not do more to them (laughter) but, you know, I think that was part of it and I don't think they would have had the support if they were perceived as strictly political, you know they were perceived as lawyers and they were superb lawyers...I think that there are some differences, the systems are quite different because they have a divided system and we don't and also they have, they, they place a higher value on oral argument in the trial court and on appeals, which, you know, we have that but I think relatively more weight is given to the written work here. So there were some differences but, I think the basic concept of...trying to have a society...operate under the rule of law is, is the same, and obviously now, I think South Africa operates more under the rule of law than we do but, I won't start on George Bush.

Int (laughter) When you were setting up SALSLEP, before you went to South Africa the first time, there obviously must have been some reservations about how all of this was going to pan out? what was the efficacy of actually using the law to challenge a legal system, that was actually implemented by law, a repressive legal system that is and then you went to South Africa, you met the LRC staff, so when you came back, what was your sense ? Had it shifted?

JK Well, you know, I didn't, I was actually very excited about going. I thought about; I didn't have a firm sense, I mean, I didn't have a sort of firm view of its likelihood of success. I mean I knew that it was risky, I 'd say but the thing that became clear when we were there, was that it really had a dual purpose, and one of the things that it did was it had a clinic and it developed other clinics, in different ways of basically just providing simple legal services to people, whether it was, you know, a will or a consumer problem or, and those were areas in which...you could, you know, the system didn't, at least in theory...discriminate against people. So, if you were black and you had a consumer complaint you could do something about it. The real problem was that they had no access to lawyers. So...they were I think a very important component of what the LRC did was to set up clinics to provide services to those kinds of people who never access to legal services and they were *swamped* when we went. I can remember to the clinic ...

Int This is the clinic in Hoek Street?

JK Ya, Hoek Street...

IntYes

JK They had more than they could handle, you know, because it was a need which was very, very real...And in part, it was, I think the theory was that out of the what they learned in those kinds of cases, which emerged, cases that they could litigate as test cases to challenge the system, which was the Komani case, which was the other thing that they did. So...it was very clear to me that the first part, the legal services component of this operation was going to be *hugely* successful – and given the success they had achieved in Komani and the next case, there was the possibility that they would be able to actually prevail on some of these theories and the government would have to make a political decision about whether it could, wanted to undo it. So, I guess that we were all convinced when we came back that it was more than possible. I mean, it was happening and we should do whatever we could to help them.

Int ... When you were in South Africa, did you get into...have contact with Felicia (Kentrige) and Sydney (Kentrige)?

JK Yes...

Int and your impressions then. This was the first time you'd met Sydney (Kentridge) when you went to South Africa?

JK The first time I met Sydney (Kentridge) ...and I think, I may be, this is almost twenty five years ago, so I mean, you are killing me here?

Int *laughter.* Well...

JK I think we met them, I think Felicia (Kentridge) had a dinner at her house and that's where we met Sydney (Kentridge).

Int ... Reuben (Clark, Sr.) did mention that.

JK I think but I am not sure.

Int Okay, it was really Felicia (Kentridge)'s brainchild, the idea of legal clinics. Do you remember that whole concept of promoting legal clinics?

JK I think that's right. I don't...I mean the whole...Felicia (Kentridge) was so involved in the whole thing, you know, I wouldn't, so whether that was exclusively her idea or not, I don't know. I am sure that she was...she was instrumental in the whole thing.

Int What were your impressions of Felicia (Kentridge)?

JK ...I think Felicia (Kentridge)'s wonderful. She's...and she, you know, one of the things that was...I think that really made a difference was that she was really able to...I mean, part of it was she knows a lot of people all around the world and so she was able to, like Lloyd (Cutler), or people in London or Australia, you know, wherever. And she persuaded all of them to help her. But she was also tremendously effective at ...pitching foundations and...You know, I can remember and I am not going to regale you with the specifics but when we identified where there might be a major donation, I'd say, almost every time, we'd tried to arrange for Felicia (Kentridge) to go visit them. She was hugely successful on the fundraising side.

Int Okay. I am quite interested...you've made this link between your first visit in 1982 and then in 1984 and things were started becoming far more repressive in 1987, '88... that's really the era when emergency regulations came into play.

JK Yes...

Int So, sitting in the US, you were very involved in promoting the LRC and its work, did you have trepidations of the idea of the LRC functioning under Emergency regulations, which were far more repressive?

JK I think it was a major concern. You know, they'd had and some people had had come and gone. I think both Karel (Tip) and Paul (Pretorius) had left by then and they'd grown... but you know, they were involved in fighting the emergency regulations and Arthur (Chaskalson) was involved in...a huge case, in which the government was trying to shut down the United Front (United Democratic Front), which...it may have been a treason trial, I can't remember.

Int Yes with the UDF...

JK So you know, they were in the thick of all of that. Yeah, I think it was an anxious time.

Int Right, you've mentioned the idea of under apartheid, in South Africa Parliament was supreme and you've also said that you were surprised that the government didn't intervene much more strongly or vehemently against the LRC. What, intuitively, is your reaction...in terms of what do you think prevented the threat of closure and the reversal of legal victories, particularly during the 1980s, by the government at that point.

JK Well, you know I think...that there are a combination of things that I can identify and I am sure that there were things that I just don't know. But at some point in the midst of all this... there were, you know, (F.W.) De Klerk came into power and there were, he clearly made the political judgement that...they couldn't keep going down this road and they started to have discussions and I don't know whether you've heard about this, but Richard Rosenthal was involved in some secret discussions...and I mean that you know, the South African government knows what everybody does, so they know about his connection with the LRC so I don't think that was necessarily the reason that they were talking to him, because Richard (Rosenthal) has his own sort of relationships and he's a *very interesting guy*...But I think that they, you know that to the extent that they were thinking about trying to work something different out, I think the notion of attacking an organisation with the credibility the LRC had was just not possible...Now to that extent that that wasn't going on, either because it happened later or whatever, certainly part of it was, as I said before, they had tremendous support in the legal profession. So you would have had internally, a lot of I think...legal actions, protests, I mean it was people who were not necessarily seen as anti-government, Afrikaners. I mean they had tremendous support, international support. I don't...I think that we'd like to think that we were part of that, but I don't think they care much about us frankly, but they did have, they were a well known entity and I do think that there would have been some international repercussions, if the government had moved against them...and they also had...tremendous support, I mean, I remember meeting Charlie Nupen and Cyril Ramaphosa, you know, one night, I mean in the midst of... But you know, he's the President of the mineworkers at the time and things were you know I think, think the government couldn't be sure, what it would provoke by doing

some of these things, it was just so volatile. I think my sense is that it is a combination of the sort of gradual shift in the government's thinking along with the recognition that this was going to be a problem along with the level of support they had.

Int ...The LRC's approach to challenging apartheid laws was to become involved in specific categories of issues, what's called the 'test case' approach. How effective do you think that strategy was and did you, at the time, have any reservations about the 'test case' approach?

JK Well, the only reservation, I wouldn't call it reservation. I think the only potential problem with it was that, what we have been talking about it before, you know; you have Parliamentary supremacy, so you can undo any case. But you look at those two cases early on, which as I said they...did in the whole Pass Law system and it was...obvious that you could undo the whole system. And for whatever reason the government wasn't inevitably going to undo it so, I think that the 'test case' strategy was...critical and it was a demonstration of their lawyering. Because you know, it's not evident *here* you can identify the kinds of claims, because you have a constitution that you bring to challenge something...there without a constitution and Parliamentary supremacy, you know, you really had to find within the existing framework...something to say, okay, you know, you are not enforcing your own laws, or you are misapplying them. So, you know, I think it was, to come up with argument that *succeeded* was much more complicated there.

Int Apart from the Komani case, in your mind, what do you remember as the major legal victories achieved by the LRC during apartheid?

JK During apartheid...well, I can't, you know, my dates are not good, but I am sure the...and I can't remember the case, there were a series of...cases, that were...came out of this United Front, those were obviously very important. Delmas is that the right name, one of those?

Int Yes, the Delmas trial.

JK Yes

Int I just want to move to the funding from the US during the early years, it was crucial to the LRC's functioning and, I was wondering whether you have much work to do regarding getting funding from grant-making organisations, that is Carnegie, Ford, Rockefeller, because those were the primary foundations involved....

JK ...When, before I moved to Maine, I wrote some grant proposals. My memory of that (shuffling of papers) was that there were mostly, the ones that, that were successful, were primarily the ones where Felicia (Kentrige) persuaded people to

send us money or I mean, I think Lloyd (Cutler) raised some money. And I think Reuben (Clark, Sr.) and I went to Exxon and raised some money. So, I did some of that. After I moved to Maine, I didn't do...any of that and I am trying to remember, you know, I think for a period of time...we were kind of quiescent. And I can't remember when Robyn (Sealey) came.

Int It's twenty years ago.

JK Was it twenty years? I don't think there was anyone before Robyn (Sealey), was there?

Int ...If I remember correctly, there was Reuben Clark's (Sr.) secretary, who may have been involved and then Robyn (Sealey) took over.

JK I think that's right. When Robyn (Sealey) came she took care of everything, the grant applications, organizing trips and arranging visits for South Africans when they came here and really was the primary contact with both the LRC and the LAT

Int If I am not mistaken, I noticed in the Ford Foundation archives, when I was doing some archival research recently that you did actually, help with some LRC grants quite recently. Because the files are closed, if it's after 1998...

JK And this file has been closed?

Int Yes, I don't have access...because it is post 1998...

JK Well, its possible, what happened was, that I was for a year or two, I was President, so I would sign grant applications in that capacity, But, I think that, Ann (Satchwill) was...I mean, Ann (Satchwill) did all of the work (laughter).

Int Sure...

JK So, you should definitely...have you interviewed Ann (Satchwill)?

Int Not yet...that's on the cards, I'm sure.

JK Could we take a quick break?

Int Absolutely. *Recording switched off*

Recording resumes...

Int Well, we really stopped at the point of speaking about the funding situation. And you'd mentioned getting corporate funding from Exxon. Apart from that, who

would you say were some of the main supporters, and here I would include the legal fraternity in the US...of the LRC?

JK So, just the legal fraternity or more generally?

Int More generally as well as the legal fraternity...

JK Well...I don't know if Ann (Satchwill) has... and Ann (Satchwill) can probably pull this out for you to look. You would have to look at the actual donations. But for a period of time, in the eighties... we were trying to get companies that had subscribed to the Sullivan Principles to give us money...but I'd say we had mixed results with that. But, but you know, for a period of time, I'd say our efforts were more successful with corporations, some with foundations. At some point...three to five law firms contributed decent amounts for a period of time but...I would say that the...lawyer giving was not ever a primary source of funds and one of the big issues that we faced, from the you know, the mid- to late nineties into the recent past, was that the...corporations were much less interested in giving money, and that to the extent that they had operations there, they were now, they now saw that as something they should do in South Africa, through those operations. Some of this was because they had either left South Africa or weren't interested anymore, or whatever. So there was clearly a drop-off. But I'd say in the eighties probably... corporations and some foundations were clearly the sources of funds. Some individuals have always given money but not huge amounts.

Int So, when these sources of American funding started to dwindle and...what was the position of the LRC and SALSLEP? What were some of the adjustments that had to be made?

JK One of the things that had, I was always amazed about, was as I told you, we had started this thing with the idea of raising something like twenty thousand dollars a year maybe and very quickly we were suddenly inundated with Ford money, Carnegie money, Exxon, you know. And some years, we were raising several hundred thousand dollars.. So, I think that the, and we would, I don't think that we ever sent all the money to the LRC. And the way we operated was we, they'd ask for a specific amount for a specific purpose and we had to comply with the IRS regulations that goes with this approval process. So...I don't think that they ever asked for and received all the money. And Ford at some point, gave us a one time endowment fund to manage and keep for them and later they did that for an organisation in Namibia and Zimbabwe so...and in, I don't now, what's happened in South Africa, because that was done in part, because there was a concern about keeping the funds in South Africa, which is a continuing concern about Zimbabwe now...

Int In this scenario, did you develop any close relationships with people who were actually on the ground making grants...like for example at Ford, there was Bill Carmichael. Did you have any close working...

JK I didn't know Bill (Carmichael) before he came on the Board, so that's where I got to know him. I, I didn't really develop relationships with funders.

Int Okay, currently, what is the state of funding? Has there been a divergence in the relationship between SALSLEP and LRC, in terms of how funding have been acquired and distributed?

JK I can't answer that. I mean, Harvey (Dale), thank goodness, came on to do this and he would have to explain that. Or Ann (Satchwill) probably could.

Int Sure.

JK The one thing, I, I will say about that history, is that...we went through some internal...soul searching, at different points, I'd say, and there was a *lot* of discussion about sort of broadening what we do and at one point, people were talking about trying to start programmes and...I think part of that was, came from a...the fact that well, if we are going to have this money for Namibia, Zimbabwe, maybe we should just be, do more things. Become like an activist foundation or something. And part of it came from well, we still want to do things in South Africa but now that apartheid's gone, the LRC, you know may not be the only relevant thing to do. That kind of thing. But I think, for some of us, the, you know, our focus was still on the LRC and...but that had, that...All of those discussions diffused, you know, it's harder to raise money and be focused on one things. Or if you're going to do programs, have a program, so I think we floundered around for a while on some of those issues. But I think we got back on track and...but I don't know about...I think there are now issues for funders in terms of making grants in South Africa versus giving money to us.. those kinds of things and I honestly don't know how all that sits at the moment.

Int Okay. I want to go back to the late 1980s. You mentioned Richard Rosenthal...

JK Hmm

Int and his...his associations. You being in the US, did you have an inkling that apartheid was coming to an end and that things would change dramatically by 1989, early 1990?

JK (Nelson) Mandela was released...I guess, I'd say that in the late '80's I didn't... I mean, I actually thought that things were pretty bad. I mean obviously before that, things were going on, which you didn't know about. ...I guess my sense was that the State of Emergency and the way the United Front had sort of really pulled together this pretty amazing mass movement. I mean, that all suggested that...you

know, it was hard to see how the government could contain it all. But you know, it was still, the way they were going to solve it all was not clear. They were still doing pretty horrible things, they were shooting people, throwing people in jail...and, and as I say, I can't remember the year. I think it was '87 but I am not one hundred percent sure, when I went for the third time. But I... *it was tense*. So, I didn't have the sense that it was all going to work out fine at all (laughter).

Int So, in 1990, did this come as a surprise to you? What were your impressions as such?

JK Well, I think we were all ecstatic. You know, I don't think it was a total surprise because by then, you know, you could see hints of things. But...I think what really surprised me was that once it started, how quickly it all unravelled. Then they let (Nelson) Mandela out of jail and the next thing you knew it was done. I mean, it was pretty amazing.

Int In terms of the LRC, during this period, what do you think... how do you think the impact of that change, that transition that was so rapid, how did it impact the work of the LRC?

JK Well, I think it was, we've had a lot of discussions about this and, you know, its, it's...I think they've managed to do a great job sort of retaining their sense of mission. I think it's a challenge. Here basically you have a government, which is, you know, Geoff (Budlender) actually became part of you know. I mean there are all the relations with people with people in government. It's something they've been basically fighting for, for years. But at the end of the day, you know, in terms of bringing cases, having to act against the government, so I think, that must, must be an interesting thing internally for them but you know, I think they've been quite successful at it, on the land cases...on the...what is the name of the Aids organisation?

Int TAC...

JK TAC. Yeah. You know they...so I think they've managed to make themselves relevant and are still doing very important things.

Int Hmm, but the LRC is actually expanded dramatically since its launch and that's been almost 26-27 years ago and its had five regional offices and I remember reading in the Ford Foundation Archives, that there was some kind of concern about this rapidity of...

JK Their expansion?

Int Yes and that was a sense of having some...caution about that. And I am wondering at what point did you think that that expansion was actually necessary

and did you feel that it would cause problems for the LRC? Did you have concerns about that expansion?

JK ...I think that...not particularly. You know I don't think that every office works as well, as you might hope but...I think that the idea that you had to be in Durban, you had to be in Cape Town, that seems to me to be...something you...couldn't argue with. And I think the other offices, you know that one I am actually the least familiar with, they have a Pretoria office now, don't they?

Int I am not quite sure...

JK I think they might still. I know they had an office in Grahamstown and I think what they clearly tried to do, in each place was find lawyers with the same stature and capabilities that the ones who had started out had and that was going to be the way they would... make it work. And I think by and large, that was a successful approach. – I, I think, the offices had been, I can't, I am trying to remember whether they closed...

Int I think they closed one in either Port Elizabeth or East London.

JK Ya. I don't know much about...the times I have been there, there either wasn't an office there or I didn't go...And I do remember one trip going there and we talking with some people about the idea of starting an office there.

Int So apartheid ended quite a while ago and the LRC continues to thrive. What do you think have been, from your knowledge of it, what have been the core areas of focus in this transition period? You have mentioned the TAC as an example and the land case, but do you think there's been an absolute shift, given that it is now the post-apartheid era?

JK The one thing I don't know is the degree to which, they are doing legal services in clinics and that kind of thing. I don't know how big a part of what they do that consists of anymore. But I think that in terms of cases, they've got a Constitutional Litigation Unit and they've got the Land Reform piece and I think those are both tremendously important. And you know, I think that they, its not hard to see, given that half the judges, at least for a while had come from the LRC (laughter)they would command some, you know, respect for their positions. But I think they are really, continuing to make a difference in their ability to bring...cases...I mean, I remember Chris Nicholson. I can't, I don't when this was, but when he was here, he was *very* interested in...I mean, I have done some environmental work and I mean, he was very interested in trying to bring cases of an old polluted mine site that had ruined drinking water for some people around Durban and (inaudible)... bringing a constitutional case to establish concretely people's right to clean drinking water and that kind of thing. So, you know, I think that they are the one organisation, as far as I know that is still in a position

to bring about those kinds of cases...or like the TAC case, so I don't...they don't seem to have had any trouble reinventing themselves.

Int ... In terms of the Truth and Reconciliation Commission, from your sense, what has been the involvement from the LRC and what your impressions of the judicial process undertake the TRC?

JK ...I don't know a lot about that. I mean, the one thing I do remember vividly is the LRC's involvement in the issue of...Winnie Mandela...Now, I, this must have been early '90's, maybe it was mid-nineties. But I am sure I am going to get the facts wrong but...She had some bodyguards and I think they killed or beat...

Int Stompie Seipei, yes.

JK Some young boy and Geoff (Budlender) from the LRC was representing the families.

Int Okay

JK And so they were...I mean that was just an extraordinary thing but you know, that is another example of, I mean these people are...so courageous, you know, they are just... I think it's very hard for an American to appreciate...What it is that they do and the environment that they have to do it in.

Int Why do you say...

JK I just think its, I mean look at this country, you know, look at George Bush. I mean George Bush is a war criminal and people are. I mean , its changed a little bit now but for five years people were terrified to say Boo. Its pathetic but you know there's nothing going on here like what goes on over there and the LRC are willing to do something about it. You know, I think this (Nelson) Mandela thing is...here is (Nelson) Mandela out of jail, you know, here is his wife, who is in her own right, a big political force in the ANC and here is the LRC guys. And wait a minute (laughter) she just murders somebody. I mean, I think that's a pretty courageous thing. Or (Richard) Rosenthal running around in these secret meetings. Have you read his book? Have you seen his book?

Int I have heard of it .Reuben (Clark, Sr.) mentioned the book to me.

JK He sent it to me. If you can't get a copy let me know.

Int Thank you.

JK I mean they are just an amazing group of people.

Int Absolutely, yes. Its curious this kind of almost two-stepping because the LRC in some ways was very pro-ANC in some ways, during the anti-apartheid movement and was actually fighting repressive laws that affected the ANC and then the ANC comes into power and the LRC has to take cases against the ANC. How does that...does that make sense?

JK Right. Well, I think that if, if you go back to what they are all about, it makes complete sense.

Int Right

JK I mean they are about the rule of law and I think that *now*, they are not limited to doing that in a defensive posture. You know, they can affirmatively try to establish... and I think that is a tremendously exciting, you know, to be in a situation where you have a new Constitution, you have unlike the United States Supreme Court, you have a court that is willing to give meaning to some of these constitutional concepts. And they are...so they are...so they are really able to make law that will be unlike something that could be overturned by Parliament. So, I think that is a very exciting thing. They've been involved in death penalty litigation, they've been involved in all sorts of things, where all these constitutional provisions are going to be defined. So to me, its no surprise that they would at the same time take on the government when it abuses or even when it is not that extreme, does something wrong, which I think you can see in the land reform case. They have been fighting with the government about lots of issues there.

Int Absolutely...in your experience, what criticisms have been made about the LRC and by whom? You don't have to mention specific names of course and why do you think these criticisms were made in the first place?

JK ...I can only think of two criticisms that I have ever heard. One is the thing we were talking about earlier, which is, it is a white thing. You know, and if you looked at the Trustees and you looked at the National Office, it was predominantly white and now I think, that's not true anymore, you know but this was certainly back in the eighties, this was something...you heard. And you know, I think that is a very complicated question. I think that...I think its *not* the case that...that was a deliberate policy, contrary to what some people in the Black Lawyers Association were saying...they were not interested in helping black lawyers. I think that quite the opposite was true. You can see that in the fellows program, the whole purpose of which was to provide training for predominantly black lawyers and other minorities. I think there were a lot of difficulties in finding black lawyers who were willing to work with them because of the perception among some that it was a white organization and you know given the inadequacies of the education system in finding qualified black lawyers, who met their standards ...but I think that, you know that that was a sensitive area for a while. Now, I don't know how that is ultimately playing out because there are so

- many opportunities and there is so much money around for black lawyers you know in other kinds of jobs, that I can imagine its pretty hard to persuade them to make a lot less money.
- Int That is certainly something that keeps coming up in some of the interviews I do, this idea that even though black lawyers are being sought and to be trained through the Fellows (Candidate Attorney now) program, there is this kind of lure through the private sector.
- JK Well, now I mean its true because, I know of... I don't remember their names but the last time I was talking to somebody who was over here and you know, they described some of the jobs that are now available for corporations or in the government...law firms you know, so you have, so that's tough competition. So, anyway, that's one thing. And the other thing was on funding. I think sometimes there was a perception that they were totally reliant or largely reliant, maybe totally is overstated, on funds from overseas. You know that they raised relatively little money from South Africa. I know we talked to them about that, you know, over time that changed...but I think that was always a concern that at some point they really would have to be able to, if not completely be able to sustain themselves from South African funds, at least get there, get close to that.
- Int I am going to actually draw on that response about funding because a commonly held discourse is that now that it is a post-apartheid era, it seems that South Africa is no longer the darling of the fund world, as such. I am wondering how you think that's impacted the LRC operations?
- JK ...I am sure that impacted it a lot. Again, I think Harvey (Dale)and people who are more currently up to speed on that, could help you more with that, but I, I know for at least seven or eight years that that's been an ongoing... concern. And you can see that, as I said earlier in the drop off...corporations clearly decided okay, we don't have to give money politically to this stuff, at least in the US. Now that they may in South Africa, and hopefully the LRC can...can capitalise on...and I think there's definitely some foundation, because foundations said look, we're done here, we're on to the next...so I think it's a challenge. Whether (Thabo) Mbeki and his bizarre views on AIDS is enough to get people, you know, one would think that would get at least some donors interested but...but Harvey (Dale) or someone else could give you a much better sense of that. He knows a lot about this.
- Int Fair enough. In terms of the relationship between the LRC and SALSLEP, how has that unfolded over the years?
- JK ...Well, I can only really talk about that, I'd say up until the late nineties.
- Int Sure

JK ...But I would say it, in the eighties I think there was a fair amount of, and even up until the mid-nineties, late nineties, fair amount of interaction. A number of them would come over and...would sort of get, frequently on a State Department grant and they would travel around and...we'd arrange for meetings with them and they'd come to the Board meetings or something so there was a lot of interaction throughout this period, I'd say Felicia (Kentrige) was the principal, I mean, she was really the main point of contact, she came over here the most and she was involved in coordinated sort of fundraising requests the most. And we went over there...a certain number of times...and had some great visits. After the '82 trip, I went back on an AID-sponsored speaking tour that got set up by the LRC and in the late '80's Jim Robertson, Judy Thomson, Robyn (Sealey) and I went to the LRC annual meeting and 10th anniversary in the Drakensburg Mountains. We also visited the offices in Jo'burg, Cape Town, and Durban, met with the lawyers and reviewed the work, which was particularly challenging at the time. The LAT reps were there, including Guy Stringer and Cyril Glasser, as well as Jill Williamson, and we began to form close ties with them as well. There was also with both Robyn (Sealey) and Ann (Satchwill), a pretty regular and significant amount of contact back and forth...Now for me, what, what began to change...you know, the people I knew the best...at different points, left. Charlie Nupen left...Geoff (Budlender) left, came back, left, came back. But you know he was sort of in and out. The early guys, some other people I knew, Steve Kahan (Kahanovitz) from Cape Town, I think he's still there and Richard (Rosenthal) is still there, but...one of my problems was that when I came up here, and you know, over the years, it has just become increasingly hard to...if I was in Washington, it would be a lot easier. So...but then that had to...there have been a couple of National Directors that they've had to come up with. So, I'd say, we went through a period of really debating whether we had any role to play or what not. I think Harvey's (Dale) decision to come on, I think that re-establishes, he's obviously on their Board, so that puts that together, what we really didn't have for a while...But in terms of anything specifically going on now, I couldn't tell you.

Int Fair enough. Looking back on SALSLEP's involvement with the LRC, what do you think SALSLEP could have done differently and what do you think, you, in your role and capacity, could have done differently?

JK ...Well, I think that depends a little on the timing. You know, I think that we always could have done more...I think that we...you know, we evolved from and, and I'd guess you have to start defining sort of how we thought what we were doing at different times. You know, initially I think our idea was, we were not an active fundraising outfit. We were going to raise a small amount of money or as it evolved, we'd be a vehicle through which people...could send money to the LRC, but that we ourselves were not primarily in the fundraising...business and you know, our principal role was two-fold, as sort of a passive funding entity. To make it possible for...people to get money to the LRC, through a 501C3 here. Then second, to have a presence in the United States, which would, would provide some, give the LRC the ability to have support and known support, if

things became problematic, here and in London. You know, we could try to help them and so I think that in the early stages, particularly it was a fairly limited kind of role and I don't know whether that would be anything that we would, we could have done differently about that. *Over time*, I think we thought about trying to raise more money and in some periods, did and in some periods didn't. But I'd say the *overarching thing that we might* have done differently is...have a different approach to fundraising. You know, for the most part, it is a bunch of lawyers who aren't very good at that and who don't have the time to do it...so, every once in a while, somebody would develop...an ambitious sort of idea and we don't and never had a staff or a Board capacity to...do serious fundraising...and there have been *lots of* discussions about that, particularly when these discussions were about expanding what we were going to do. One of the reasons that I think that was ultimately not going to be something we were going to do was because you'd have to be able to raise significant amounts of money, which I don't think anybody realistically thought we were in a position to do...So, what the, as we were struggling with all these problems, you know, it became particularly acute post-apartheid. So, I would say that is one thing we might have done differently. I am not sure what we would have done but we, we didn't have a very good fund-raising plan.

Int Do you envisage there being a potential for perhaps an endowment for the LRC?

JK Well, there is an endowment...

Int Through SALS...?

JK Well, SALS holds an endowment for the LRC.

Int What about in addition to that, something that is more longstanding and comprehensive?

JK I don't know... I think raising money is...not that easy and I think that raising money for the LRC in this environment is...not easy because...you know, here you have...I think that the way a lot of people would think about this is, you know, you have Darfur, you've got, I mean, you name it. So, the extent you're interested in Africa...there are a lot of competing demands...But I, I wouldn't say its impossible and I think that...there are definitely some...you know, one thing Harvey (Dale), I think is probably trying to do, is figure that out. If anybody can do it, he can do it.

Int Looking back, as you reflect, would you have been able to predict that the LRC would have become such an established legal institution in South Africa?

JK ...Well, I think you...I think what you couldn't have predicted is...the seismic shift in what they had to do and, and given that, I think it would be hard to say

that you could have predicted that they would have turned, you know, moved in the direction they did, on ...

Int You mean in post-apartheid?

JK Yes.

Int Sure.

JK On the other hand, I think it is certainly the case and...and I will say that, one of the, the reasons that I think that you couldn't be sure was because you had this really extraordinary leadership, you know, Arthur (Chaskalson), Geoff (Budlender) and Felicia (Kentridge). So, post-apartheid, you know, you don't know what is going to happen to all these kinds of people and Arthur (Chaskalson) goes onto the Court and Geoff (Budlender) goes off to government and...you know, I think it was possible that that could have happened to enough of them, so...it was not entirely clear that you would find sort of a next generation to...take the thing forward but you know, I think they did...if you think about it in terms of the principles, which they have always operated under, its predictable in that sense. I think that they essentially, I think the context is quite different but in terms of their approach to the law, I think its pretty similar.

Int What do you feel...you have discussed some of this and you've alluded to it certainly throughout the interview, what do you think have been or has been the greatest achievements of the LRC?

JK ...well, I'd say that, and this is not in any particular order of you know rank...

Int Sure, yes.

JK I think, obviously, the test cases, the early pass law test cases were huge...I think the...land reform cases are huge and I mean, I think you could go through and if I dredge my memory, I could come up with a lot of cases. But I mean, clearly, cases are very important. I think that...the sort of training and the training ground the LRC had provided for a lot of people who have gone on. I mean I was thinking about this, there are the first round of Fellows, one of them is a judge, but you just think about all the alumni of the LRC and what they're doing. I think that's been a huge contribution to the whole legal life of South Africa...and there are lots of examples of that from the people who have been there in the beginning to the fellows who have come through...and obviously Arthur (Chaskalson) going on to becoming the President of the Constitutional Court is just...they've had an amazing impact...beyond the LRC...And I think they've...the way they've functioned for 25 plus years has done a lot to enhance...the respect for the rule of law in South Africa, because they have really shown that even in its darkest hour, there is a possibility in a society that at least claims to have respect for the law, to do things.

Int Okay, in terms of your personal involvement, what do you think have been the highlights of your involvement with SALSLEP, as well as the LRC?

JK ...the highlights...Well, I think there have been...it was a terrific opportunity for me in many ways and...as I say, I...feel quite privileged to have known and watched the LRC people and what they have done...you know, I think that is really for me, the highlight of the whole thing because...I have respect for a number of lawyers but what they did and are doing is really remarkable and I had ...I really enjoyed getting to know some of them pretty well. Richard Rosenthal and I have climbed Table Mountain many times and Charles Nupen and Geoff (Budlender), I mean, they are... so those relationships were very rewarding. And I think that the SALSLEP Board is a very good group and people have been engaged to different degrees...but its...and the Board has expanded over the years...starting there was just four, then there were six or seven. I don't know how many it is now but... but I very much enjoyed getting to know them and working with them...you know, I think particularly in the eighties when Reuben (Clark, Sr.) and I were doing this, was... interesting and the trip, I am sure he told you about that... that trip was fabulous, I mean for all of three of us, it was just extraordinary. Robyn Sealey will tell you about other trips though and so will Ann (Satchwill).

Int Okay, given that this is an oral history, I was wondering what stories are there that need to be told or should be told?

JK ...LRC stories?

Int LRC, SALSLEP, both...Particular personalities...

JK ...See you should give me these questions ahead of time (elicits laughter from both)...Well, I love the Richard Rosenthal story, so I think you definitely should... I don't know whether he wants to be on tape because he's written a book. – You know, they're all just fascinating. I mean, if you would just get Charles Nupen to talk about what he was doing with the Mineworkers during the whole United (Democratic) Front thing. Now, I remember this, having drinks with Cyril Ramaphosa in the bar with Charles (Nupen), that's a whole other story. Now he was, I think I don't know if he had just left the LRC...I'll think of some more...

Int Sure, I'm just making an association....Was that 1982, your meeting with Charles Nupen?

JK No, no, this was later, this was '86 or '87.

Int '86 or '87 okay. And Cyril Ramaphosa was a key player in the CODESA negotiations. You also met Bishop (Desmond Mpilo) Tutu who is an international

figurehead. It sounds to me that your involvement in the LRC led you to the path...of course Arthur (Chaskalson) as well...to some extraordinary individuals.

JK Oh absolutely. Its...you know, I couldn't say that I apart from the LRC people knew the...we met with Bishop (Desmond Mpilo) Tutu with I don't know how many people for half an hour or something...there are a lot of extraordinary people, Dikgang Moseneke is a very interesting guy...Nadine Gordimer. I mean, we've met a lot of fabulous people. And then there are the lawyers, George Bizos... (laughter) he is a character and an extraordinary person. He has tried lots of the most famous cases and been a huge help to the LRC's litigation unit.. So, I think we've met, I wouldn't say every lawyer in South Africa, but we've met a lot of lawyers.. So that's...I am just trying to think of stories.

Int Well, you can always send them to me off the record.

JK Okay.

Int I am just wondering as a closing question on my part...is there anything further that you might like to add to the interview, that I may not have asked or neglected to ask and that you think needs to be part of your interview, or your story, as such?

JK --Well, I...can you stop this for a minute.

Int Sure. *Recording stopped.*

Recording resumes...

Int So, Jamie, we were really towards the end of the interview and you were saying that there are certain stories that you think would be quite interesting and you also wanted to touch a bit on the Board and the history of SALSLEP's Board members, perhaps.

JK Let me talk about the Board for a minute and the SALSLEP structure because I think its in its own way, it's a terrifically interesting and... dedicated group and...Reuben (Clark, Sr.), as I said, was really the first president because Lloyd (Cutler) left before we were really underway and Reuben (Clark) took over. And Reuben (Clark) was the President until...I am sure he told you but, late eighties, early nineties when he retired from the firm. And one thing that I think is important in any discussion of this... is the role of Wilmer Cutler in all of this...because the firm not only was responsible for setting this up and supplying the lawyers who were sort of involved but, but supported it financially and provided office space...really without that support...unless you had an entirely different cast of characters involved, we couldn't have done anything and the firm...for 25 years was absolutely...a hundred percent was committed to supporting it and...was very generous both financially and in all sorts of other

ways and in fact...one of the...sort of nicest memories I have about this was the firm had its 35th anniversary and Arthur Chaskalson presented...some papers from the Rivonia Trials to the firm. You know about this?

Int No, I haven't heard about this...

JK They are on display at the firm. It really was a... it was one of these black tie, I can't remember if it was at the Museum and I actually went because of this. You know, ordinarily, I don't go back to those sort of events but...

Int When was this exactly? Do you remember?

JK I would say 1997. I think the firm. I could tell you for sure. We'll stop by my office and I'll look at my little ball and it has the date on it...but it was, it was...the 35th anniversary of the firm's existence and...so you know, it was a...they were making it into a big deal and...Arthur (Chaskalson) was the high point and he made this presentation of these papers.

Int Hmm, it was quite an incredible gesture, isn't it.

JK I mean it was extraordinary. Is that your tape?

Int No, its outside. A horn...

JK Okay, and you know, I think that in his remarks, I mean, you know he expressed the LRC's deep appreciation for what the firm had done and it was really... a wonderful thing...So, that gives you a sense of the firm in the thing and the firm, as I said, supplied the lawyers and Reuben (Clark, Sr.) was the first president and after Reuben (Clark, Sr.), he retired but he stayed on the Board, but Jim Robertson became the President, who had joined the Board earlier. And Jim (Robertson) is a wonderful...you know the thing... let me talk about Reuben (Clark, Sr.) for a minute. The thing that I always found so wonderful about Reuben (Clark, Sr.) was Reuben (Clark, Sr.) is a tax lawyer. He is not a courtroom guy and I don't know whether it was South Africa or Felicia (Kentrige), but he was so into all of this litigation and you know, cases, it was really quite, quite fun to watch. But I will say, Reuben (Clark, Sr.) threw himself into this and he really was completely committed and, you know, kept the thing going, which I don't think was necessarily inevitable, given...I am sure there were other things (laughter) that Lloyd (Cutler) was unloading on people that didn't have the success that this did. But anyway, one of the ideas of all this was that the...President should come from Wilmer Cutler, given the, you know, to keep the connection to the firm. So Jim (Robertson) came on board, sometime in the mid-eighties, and Jim (Robertson) is, had been very active in the civil rights movement. He had run the Mississippi office of the Lawyers Committee for Civil Rights in the sixties and he was a litigation guy...And I am trying to remember, I think maybe it was in '89, that Jim (Robertson), Judy Thomson, who'd joined our Board and I went to South

Africa with Robyn Sealey. I am sure Robyn could tell you this. Then I went, I think, it was the 10th anniversary of the LRC.

JK But, anyway, so when Reuben (Clark, Sr.) retired, Jim (Robertson) became the President and Jim (Robertson) was the President for four or five years, something like that. And then he got appointed to the Federal bench, so we had this conundrum, because...we had brought John Payton onto the Board, but he hadn't been on the Board, all that long, and he didn't really know the LRC people. So, although I was in Maine, I was still a Wilmer guy and was asked to take over as President because Geoff (Budlender) and the rest of them were still there, so I did that for two or three years and then I just couldn't manage from Maine.

Int What period was this?

JK This would have been roughly the (shuffling of papers) '94 or '95 to '98. Probably 1998 or something like that.

Int It was quite a significant time in South Africa and of course the LRC having to make its transition?

JK Hmmm

Int So, did you have concerns about the LRC at that point?

JK Did I have concerns about the LRC?

Int Yes.

JK Well, that was the period when we were having this debate about, you know, yeah, what's the role of LRC and what's the role of SALSLEP and some people were advocating, as I said, for lets us do more. Reuben (Clark, Sr.) always used to advocate for doing more. He wanted to have an international kind of thing and...you know, I, I was, I was sort of trying to maintain what we were, had been able to do historically because I thought our reach was limited and...I think it was...but Ann (Satchwill) was in that period really, in terms of the day to day things, keeping up with the...you know, sending out the fund-raising requests, all of that, and you know, in that period, we were still, we were beginning to experience this problem of funders losing interest.. but anyway... in sort of end of '97, '98, whenever it was, I was getting swallowed up in my practice and other things I was doing and not, you know, if I had been there, it would have been different, but from Maine, it was difficult. By that point, John Payton had been on the Board for several years and so he took over and so it was back with the Wilmer connection.. And then, you know, my sense of it, because I was pretty busy, I wasn't in tune with it, as I had been, but, we were still going through...I mean, this period of what we are doing, lasted for awhile. And at one point, we

hired an Executive Director, when Ann (Satchwill) left, who was going to be much more active and you know, try to do...

Int Ann (Satchwill) left and came back?

JK Yeah, --

And at some point in there, it was clear that John (Payton) wasn't able to keep, to continue to be President. He was just swamped with various things...so, Peter Connell came in as President. I guess he took over from John (Payton). Peter's (Connell) a wonderful guy. He's also a veteran of the civil rights movement. He'd been on the Board a long time. Peter (Connell) was really the first non-Wilmer Cutler guy to be President. But Peter (Connell) and I don't know if he is on your list. He *should be on your list. Oh, absolutely.* Jim Robertson should be on your list and Peter Connell Ya, both of them. And they were old friends and Peter (Connell) was very involved in the Civil Rights movement too and...he'd, he came to South...and I think he'd been independently before too, but...he stepped in and was sort of the guy, who was trying to orchestrate this, what are we going to do, kind of problem. And...but he said, look I'm retiring, I'm riding off into the sunset so, you have, I can't remember whether we had six months, nine months, a year, whatever it was... to figure it out and do something (laughter). And Andrew Sillen was involved in trying to help us figure out the possibilities. He'd been in South Africa doing development work for the University of Cape Town and the LRC and SALSLEP jointly hired him to figure out, can we raise any money? And he came back with a report and was much more optimistic than some of us. Anyway, we had a pretty significant debate about do we fold up or have just kind of...we'll look at the monthly statements of the endowment funds and that's it, or maybe we should find a way to distribute all of the money and just be completely out of business, which some people were, I mean, pretty firmly, thinking that's what we should do. My memory is that we finally had a meeting, Geoff (Budlender) came over and we...this was, we were all discussing all this. Everybody agreed that we should give it one more shot but then we had this dilemma of Peter (Connell) was going to leave and who was going to be President and make this happen. And I was tasked with the job of finding somebody to do this and... I'll go back to the Board in a minute.

Int Sure

The following four lines are edited out at the request of the interviewee.

JK

Int

JK

Int

JK So, ...I got tasked with finding a new President and Harvey (Dale) had just agreed to come on the Board. And I remember having just hysterical discussions with various people and I have to say, I was reaching, a panic would be overstating it, but I was getting nervous of this, because, you know, there were a couple of people, who might do it, but to do what...everybody agreed we needed to do, if we were gonna you know, have a meaningful existence going forward.. It was pretty apparent to me after talking to people and thinking about this that we really needed to have... Harvey (Dale) and everyone thought Harvey (Dale) wouldn't do it, so I hadn't called him and I had called some other people and so, we had about a month to go and so I called Harvey (Dale), and I said, "Harvey, *you've got to do this*" (laughter) and...thank God, he agreed.

Int What is Harvey's (Dale) connection, given that he is not a Wilmer Cutler person?

JK He is not a Wilmer Cutler person and I think what's happened is that it is transitioning out of Wilmer Cutler now. But what Harvey is, is...first of all, he knows as much about the donor world as anybody. He is a professor and teaches about all that and he is on Atlantic Foundation, I think it is, a foundation that he's been running. He's been involved in major donations to the LRC and he is on the LRC Board, he's just, he's the perfect guy. And fortunately, everybody on the Board, everybody felt that way, so that was a very positive development and as I said, look I am not really going to be able to do anything anymore, so I've, I've actually formally resigned. I don't know if I am on some thing, but technically, I am not on the Board anymore.

Int You resigned; when was that? Was that last year?

JK About a year, last spring, last, I can't remember, last year sometime. So, that's the end...again this may be more than is of interest. But, so when we started Reuben (Clark, Sr.) was the President and Reuben (Clark, Sr.) was really the guy who...had the position in the firm and...the commitment to...let us go and I was enthusiastic and I was willing to do things. So, you know, after we came back from this trip, we were pretty fired up. So, we had...other Board members at the time were...Erwin Griswold, Bernie Segal and Lois Loss. And...they came to meetings and they would contribute, but they weren't particularly active.. That was consistent with how we set the whole thing up. There wasn't – it wasn't a Board, where you were told if you want to be on the Board, you have to raise a 100 000 dollars, kind of Board. – And we always talked about expanding it and trying to get that people that either had connections or some fundraising potential. Bob Clare, a partner in Sherman and Sterling in New York, came on the Board. So, I was, part of why I was thinking about this, was when you said about and its completely true, I met amazing people in South Africa, but there have been amazing people on this Board. Erwin (Griswold), Lois (Loss) and Bob Clare, well, that that the early guys. George Burditt came on the Board and I, Bill

Coleman and Bill Carmichael. Judge Leon Higginbotham. You know, we sort of expanded. We had mostly lawyers.

Int You've had overwhelming men on the Board.

JK You've noticed that! You've noticed that. Well, there have been several women, okay, but obviously not as many as we'd like.. Margie Marshall, who as you probably know is now the Chief Justice of Massachusetts and *you should definitely* talk to her and the reason you should talk to her is actually...how long has she been on the Board, since '95, so, she's been on the Board for probably 15 years. She was one of the early, you know, as it started to expand, she was one of the early ones. But she's South African.. and she is, She is a year or two older than Geoff (Budlender) but they were all pals and she knows a lot about, I mean she goes to South Africa, because her family is still there and personally knows the LRC people and what they do and SALSLEP, so *definitely talk* to her. So...she's one and then Judy Thomson came on. Judy (Thomson) was not a lawyer, but knew the legal community well and was very good friends with Felicia (Kentridge) and Sydney (Kentridge), so she added helpful perspective as well as some fundraising energy...and for a while, we had...God, I can't...Maryann Glenden, who is a Professor at Harvard Law School was on the Board. She didn't stay on the Board for very long, just a couple of years. But, ya, it is completely true, I mean, it would be, Gay McDougall, Gay McDougall, I, I think Gay (McDougall) is still on the Board. Let me think, Gail Marshall came on about the time I was leaving, but I mean, I think it is a fair point that its been predominantly men... There are a lot of...judges...and its been, I think, in a way, if, if you went down through this list, if you think of all the people who started it or who first came on, who were to one degree or another connected with the ABA...civil rights and the Lawyers Committee for Civil Rights, so you know, this is, SALSLEP was almost second home for them, so you, that's why you get (Erwin) Griswold and (Bernie) Segal and (Lois) Loss and (Lloyd) Cutler and then you got Bob Clare, you got Bill Coleman, you got Peter Connell, Jim Robertson and Leon Higginbotham and Nate Jones, who were both judges and Barrington Parker. I mean it was just...so...and they were you know, active to different degrees. I mean that Chuck Ruff was on the Board...I am trying to remember but in terms of the active people, that you might talk to, (Peter) Connell definitely, Bill Carmichael definitely. I am trying to remember when Clinton Bamberger came on the Board. It must have been late eighties, I can't remember, Clinton's (Bamberger) been on the Board a long time. He was a long-time supporter of legal services and knew Geoff (Budlender) well, was a wonderful presence on the Board.. Ya, I would say Bill (Carmichael), Peter Connell, Jim Robertson, Clinton (Bamberger) and...you should talk to Judy Thomson. – And then if you, you know, John Payton was the President, so you should talk to him too...you know, I think that the people who have had the most...so this is if you went through the list, I don't have the letterhead from different times, Ann (Satchwill) could probably dig that out for you, you'd see it's a very impressive group and they are nice people too. So, I mean, I really enjoyed my association with the

Board...There's a difference in the level of engagement clearly. Not just in SALSLEP, but I think that the key is...people's level of connection is the extent of their connection to the LRC people. So, in the beginning, Reuben (Clark, Sr.) and I really did have a lot of connection and when Jim (Robertson) took over in the eighties, Jim (Robertson) and I did too, as did Robyn Sealey and Ann (Satchwill) and Peter Connell did as well.

Last two minutes of track are inaudible

Recording resumes...

Int We are back on track.

JK ...But you know, the things that I remember the most I guess, really are the just the little personal things, I mean the, the trip in '82, I remember very well. I think it made an indelible impression on all three of us but we had a very good time (laughter) while we were at it.

Int It sounds to me that the initial setting-up of SALSLEP with you and Reuben (Clark, Sr.) and this culmination of this trip, somehow this solidified a very close working relationship with you and Reuben (Clark, Sr.)...

JK Yes, between us and SALSLEP and between me and Reuben (Clark, Sr.). Ya, definitely...I mean, the good thing was that Reuben (Clark, Sr.) and I really did share a sort of common, sort of sense of purpose and sort of understanding of why we cared about it and you know, I don't think that was inevitable, but that was a very good thing.

Int Hmm, Reuben (Clark, Sr.), as you mentioned, is essentially a tax lawyer, you had had some involvement in political trials and you were also interested in the interrelationship between the law and politics, hence your move, so I am just wondering how that, how the work of the LRC, which is very much about litigation and 'test cases' how that impacted on your formation, legal formation and ideas...

JK Well, I don't know if I completely understand but...

Int What I am saying is that did you relate quite closely with the way the LRC was working, given that you had much more of an interest in political trials?

JK Yes, ya, well, I think that Reuben (Clark, Sr.) did as well, but he was...I will tell you one funny story about...Reuben (Clark, Sr.) and I were flying over there and we were talking about various things (laughter). Reuben (Clark, Sr.), Reuben (Clark, Sr.) said to me, it is because of you we lost the Vietnam War (laughter). I said, well, I guess that's a good thing. He said it in a kind-hearted way, I mean it wasn't ...

Int Sure, absolutely...

JK But I have never forgotten that. I think that it was more Reuben (Clark, Sr.) identified with it out of his conviction about the role of the rule of law, and the importance of the rule of law, as a principle. And you know, although, I...and I think I was much more in the concrete, kind of you know, what that meant in that environment...and sort of the...trying to use the law as an instrument of social justice...

Int I am wondering, associating that with South Africa, from what I can understand and gather from the interviews thus far, is that there were people who were on the Bar, the Lawyers Association in South Africa, who were also very conservative, Afrikaner lawyers...

JK Yes

Int How do you understand that the rule of law was paramount there?

JK I think that for reasons that somebody will have to write a book about someday, you know, they had just a firm belief that however horrible, whatever it was they wanted to do, they had to do it through the law. So, I mean, they are a very law oriented culture.. So, you know, although you would find grotesque human rights abuses, they all had this *legal framework* because otherwise, they wouldn't think it was proper. It was a little bizarre I admit but...and, and so they prided themselves in a perverse way on an adherence to the rule of law, and I think that because Arthur (Chaskalson) and Felicia (Kentridge) were so careful in how they went about this that...they weren't bringing cases or making claims about how...you know, these were human rights violations and they were in sharp contrast, I think I have heard this a number of time, from the Lawyers Committee for Civil Rights, which was when they came in, was all about the politics and they hired lawyers to defend in political trials, and would try to make them very political. And the LRC was very careful about not being very political. That's why when you think about, like that Komani case, the arguments they made, sort of that a political activist would probably be, I mean you couldn't just utter the words. I mean, the system is so grotesque and here you are sort of trying to find a little wrinkle that lets you do something...So, their, their approach was to be lawyers within the confines of the system and I think that...that, in a funny way, the culture said okay, this is something we should tolerate or support. And they had, and I am quite sure, part of it was just Arthur (Chaskalson)'s stature and credibility, you know, he was not... he was one of the most respected members of the Bar.

Int One of the things that struck me during Felicia (Kentridge)'s interview was when she said that Arthur (Chaskalson) and her been very strong on the point that in order to attract the best legal minds, they would have to ensure that these legal

minds were paid accordingly and that for me, really tallies with what you saying in terms of how careful they were in the functioning of the organisation...

JK Ya, although, I don't think that there's any question that they didn't get paid what they could have been paid.

Int Sure

JK But, I think absolutely, they placed a premium on quality...and that's why as I said earlier, I think, we were very impressed with the capabilities of the lawyers who were doing the work there, across all levels. But to go back to this earlier point, I do think that for a number of years, there was a very close relationship with Felicia (Kentridge), with Arthur (Chaskalson), with Geoff (Budlender), you know the people who were active in the LRC and Reuben (Clark, Sr.) and me, Robyn (Sealey) and Ann (Satchwill) and when Ann (Satchwill) took over from Robyn (Sealey) and when Jim (Robertson) took over and I think that continued. And you know, as we went into this post-apartheid kind of era...and you know, new Directors came in and new Trustees, you know, I think the contacts weren't as regular or as deep. And that...that made a difference and you know, I think that has been a problem in figuring out what to do and how best to do it for the last you know, seven or eight years. And I think having Harvey (Dale) there now takes, solves that problem, at least hopefully.

Int What do you think...what do you attribute that sort of disjuncture to? Do you think it was the transition that impacted on this kind of loss almost, or do you think there were other factors?

JK ...I think there were some other factors, but I think that was definitely a big part of it...I think that you know, you had lots of different transitions, that's the problem. You had this whole transition from apartheid to the new government, that created all sort of personnel positions, because, as I said, Arthur (Chaskalson) left, Geoff (Budlender) left, Felicia (Kentridge) and Sydney (Kentridge) were spending more time in London, you know, you just had turnover basically and...I think that...I'd say most of the people, who had been most involved over the years, their primary relationship were with Felicia (Kentridge), Arthur (Chaskalson) and Geoff (Budlender), so...and you know, with SALSLEP too, Reuben (Clark, Sr.) retired, Jim (Robertson) gets appointed and I am in Maine, and so, I think its sort of an unavoidable... evolution and...at some point, I mean, I remember that...we even had some discussion at a Board meeting about it. But, but its not that we lost all contact, people would come over, Vincent (Saldanha) came over, Steve (Kahanovitz) came over...but anyway, I forgot Chris Nicholson became a judge, Mahomed Navsa became a judge...Wim (Tregrove), I can't remember his last name, who was the first head of the Constitutional Litigation Unit left, so you know, there was just a lot of flux. And I think part of that was a function of the transition to a new government but... I'd say that those were the principle things probably.

Int How do you think...or do you think that Felicia (Kentridge)'s actual movement away from the LRC and then...Although she was based in England, she was constantly in South Africa and keeping on top of things, but there came a point when she was far more involved with the LAT in England and relinquished her role more at the LRC. Do you think that impacted on this kind of sense of discontinuity somehow?

JK Definitely, I mean that was...Felicia (Kentridge) had a unique combination of...sort of a skill at doing this and relationships that made it, you know, opened doors to create opportunities. And...I think that certainly in the eighties...and...that was really important to finding ways to get money. Now, I think that you know, its not we haven't been able to do other things and other people have come over and we have arranged things for them, or they've arranged things, to help facilitate or whatever. But I think she was particularly adept at prying money loose from people...So, ya, I think that it has had an impact but one of the things that...I think is important. You know, I'll give you some examples. We were having, and Peter Connell is really, I think Peter (Connell) could give you a good feel for this better than I can, because he was most involved in just trying to have discussions about what we are doing about the National Director, what's the plan. I mean we weren't just getting the communication that we used to have with the LRC...that was a big reason that we wanted to get Harvey (Dale) on the Board, because that would hopefully...

Int And this was the mid to late 1990's?

JK This, this, I would say the problem started in the mid to late nineties and it got worse, you know, in the first part of the 2000s...I think, I find, Ann (Satchwill) left probably in, I think she left in '97, I can't remember and I think that...One of the dynamics was that we had a debate about when Ann (Satchwill) left what should we do with the Executive Director position and we want somebody like Ann (Satchwill) or...and we had started a process to interview people and what not and there was an associate at Wilmer... who was *very interested* in this and she wanted, you know, at some point, she began to become to the meetings and I don't know whether John Payton, you know.. I can't remember what the initial involvement was, but anyway, Camille (Holmes) was getting involved and she went to South Africa and she made a *very big* impression on people. She's very dynamic, capable person and all of a sudden, while we were in the midst of this she said that she'd be willing to do it, but that, that was part of this, but she was interested in doing things, you know, she wasn't interested in the historical, passive or just taking money and doing a little fundraising kind of role. She was a very talented and energetic and wanted to do a lot of things. And you know, my, my recollection of this is that we got a little ...you know, we were kind of spinning our wheels on trying to figure this out and what were going to do...So, I think that we had some internal navel gazing going on that wasn't helping, but they were having the same, you know, they were trying to figure things out, so it

was not, and part of it was probably a function of the expansion that they'd undergone over there, that they were bigger and they had to focus a lot more on managing things and... but you know, I am not representative, I think, because I haven't...but I may not be alone on this. If you ask me now... who do I know at the LRC, I am not sure, they are all still there even. I mean, I know Steve (Kahanovitz), I think he is still there in Cape Town. I think Richard Rosenthal is still involved to some degree. Geoff (Budlender)'s back now.. But...I don't know if the people in Durban are still there. If I looked at the list, I could tell you, in other words, I don't have any...and that's not the way, it was in the eighties, but as I say, I don't think I am representative, because I've been just increasingly... less involved.

Int But you have been involved since the beginning and you have also been involved for 25 years , that is a significant amount of time...

JK Yes, yes, that's a whole lifetime.

Int I am wondering whether what you really saying is that there is some sense of I mean, its is not just change, but it is sort of a loss between the two organisations , that was once very closely attuned to the needs of each other?

JK ...Well, I would say, part of my...sense of that is that...it is quite different and...but you know, people could have a very different view. That, what I can't tell you is whether that is more a function of me kind of what, what has been going on in my life, as opposed to an objective...description of what has been going on between the two organisations. I don't...Harvey (Dale) obviously is very involved with both...but I don't know who else is.

Int One of the things that strikes me, and correct me if I am wrong, this seems to be from what you said now...there is a frustration almost because what was happening was that there was a need amongst Board members to do more, to become more involved, to branch out and yet, there was also a sense of just remaining as it was...a function of holding money etc. and I am wondering whether that is something that keeps coming up for you?

JK ...Not for me. I mean, my, my I was pretty firmly of the view, having watched this thing for a long time...that we had some very obvious limitations and that the idea that we become, overcome those and become an organisation that was managing programs or any of that kind of stuff struck me, as just not realistic... and that it was...and the question for me was is there still a role for an organisation that is primarily focused on trying to find support for the LRC. That was a role that we could continue to play. The question was how effective could we be at that and whether we could be effective enough to justify continuing...And as I said, at the end of the day, that's basically where we ended up. So, I wouldn't say, I mean, I certainly never felt any loss or frustration over the fact that we were not expanding and trying to do this other thing. I think some

others may have but I didn't. As I say, I think I am fairly realistic about...what this organisation, as it has historically been constituted, now you know, you can change that, and that's been part of an ongoing discussion now, is to try to change that.. But given what we have been and who were, you know, I really think that we were amazingly, I mean, we were successful beyond anybody's wildest dreams...And I don't think that can be, is something that SALSLEP can, can take a huge amount of credit for. I mean, I think it is a combination of the appeal of what the LRC was doing, the work of the LRC, the persuasiveness of the LRC people, you know, when they were given the opportunity to make their case to people in the States and somewhat us. But you know, I don't really think that we did...what we really did was make some things possible...And that's not a bad thing but its never been a group and if you think about, and I am not saying this critically, I mean, you are talking about people who are extraordinarily busy and who...the initial idea was we are going to get a few people with a big name, who aren't going to do anything. I mean, that was the idea and then people would feel comfortable because their names were associated with it and you know...so...but I do think that the sense of loss, I mean, I certainly feel... sense of loss in having lost contact with some people, particularly, you know, which was...for a period of time, kind of unavoidable. But I mean I would love to get caught up with Geoff (Budlender) again, if he's back...

Int You mentioned me earlier, when the tape was switched off, a story about...

JK About Geoff (Budlender) (laughter)

Int At the airport.

JK You are going to interview Geoff (Budlender)?

Int I think he might have already been interviewed by Charlene (Hunter-Gault), I am not sure, I shall check.

JK Well, that's too bad, because, you could ask him this. He was (laughter), I told him I would take him to the airport. He was in Boston, I think he was actually visiting Margie and I came down to have dinner with him or something and was taking him to the airport. I had my son with me or something. And you think you were going to miss your plane, well, he...was totally freaking out and we got there about ten minutes before his plane took off. He had to...and he has, you know this was a moment of high anxiety for him (laughter), so he' never forgiven me, He always abuses me about that. I think it is pretty funny but he didn't apparently...and...but he's a wonderful lawyer and he's really done some terrific things, so I'm...

Int You have been back....haven't you, since apartheid ended?

JK I have.

Int When did you go back? I know that your last trip before apartheid ended was probably in '87.

JK My last trip was '95.

Int So, you went just after the inauguration...

JK Ya.

Int What was that like?

JK That was incredible...And you know, this is what I mean about these people who are amazing. I have a, a book in my office on the election...which is put out by the what was called the Electoral Commission, you know.

Int Yes...

JK And Charles Nupen was one of the Commissioners so he signed a little note, so. But you know, here's this guy I've known for, I don't know ten or twelve years and now all of a sudden he is on the election commission...They are an amazing bunch and one of the things that you really learn quickly about South Africa, if that it is a very small place actually, so its...its not quite Maine, but it's a small place, so people you know, who, end doing these amazing things.. So that was, it was a very heady time, people were incredibly upbeat...it was just...a wonderful experience. I actually have, now this is, I was trying to find this (rustling of papers), a trip report here. This was the, we went to the Annual General Meeting of the Legal Resources Centre, it was Arthur (Chaskalson)'s last meeting, because he had been appointed to the Constitutional Court. So, this was '95, I became President in '95, because Geoff (Budlender) reported the retirement of Jim Robertson and offered a warm welcome to me as the new President. Mahomed Navsa has been appointed to the Supreme Court of the Transvaal (now Gauteng). At the conclusion of the AGM, Geoff Budlender began a six-month sabbatical to work for the Ministry of Land Affairs. I mean, this was you know, (looking through papers), oh ya, gender issues. Oh well, so, I went back in '95 and it was like night and day, it was really, people were euphoric and one of the things that was kind of interesting was that they were also, you know, everybody was trying to figure out what this meant and a number of people had gone into other lines of work, whether in private practice or doing, not even doing lawyer things and everyone was trying to figure out how they would fit in and how this would all work. But not in a...sort of anxious kind of way, people were excited about figuring it out and the opportunities that would be presented...

Int Should we stop?...Well, thank you very much Jamie.

JK Well, what if I think about other things? Is that alright?

Int Well, we will have to switch the tape on...*Recording switched off.*

Recording resumes...

Int Well there you go....You were saying that your career has been profoundly influenced by your association with the LRC and the question that I asked you, stemmed from this, from the idea that if someone was asking you to do a life history and where the LRC wasn't the focus, the primary focus that is and you have answered this off the record, would the LRC and your association with South Africa and SALSLEP, would it have formed part of your life history?

JK It was, it was a huge part of my life and had a profound influence on...my both the way, my practice and professional life have evolved and...you know, I think that I am, as I said earlier that its one of the reasons that we moved to Maine. It has been an important...it informed a lot of the way that I thought about things, when I was in public practice and certainly since I have been back in private practice. I think that the lawyers at the LRC are inspirational to lots of people...and...my sort of values, as a professional have been shaped obviously not completely, but you know, significantly, I'd say by the values that they have brought to practice and...you know, I think that... it is a, it is a clear example of...really trying to...dedicate yourself to enforce the rule of law. So, ya...when I think of people I respect...and admire you know, they are at the top of the list.

Int One of the things that interested me was that even though in Britain there was such a strong support for the anti-apartheid movement, somehow in America, it really is the legal fraternity, not all of it of course, and they have been very, very supportive of the anti-apartheid movement through legal means. And I am wondering whether the history of the Civil Rights movement and in your case, the anti-war movement, whether that kind of influenced that kind of support and that kind of understanding?

JK Well, I think the Civil Rights movement particularly was important here and the whole concept of racial justice was, or in that case injustice, of course, has been a very big motivator for a lot of people and particularly, lawyers. The...and one of the things that is interesting to me about all of this, is and why I find the South Africans so amazing, is that in this country, I think that...notwithstanding so very bad things that happened, I think that both the civil rights movement and the anti-war movement believed that it was possible to change things. You know they were fundamentally optimistic...you know, there was no reason for people in South Africa to be fundamentally optimistic about anything. But, but they really were, so...I think that to be able to do that in that environment is an extraordinary thing...but I would, I. Ya, I don't know about England, but definitely the, the Lawyers Committee for Civil Rights and SALSLEP, I mean, there was a lot of legal. But the other thing here, is also true, because my wife worked with them for a while was the churches were very involved in the anti-apartheid movement, so

there was...I am trying to remember the name...South Africa something and also there were...black organisations that were very active. You know, Randle Robertson had... it was TransAfrica or something like that. So, there were a lot of people who were involved and I think lawyers were... but even the ABA, which is not exactly the most radical organisation sent people over there and would write these stinging indictments about what was going on, so I think there was a pretty broad...recognition of...from the legal side about what was going on and what and so there was...every lawyer went over there and heard about the LRC, so that was helpful.

Int I am wondering whether there is anything else that you would like to add.

JK You shouldn't ask that, I will think of something.

Int (laughter) Yes.

JK Well, I don't think that I would like to add at the moment.

Int Well, thank you so much Jamie for your time. We really appreciate it.

JK Thank you.

Jamie Kilbreth–Name Index

Bamberger, Clinton, 33
Bizos, George, 28
Budlender, Geoff, 7, 8, 11, 19, 21, 24, 26, 27, 30, 31, 33, 36, 38, 39, 40
Burditt, George, 32
Bush, George, W., 11, 21
Carmichael, Bill, 18, 33
Chaskalson, Arthur, 2, 3, 4, 6, 7, 10, 11, 14, 26, 28, 29, 35, 36, 40
Clare, Bob, 32, 33
Clark, Jack, 5
Clark, Reuben, (Sr.), 4, 5, 6, 8, 13, 16, 21, 27, 28, 29, 30, 32, 33, 34, 35, 36
Coleman, Bill, 33
Connell, Peter, 31, 33, 34, 37
Cutler, Lloyd, 3, 4, 5, 6, 13, 16, 28, 29, 33
Dale, Harvey, 18, 23, 24, 25, 32, 36, 37, 38
De Klerk, F.W., 14
Glasser, Cyril, 24
Glenden, Maryann, 33
Gordimer, Nadine, 28
Griswold, Erwin, 4, 32, 33
Higginbotham, Leon, 33
Holmes, Camille, 37
Hunter-Gault, Charlene, 39
Jones, Nate, 33
Kahanovitz, Steve, 24, 36, 38
Kentridge, Felicia, 3, 4, 5, 6, 12, 13, 16, 24, 26, 29, 33, 35, 36, 37
Kentridge, Sydney, 12, 13, 33, 36
Kriegler, Johann, 8
Loss, Louis, 4, 32, 33
Mandela, Nelson, 18, 19
Mandela, Winnie, 21
Marshall, Gail, 33
Marshall, Margaret, (Margie), 33
Mbeki, Thabo, 23
McDougall, Gay, 33
Moseneke, Dikgang, 28
Navsa, Mahomed, 36, 40
Nicholson, Chris, 8, 19, 36
Nupen, Charles, 7, 10, 11, 14, 24, 27, 40
Omar, Dullah, 9
Parker, Barrington, 33
Payton, John, 30, 31, 33, 37
Pretorius, Paul, 7, 11, 14
Ramaphosa, Cyril, 14, 27
Reagan, Ronald, 10

Robertson, Jim, 24, 29, 30, 31, 33, 34, 36, 40
Rosenthal, Richard, 14, 18, 21, 24, 27, 38
Ruff, Chuck, 33
Saldanha, Vincent, 36
Satchwill, Ann, 16, 17, 18, 24, 27, 30, 31, 33, 34, 36, 37
Sealey, Robyn, 16, 24, 27, 30, 34, 36
Segal, Bernard (Bernie), 4, 5, 32, 33
Seipei, Stompie, 21
Sillen, Andrew, 31
Stringer, Guy, 24
Thomson, Judith (Judy), 24, 29, 33
Tip, Karel, 7, 11, 14
Tregove, Wim, 36
Tutu, Desmond Mpilo, 8, 9, 27
Williamson, Jill, 24
Mdlana, 9

Cases:

Delmas Trial, 15
Komani, 8, 10, 12, 15, 35
Rikhoto, 8
Rivonia Trial, 29
TAC, 19, 20
TRC, 21

Legal Resources Centre Oral History Project

PUBLISHER:

Publisher:- Historical Papers, William Cullen Library, University of the Witwatersrand

Location:- Johannesburg

©2012

LEGAL NOTICES:

Copyright Notice: All materials on the Historical Papers website are protected by South African copyright law and may not be reproduced, distributed, transmitted, displayed, or otherwise published in any format, without the prior written permission of the copyright owner.

Disclaimer and Terms of Use: Provided that you maintain all copyright and other notices contained therein, you may download material (one machine readable copy and one print copy per page) for your personal and/or educational non-commercial use only.

People using these records relating to the archives of Historical Papers, The Library, University of the Witwatersrand, Johannesburg, are reminded that such records sometimes contain material which is uncorroborated, inaccurate, distorted or untrue. These digital records are digital copies of electronic documents and the information contained herein is obtained from sources believed to be accurate and reliable, Historical Papers, University of the Witwatersrand has not independently verified their content. Consequently, the University is not responsible for any errors or omissions and excludes any and all liability for any errors in or omissions from the information on the website or any related information on third party websites accessible from this website.

DOCUMENT DETAILS:

Document ID:- AG3298-1-075

Document Title:- Jamie Kilbreth Interview

Author:- Legal Resources Centre South Africa (LRC)

Document Date:- 2007