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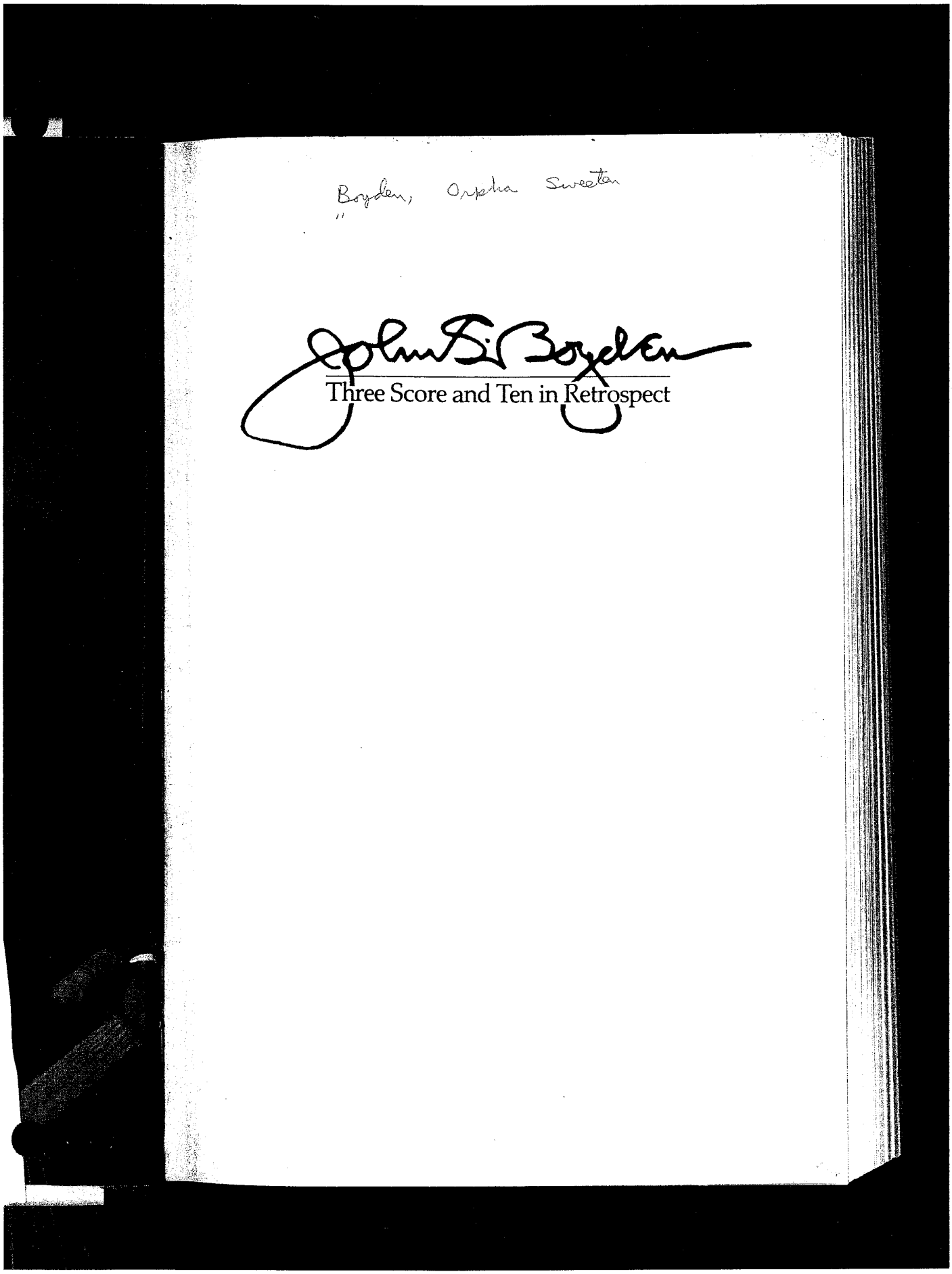
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Three Score and Ten in Retrospect

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From Campus to Courtroom

CHAPTER TWO

The transition from the life of a student to the life of a successful practitioner is a curious combination of satisfaction and disillusionment, curiosity and fear, idealistic concepts and fundamental practicalities. A dominant factor in producing the net result of this experience is your attitude. As you familiarize yourself with the procedures in growing up with the law, candor and humility are passwords to the legal fraternity.

John S. Boyden
Convocation Address
University of Utah Law School
June 10, 1967

EVEN BEFORE HIGH SCHOOL JOHN HAD DISCOVered that he enjoyed expressing his thoughts by speaking. He said that he often told his dad and mother that he would be glad when he grew up so that "I could speak and hit my fist upon the table." He said he thought all good speakers pounded the table or pulpit with their fists when they wanted to be emphatic. (See appendix, *My Great Ambition* by John S. Boyden, December 18, 1924.)

He further states: "Strange as it may seem, I was about to be graduated from high school before I realized that I could not make a living by just talking. After careful consideration, I decided that I wanted to become a lawyer, because a great deal of a lawyer's work is speaking. Last September I registered in the School of Law at the University of Utah. One of the first subjects that I registered for was public speaking. And thus I intend to carry out my desire for public speaking throughout my college career."

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During John's college years at the University of Utah it was possible to enter law school after the completion of three years of undergraduate work. John thus began college in 1924 and law school in 1927. He graduated from the university in 1929 with a law degree. He continued with debating at the university and "took every course they had in speech arts," and entered many oratorical contests. He traveled extensively with the debate team. Among his debate partners were Obert C. Tanner, Joseph G. Jeppson, John K. Edmunds and John Carlisle.

John was very active in student affairs, serving as President of the Senior Class and as a member of both Skull & Bones and Owl & Key. At graduation of the Class of '28, John was selected a member of Beehive Club, the honorary organization for outstanding scholars and leaders.

In addition to John's debating and other extracurricular activities, he had a short-lived career on the track team. His long legs were well-suited for hurdling. He took up this sport at the university and did very well at it. The coach, anxious to develop his great athletic ability, put him on a routine of exercises. One of them was the "inverted bicycle" where he was required to lie down on a wrestling mat, lift his hips straight above his head supported by his arms, and to do a bicycle pump in the air. A lot of weight was on the back of his neck. The large number of bicycle pumps assigned by John's coach began to wear on his neck. Since the wrestling mat was not exactly sanitary, he soon developed an infection. A large carbuncle soon appeared on the back of his neck and had to be surgically removed, causing great pain and ending his burgeoning athletic career.

Law School

John was serious about his studies and worked to meet the new challenges required of him. The Law School faculty at that time included Dean William H. Leary, A. Ladru Jensen, and Willis W. Ritter. They also had teachers from downtown, Henry D. Moyle and Hamilton Gardner. The law school records show thirteen graduates in the Class of 1929; John Sterling Boyden, Louis H. Callister, Rue L. Clegg, Anderson Dixon, Marl D. Gibson, Harry Goldberg, Thorit P. Hatch, John E. Ireland, Udell R. Jensen, Bartly C. McDonough, John Stuart McMaster, Harry Metos, Lee S. Nebeker.

John had met J. Stuart McMaster at the university before they entered law school. They became friends immediately and when they started law school they began studying together. At this time Stuart was a member of the orchestra which played for the shows at the old Wilkes Theater (now Promised Valley Playhouse). John would attend the show at the beginning of each engagement; then he and Stuart would study in a small room back of the orchestra pit while the play was in progress. They did this for three years. Now and then Bartly McDonough, another close friend in law school, would join them, particularly preceding a test. A great friendship grew among these men and their families.

During his last year in law school John began active participation in the Democratic Party and accumulated a list of firsts in connection with his activities: President of the first Voters League at the University; first president of Junior Democratic Clubs of Utah and first secretary to the Young Democratic Clubs of America (Jimmy Roosevelt, FDR's son, served as Treasurer). He represented the National Speakers Bureau of the Democratic National Committee, and campaigned for Al Smith, and others, in Utah and Nevada.

After graduation with the LL.B. in 1929, John was admitted to practice before the Utah Supreme Court and the U.S. Federal Court. The complaint in his first case, for petty larceny, bears the date 20 June 1929, before the Justice of the Peace "in and for Coalville, Summit County." On October 1, 1929, John opened an office "to engage in the practice of law, in company with J. Stuart McMaster of Brigham City." These two men continued a professional and friendly relationship throughout their lives. The address of their first law office was 714 Continental Bank Building. (John Jr. later occupied the very same office when he joined the firm of Worsley, Snow & Christensen in 1969.) John started his practice in the early depression years. When asked in an interview late in his life what his specialty was from 1929 to 1933 and what kind of cases he took before he became Assistant U.S. Attorney, John answered, "any kind we could get."

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Scouting Associations

Along with John's other involvements during the late 1920s and 1930s, he continued his interest in Scouting and served as a scoutmaster. He completed a "minimum course" in scoutmastership at Coalville and "approved" and "advanced" courses later in Salt Lake City. He was still a scoutmaster when he was married in 1936 and continued to be involved with Scouting in various capacities the rest of his life, eventually being presented with the Silver Beaver Award.

It was through Scouting that John became acquainted with a special group of boys (and their parents) who became his lifelong friends. At the time John was Scoutmaster in the old 12th-13th Ward, he had as members of his troop the Asahina brothers (Gungi and Tomizo) and Nobuo Kato. When they went to summer camp in the Uinta Mountains, it was only natural that John invited the Japanese troop, under the direction of Scoutmaster Cy Walsh and Assistant Scoutmaster Sen Nishiyama, to join with his group. They had a wonderful time together and repeated this the following summer. Members of the Japanese troop included Kay Nakashima, Fujio Iwasaki, Ichiro Doi, and Dan Oniki. John's relationship with these boys lasted a lifetime. They always called him "Chief."

John was a source of help to many of these boys as they matured and started their own careers. He was always available for counseling. Even forty years later one of his favorite activities included visiting with Gungi Asahina at his cleaning establishment. The family favorite was going to the Pagoda restaurant. After a superb meal they enjoyed visiting the proprietor, Fujio Iwasaki. John never tired of taking credit for having taught "Fudge" how to cook at Boy Scout camp. The Pagoda will always be called "Fudge's" in the Boyden family.

Assistant U.S. Attorney, 1933-1946

John was well known in the Democratic Party before Franklin D. Roosevelt became President. While Dan B. Shields was U.S. Attorney, John Boyden and Scott Matheson were his assistants from 1933 to 1946. Utah had William H. King and Elbert D. Thomas as

Senators, with Abe Murdock, Will Robinson and Walter Granger as members of Congress. Governors, Senators and Congressmen were Democrats, but, of course, these were the Roosevelt years. John wrote the following:

> Through political activity, I had established my identity in the Democratic Party before Franklin D. Roosevelt was first elected President of the United States. District Chairman, the first President of the Junior Democratic Leagues of both Salt Lake County and the State of Utah, Secretary of the Young Democratic Clubs of America, and Secretary of the Democratic State Committee were offices I had held. I had also helped to organize the Democratic Students at the University of Utah and campaigned in Nevada for the Democratic National Committee when governor Al Smith of New York was the party candidate for President, four years previously.
>
> After the 1932 election, I called on Senator William H. King, who was using an office at the Judge Building in Salt Lake City, expressing my desire to become an assistant in the United States Attorney's Office. During the conversation, the Senator described the type of person he thought should become the District Attorney for Utah. The description seemed to me to perfectly fit Dan B. Shields, a former Utah Attorney General, and a good friend of my father's, who had served with him as a Dairy and Food Commissioner when Simon Bamberger was Governor of Utah. I went straight to Mr. Shields' office in the same building to inform him of my ambition. He unhesitatingly replied, "John, if I receive the appointment, I will name you as an assistant." I never spoke to him again about the matter until the appointment was made.
>
> In due course of time, the Utah Congressional Delegation sent a telegram to Mr. Shields informing him that they were nominating him as the United States Attorney and suggesting that he name me and another party as assistants. He responded by saying that he would name me, but under no circumstances would he accept the other suggested party. The procedures thereafter went smoothly. The President appointed Dan as

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United States Attorney and the Attorney General, Homer Cummings, appointed me as Dan's assistant.

Dan later asked me why I did not come back to see him between the time I first approached him concerning the appointment and the day I was named. With complete candor and absolute conviction, I told him that I knew he was a man of his word and no follow-up was necessary. Dan was of unimpeachable character and supported me in everything I did.

When Orpha and I were contemplating building our home on Westminster Avenue, Dan bought several adjoining lots to support us in a petition we were making to the City. The fact that we later decided to build in Uintah Circle and Dan sold his lots at a profit, as he was wont to do, did not detract from the spirit of his customary support or from our gratitude for his helpfulness.

I served for about a year as Assistant District Attorney with a hold-over from the previous administration, Ed Jensen, until Mr. Shields found a person satisfactory to him to fill the other assistant position. Scott Matheson of Cedar City received the appointment. Ed was capable and helpful. He became a very good friend. Scott and I worked together for many years, until I resigned. He said many times that we worked harmoniously in adjoining offices with an open door between us, year in and year out. Scott and his wife, Adele, were our close companions. No one could have been more enjoyable, helpful and trustworthy than this delightful couple.

Two statements made about this time identify John as a loyal Democrat. When asked for his opinion on the repeal of the 18th Amendment, he said: "There is no question in my mind but that we should have repeal. It is one of the fundamental principles of democratic government that popular opinion must favor any law if it is to be successfully enforced. There has grown to be such a disrespect for prohibition laws that it is impossible to enforce them, and for that reason there should be no delay in effecting their repeal. I think the American public is tired of financing the racketeers."

When asked about President Roosevelt's attitude toward the West, John said: "Members of President Roosevelt's 'brain trust' are not antagonistic to the west, as some have charged, but rather the administration is trying to solve its problems in the best interest of all the country."

While John was in Washington, D.C. to attend meetings of the Executive Committee of the national Young Democratic Club in 1934, Senator King moved his admission to practice before the Supreme Court. He was so admitted, and was sworn in by Chief Justice Charles Evans Hughes.

The Coalville community had recognized the accomplishment of their native son by inviting him to give the major address at their Fourth of July celebration in 1933. He was also honored by the Young Democratic League of Oregon with an invitation to speak at the annual Oregon Jefferson Day Banquet held in April 1934.

Although much of an Assistant U.S. Attorney's assignment to detect, investigate, and prosecute violations against Federal laws in Utah tends to be routine, there were also events during the Shields-Boyden-Matheson years, 1933-1946, that are worthy of special notice, as they relate to John's life.

Knowledge of John's interest in Indians had gone before him, thus there was an understanding that Indian matters would be referred to him. As a result he soon became acquainted with John Collier, Felix Cohen, William Zimmerman and William A. Brophy through correspondence and personal contacts relating to Federal law pertaining to the special status of Indian peoples of the United States. These men were lawyers and/or anthropologists deeply involved in Indian matters.

John befriended Ute, Shoshone, Paiute, Goshute, Hopi, and Navajo Indians. Tribal leaders, judges, and others involved in courts on the reservations were often referred to the U.S. Attorney's office because of their special status under the laws of the United States.

Early U.S. Grand Juries were presided over by Federal Judge Tillman D. Johnson. In the spring of 1934, John S. Boyden and E. C. Jensen directed the jury of 21 members in its legal deliberations and brought the necessary indictments in cases under investigation. In the

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fall term before Judge Johnson, the calendar contained 55 cases heard by a jury comprised of 22 men (the law requires "a jury of not less than 16 nor more than 22 members"), with evidence being presented by U.S. Attorney Dan B. Shields and his assistants John S. Boyden and Scott M. Matheson.

Judge Johnson took an immediate liking to John and after disposition of cases often gave him hints to help him improve his presentation and sharpen his legal skills (as better trial judges are often known to do). John so appreciated the learned jurist's attention that he kept a large portrait of Judge Johnson in his law office for the remainder of his career.

An example of involvement with the more spectacular federal cases is observed in the June, 1935, arrest in Salt Lake City of Herman Waley and his wife Margaret who confessed to the kidnapping of little George Weyerhauser, lumber fortune heir of Tacoma, Washington. The couple had been apprehended as a result of their passing marked ransom money in the city. John as Assistant U.S. Attorney was involved in negotiating with the FBI in the extradition of the Waleys from Utah to Tacoma, where they were tried and convicted of kidnapping. At this period (1935) Orpha (who was by this time dating John) was employed as a secretary in the Salt Lake City office of the FBI, where she took the statements (in shorthand) of the Waleys. She was later subpoenaed to appear at the trial in Tacoma as a witness in the event either Mr. or Mrs. Waley denied making the statements. It was, of course, an interesting trial, receiving national attention. The high point came when the prosecution hauled into the courtroom a huge logchain which had been used to chain little seven year-old George Weyerhauser to a log. Orpha reacted violently to this scene and would have voted for capital punishment had she been asked.

(Note: In the late 1970s, *Time Magazine* ran a series of ads using young executives of important companies to advertise a hotel chain. In one issue was a picture of George Weyerhauser, now about 45 years old, Chief Executive Officer of Weyerhauser Lumber Company. Orpha wrote a note to him recalling the kidnapping and congratulating him on his accomplishments. He responded with a very gracious letter.)

In June of 1935, in his assignment to work with the Utah State Peace Officers' Association, John spoke to those who attended the annual meeting on the subject "Relationships between Scientific Investigation of Crime and the U.S. Attorney's Office." John said, "The scene of the crime should be as carefully preserved without disturbance as if it were inlaid in gold." Governor Henry H. Blood, and Hugh B. Brown, chairman of the State Liquor Control Commission, also participated in the annual meeting.

In October 1935, John, who had made friends with Utah Japanese citizens through his association with Japanese youth in Scouting, was invited by the Japanese American Citizens' League to address them under the general theme "Civics and Political Unity" concerning the need for an understanding of the purposes of government to enable citizens to secure "surer protection" from the agencies of government.

Politics and Marriage

Orpha Amanda Sweeten came from a long line of Democrats just as John did. 1934 found her working in the Democratic Party's campaign headquarters as secretary to Senator William H. King. It was a high pressure situation and Orpha worked hard for long hours. When others who worked in the office would want to go to a particular rally in the evening, she would usually decline because she was just plain tired, but one day a situation arose that was different.

Somebody said, "Why don't you go out to Wood's Cross with us?" Orpha learned that one person who would be going was John S. Boyden. She had never met him but knew who he was. According to Blanche Rampton Bean, whom Orpha had worked with at the Veterans' Administration, "he was just the neatest young man in this town." So she said, "Well maybe I will go then, and guess what? I listened to his speech and thought it was extremely clever. He really was *neat* and, well, he didn't exactly hate me. I think I saw him nearly every day after that." Later when discussing "affairs of the heart" with her Republican friends, Orpha enjoyed stating. "I owe everything to the Democratic Party!"

John and Orpha were married in Coalville on May 17, 1936, at the old home. "We didn't go to the temple immediately," Orpha

stated, "because we wanted to feel really good about it when we did." Both of them had been on the move. Orpha had not become attached to a particular ward in Salt Lake, and John had been spending his time between Salt Lake and Coalville.

The young couple started their marriage having many experiences in common. Both had grown up as members of Mormon families in small towns where their parents were recognized and respected members of their communities. Both had the experience of attending Utah colleges, with a year as fellow students at the University of Utah before they knew each other. Both came from families that were particularly active in and had long been identified with the Democratic Party and both had the opportunity to meet and thus become personally identified with Franklin D. Roosevelt and other members of his family. In those days the FBI agents were called "G" men (government men). When John and Orpha were married, they were both working for the Department of Justice, the FBI being part of it. A news item in the local paper announcing their forthcoming marriage was entitled, "G-Woman Gets Her Man."

During the years while John was Assistant U.S. Attorney it was permissible to maintain a private practice in association with a law firm. In 1934, John was associated with Delbert M. Draper, Marion G. Romney, and J. Stuart McMaster; in 1938, Mr. Draper's son Courtney joined the firm. A few years later John officed with a firm in the Boston Building; these men included Ben Rich, Gordon Strong, Shirley Jones and Allen H. Tibbals.

The cases John handled involved Navajo as well as Ute Indians, and in the summer of 1938, Orpha and John with John Jr. (born December, 1937 and then six months old) took their first trip to Navajo and Hopi country as a family vacation.

As Orpha described the trip:

> We drove to Shiprock, New Mexico, and Window Rock, Arizona, then across the Navajo Reservation into Hopi country, coming out at Tuba City on the west, then north to Marble Canyon Bridge on our way home, and into Kanab. This was strictly a vacation. We did all the tourist things, bought many Indian-made articles (which later became very valuable), and visited with any Indians who would talk to us. We had a great time. The roads were hazardous, hence very few travelers, but we were undaunted. As we left Window Rock and headed west toward Hopiland, the last sign we saw had this warning: "Travel Beyond This Point at Your Own Risk!" We had a shovel, which John used frequently to clear the road of excessive sand. Even the baby enjoyed it. We received a special welcome everywhere, we felt, because John Jr. could always be depended upon to smile on cue. As John visited with Indians and Bureau of Indian Affairs people, he had no idea it would lead to a lifetime relationship with the Hopi Tribe.

In February, 1942, John received a special assignment by the Department of Justice. Orpha describes it:

> The Department of Interior requested John's services to make a study of law and order on the Navajo Reservation. The Department of Justice agreed, so the family, including John Jr., age 4, and Steve, not yet two, drove to Window Rock where we lived about six weeks in government employee's housing while John made the study. An FBI agent assisted him. Because of the vast distances, John was piloted in an open cockpit plane, complete with parachute, to the various Indian courts on the Navajo Reservation. At the conclusion of the survey, a detailed report was prepared by John and the agent. I typed it.

John came away from this experience with considerable respect for the aboriginal sense of justice. He was specially impressed with the way that the tribal courts combined civil restitution, criminal punishment and counseling in one session without the need for legal maneuvering. In addition, accused tribal members always told the truth to their elders, regardless of the consequences. John often made reference to these phenomena in later years and bemoaned the corruption of the system by contact with the non-Indian courts.

During World War II the enemy aliens rounded up by the FBI

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were allowed to bring their pleas before the Enemy Alien Hearing Board, which met in Salt Lake City for the Utah-Nevada-Idaho District, and at Bismarck, North Dakota, for the Northern Plains District. John was involved with these cases as part of his duties as Assistant U.S. Attorney. His duties frequently required his presence at the hearings in North Dakota.

Cases would also arise periodically concerning deserters and draft evaders. This was World War II period. One case involved three brothers of the Uintah Basin area "who hid out fourteen months on wild mountain slopes of a 5,000 square mile area in northeastern Utah and northwestern Colorado near notorious Brown's Hole, outlaw lair for nearly a century." To surrender, the trio made contact with Mr. Dillman, attorney, who called John and arranged for them to turn themselves in at his office in Salt Lake City.

Orpha recalls:

> We were all busy during the war years. John as Assistant U.S. Attorney served on the enemy alien hearing board; he made numerous trips to Bismarck, North Dakota, where cases involving the German people were heard; hearings for the Japanese were heard in Missoula, Montana and Salt Lake. His assignment from the U.S. Attorney was the enforcement of General DeWitt's orders on the handling of enemy aliens. He said there were so many orders to be learned that he delayed resigning from the U.S. Attorney's office to enter private practice so that some other poor soul wouldn't have to learn them all.

Orpha also went to work at the U.S. Engineer's office (Office of the Attorney) and stayed for several months because of the great shortage of help. She recalls another wartime effort as follows:

> Later in the war years John and I used to spend a night a week at the USO making sandwiches and doing other menial tasks. We always brought home a service man or two each week, and we had some interesting times — Private Sawyer (who never passed the food on); another young man who always sang "Sentimental Journey," and seemed happy in spite of permanently crippled feet as a result of wounds during the Battle of the Bulge; and Glen Barth, a bright youngster from North Dakota with whom we corresponded for many years. These were the ones we remember best.

A case which offered John some unique challenges resulted from the Giles gang holding up a D & RGW train at Salt Lake. It took the name of the "Boiler Room" mail fraud because the group operated in that room. It was in this case that John employed the first use of ballistics in a U.S. Federal Court. John K. Giles was convicted and the case received enough notoriety at the time to be written up in the *Saturday Evening Post*. But the real genius in the trial occurred when on cross examination John got the defendant excited and, to the surprise of many (not John), the defendant's voice became extremely high pitched — thus, explaining the inconsistency of a "woman's voice" having been heard during the robbery.

Undoubtedly, the most sensational cases John was involved with during his career as Assistant U.S. Attorney were those involving polygamous members of the Fundamentalist sect. These were widely publicized both locally and nationally during the 1943-44 period. John even received copies of articles printed overseas.

In December, 1943, John had tried and secured a conviction under the Mann Act against a man and his wife, who had persuaded a fifteen-year-old girl to accept a polygamous relationship. He argued that transporting a woman in interstate commerce to live with her in polygamy was an "immoral purpose" under the Mann Act.

Early in 1944, raids by Federal and State police resulted in the incarceration of "50 men and women in Utah, Idaho and Arizona." Again John invoked the Mann Act and the Lindbergh kidnapping law in bringing charges against these individuals purported to be polygamists. According to the article in *Time*, March 20, 1944, "Last week's polygamy crackdown was prompted by an appeal by Mormon leaders themselves." The article explained that "in the last few years the Mormons have expelled more than 200 men and women for polygamy." Similar articles appeared in many other publications.

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John's efficiency rating for 1943-44, signed by the Administrative Assistant to the U.S. Attorney General, was marked "Excellent." His years as Assistant U.S. Attorney had given him breadth and some depth of experience. Early in 1946, John decided to leave federal service to enter full-time private practice, at 604 Boston Building, effective March 1, 1946.

The article making this announcement referred to his national reputation for Indian affairs work. A letter from Bureau of Indian Affairs Commissioner William A. Brophy, January 21, 1946, commended John S. Boyden for the "deep and constructive interest that you have always taken in Indian matters that come up before you." A Brophy letter of February 4, 1946, extended the Commissioner's regret concerning the decision to resign and wishes John success in his private practice stating, "You have been most cooperative with and helpful to the Indian Service during your term of office, and I know that we shall miss you."

It is interesting to note that when he left the U.S. Attorney's office for full-time private practice, John took to his home all the Indian reference books which he had purchased, assuming he would have no further need for them. Within a short period of time he was contacted by an Indian tribe to act as their legal counsel.

John had always had a good professional relationship with the Department of Justice, and an earlier letter from J. Edgar Hoover, FBI director, expressed regret that he had not been present to personally welcome John and Orpha during a recent visit, mentioned their tour of the facilities at headquarters and at the FBI Academy at Quantico, Virginia, and assured him that they would always receive a warm welcome on any future visit.

Continuation of Private Law Practice

John had been able to maintain an office for the private practice of law during the years that he was Assistant U.S. Attorney, so it was not necessary to start from scratch when he resigned from the U.S. Attorney's office in 1946.

Although John began work in 1946 as attorney for the Ute Indians, and in 1951 as attorney for the Hopi Indians, work with individual clients, with Utah communities, and with Utah groups such as the Utah Teachers Association and Big Cottonwood-Tanner Ditch Co. took a considerable part of his time until the late 1950s.

John represented his clients not only in relation to routine out-of-court matters, but was prepared to represent them in court whenever it was necessary. It was said that as Assistant U.S. Attorney he had tried more cases than any other attorney during that period. He had a reputation for his outstanding skill at cross-examination. The flaws of opposing witnesses seemed to naturally surface without the examinations appearing to be contrived or forced.

John represented clients in Salt Lake, Weber, Beaver, Iron, Summit and Washington counties in irrigation and water resources development projects. His work as counsel for the communities of Coalville and Kearns involved the full scope of representation of their interests.

In his work with Utah teachers, John became their advocate and was among the first to direct their lobbying efforts in the Utah State Legislature for causes that were basic to the professional development and the secure financial status of the teachers. In October 1954, the Salt Lake Teachers Association announced in their *Bulletin* under the heading The Legal Corner: "Teachers will be happy to learn that Mr. John Boyden's contract has been renewed for the coming year. Through the years, John has symbolized and achieved progress. We have come to rely on his services. The success we finally won last year could not have been accomplished without John Boyden. He is recognized throughout the state as a leader on behalf of the teachers."

John was a trusted friend and family member, and this resulted in his continually being called upon to help with legal and personal problems which developed in the lives of persons who were close to him. As his work continued with Indian tribes, individual Indians also came to his office for various kinds of assistance.

As time went on, John with others formed the law firm of Boyden, Tibbals, Staten and Croft, with offices at 351 South State Street. John

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had worked with Allen H. Tibbals prior to this time, Bryant Croft was John's cousin and Earl Staten was a friend of some years. By now John was general counsel for the Ute Indian Tribe of the Uintah and Ouray Reservation, the Hopi Indian Tribe of Arizona, the Kaibab Paiute Indian Tribe of Arizona, and the Northwestern Bands of Shoshone or Utah and Idaho, and also claims counsel for the Hopi, for the Goshute Shoshone, and the Southern Paiute Tribes of Utah and Arizona.

John had been "duly admitted and qualified as an attorney and counselor" of the United States Courts of Claims, on motion first made by Ernest L. Wilkinson, in 1949." Boyden and Wilkinson later announced "the formation of a partnership for the general practice of law under the firm name of Boyden and Wilkinson at 351 South State Street." Tibbals, Staten and Croft were listed as Associate Counsel in Salt Lake City, and Wilkinson, Boyden and Cragun in Washington, D.C. Boyden, Tibbals, Staten and Croft later moved to the El Paso Natural Gas Building, 315 East Second South.

It was obvious that John took seriously his responsibility as a member of the legal profession. He was a faithful member of the Utah Bar Association, the first Utah attorney to be inducted as a Fellow of the International Academy of Trial Lawyers, President of the Federal Bar Association of Utah (1968), and a Fellow of the American Bar Foundation. He was awarded the Honorary Order of the Coif by the University of Utah College of Law. He was a member of the Judicial Nominating Commission for the Third Judicial District, and was a member of the Council on Criminal Justice Administration. Through his integrity and expertise in the practice of law, John won the respect of the judges and his fellow attorneys. He was considered a "pillar" of the Utah State Bar.

Everett as sophomore and John as freshman, University of Utah 1924.

Initiation into Skull & Bones. (John second from right.)

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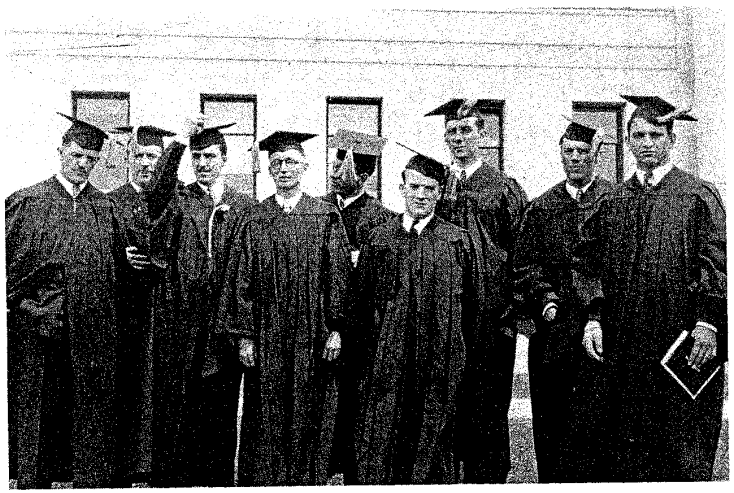
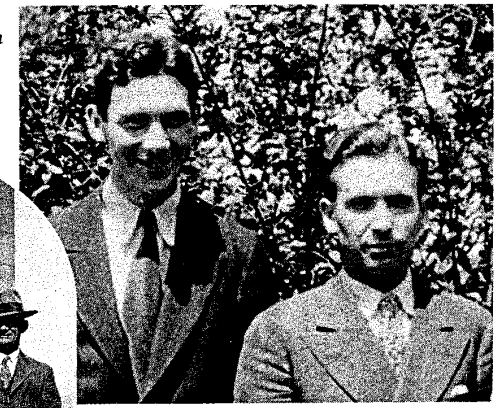
Debate Club

Beehive Club



University of Utah Law School, Class of 1929. (John is third from the right.)

John and J. Stuart McMaster upon graduation from U. of U. Law School in 1929.



John and his father on the steps of the State Capitol the day John was admitted to the Bar, in 1929.

Maxine's graduation portrait U. of U. 1931.

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John as Assistant U.S. Attorney with Judge Tillman D. Johnson.

John's transportation on the Navajo Reservation while making study of law and order for the Department of Justice.

John with Chic Sandoval, Navajo Range Supervisor, at Window Rock, Arizona.

Japanese Scouts join in with John's troop.

Scouting activity in the Uinta Mountains.

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Young Democrat Turns Candidate

CHAPTER THREE

Christmas, 1956

The season gives reason for reflection and resolve. For me and my family this has been a memorable year. Never before in the space of a few months have we visited with so many friends both old and new. The plans we all shared, looking to election day, were not successful. But looking beyond that day our continued vigilance could well be a strong influence for good in the government of this state.

I am truly thankful that I feel no blight of failure or sting of disappointment. The loyalty and devotion of those who shared the load fill my heart with gratitude abundant for this Christmas and all the days that may yet be mine.

John S. Boyden
Letter to supporters of his
1956 Gubernatorial Campaign

THE SCARCITY OF PAYING CLIENTS IN THE EARLY 1930s enabled John to devote considerable time to politics. In October, 1931, thirty young men and women met in the Hooper Building to organize the Young People's Democratic Club. The officers elected were John S. Boyden, president, Chiyo Thomas, vice president, and Virginia Rishel, secretary.

John attended the national convention of young Democrats which met March 3 and 4 in 1932 in Washington, D.C. With representatives from 27 states present. Tyre Taylor of Raleigh, N.C., was elected president, Elizabeth Wheeler of Butte, Mont., daughter of Senator Burton K. Wheeler, vice president, and John S. Boyden of Salt Lake City, secretary. John said in an interview with a *New York Times* reporter: "Roosevelt is Utah's candidate," and added that the silver question was of paramount interest in his state.

The Washington Post for Sunday, March 6, 1932, under the

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headline "Young Democrats Hear G.O.P. Scored," carried the following quote from Gov. Franklin D. Roosevelt of New York urging the audience to "be Democrats by conviction as well as by inheritance" and that on them "will rest a large responsibility of maintaining our party belief in favor of things as they ought to be. We can lose victory only if we fall back to a conservative satisfaction of things as they are."

Two fundamentals agreed upon by the Young Democrats were, "first, the urgent need for more idealism in government, and second, the necessity for more active participation in politics by young people."

While he was in the East, John was able to spend some time seeing the sights in New York City, as well as in Washington. His scrapbook contains programs for "worship services" of the Riverside Church and the Trinity Church for March 6, 1932.

After John returned to Salt Lake, the local papers carried articles concerning his election to office by the National Young Democratic Club, and also included the information that Chiyo Thomas, daughter of Professor Elbert D. Thomas (soon to be Senator), of the University of Utah had been named regional vice chairman of the national organization.

A program for a "National Conference Dinner" of the Young Democratic Club of America, June 27, 1932, LaSalle Hotel, Chicago, Ill., carries the names of the national officers including "John Boyden, Secretary," and shows the president Tyre Taylor presiding. Apparently it was on this occasion that James Roosevelt, FDR's eldest son, became treasurer of the organization.

Meanwhile John continued his active involvement with both the national organization of Young Democrats and the regular Utah State Democratic Committee. Delbert M. Draper became state chairman and John secretary of the Utah State Democratic Committee.

During the summer of 1932 "approximately 100 Young Democrats from all Utah counties gathered in the Newhouse Hotel" to form a statewide organization. John was elected president.

In early December, 1932, the national officers of the Young Democrats of America met with the President-Elect Franklin D. Roosevelt at his vacation home in Warm Springs, GA. "Where's my little boy, Jimmie?" asked Governor Roosevelt. "That's what we'd like to know," responded the smiling national president, Tyre Taylor. "He's the treasurer and we're waiting for him to make his report." John and others had their picture taken with FDR in an open touring car during these meetings. John was named to a committee to confer with James A. Farley, chairman of the national Democratic committee, in coordination of the two organizations.

In August, 1933, the local papers reported that John, his sister, Maxine Boyden, Chiyo Thomas, and others were leaving to "attend the convention of the Young Democratic Clubs of America," in Kansas City, Mo., August 31 and September 1 and 2. "Most of the members of the delegation will leave early in the week, and will visit the Chicago Century of Progress exposition before going to Kansas City for the convention."

While he was attending the Kansas City convention, a drunken man was celebrating in the room below John's and began shooting a gun. With the bullets coming up through the floor, John quickly jumped into the cast iron bath tub to protect himself.

Gladys M. Everett, an attorney and Young Democrat from Portland, Oregon invited John, on behalf of the Young Democratic League of Oregon, to speak at the Annual Jefferson Day Banquet April 14, 1934, his 28th birthday.

John became the Assistant U.S. Attorney for Utah in 1933, and continued in that office until 1946. During this period, he continued to be active in Democratic Party politics, but gradually lost his identity with the "Young Democrats." In 1935, Deronda Lowry succeeded John as president of the Utah Junior Democratic League. In 1938, John was asked to speak to the Young Democrats of the state, and was honored with 19 other charter members as "Old Timers." He continued to have many invitations to speak at party functions.

In 1940, a "Draft Boyden Club" invited John to campaign for the office of United States Senator for Utah against incumbent William H. King. "John S. Boyden is getting more and more mention as a possible candidate for the United States Senate this fall. The Young Democrats have proposed his candidacy and the idea is taking hold

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everywhere." A brochure prepared as a handout refers to John as "Vigorous, Qualified, Experienced," and mentions as assets: "Ten years experience in practice of law; Owner and operator of a farm in Summit; Active Church Worker; and able and convincing speaker, with the initiative and energy of youth and the experience and judgment of years."

John decided against running for the U.S. Senate in order to avoid factionalism with the party, and Abe Murdock gained the Senate seat, to be replaced by Arthur Watkins, Republican, in 1946.

Involvement with Democratic Party politics did not keep John from devoting more than full time to his assignment as Assistant U.S. Attorney, to the legal profession, to his continuing interest in Scouting, to active participation in church work, and to his role as husband and father, by 1946, of four children.

Reflecting on the decade since the Young Democrats were organized nationally, John wrote for publication in the Utah Young Democrat, August, 1941: "We must confidently look into the future with the energy of youth, but let us utilize our few precious years of experience. Today, as ten years ago, government sorely needs young and healthy views."

At the death of FDR in 1945, John was asked to participate in memorial services held at the Utah State Capitol.

With his resignation as Assistant U.S. Attorney for Utah, March 1, 1946, John's participation in Utah Democratic Party politics was pursued even more vigorously. He was frequently invited to be keynote speaker at various county Democratic conventions, and decided, when he was no longer "Fenced out of politics by the Hatch Act" to "yield to his backers' urging" and become a candidate for the state chairmanship of the Democratic Party in 1946.

Calvin Rampton was also in the running for the state party leadership, and a Salt Lake paper said of the two candidates:

> They are both popular with the rank and file of the democratic party. Vigorous in their leadership they command the respect of the conservative as well as the more liberal elements of the party. Should either be elected there is little question but he would receive the support of organized labor as well as business interests of the state.

Mr. Rampton was elected.

The Democratic Party had been planning since 1941 to give some special recognition to the arrival of the Mormon pioneers in Utah in 1847. On the centennial in 1947, John participated in a program sponsored by the State Democratic Committee which commemorated the 204th birthday of Thomas Jefferson, and used selections from his political philosophy to illustrate the efforts to establish a government without federal appointees during the Utah territorial period.

Early in 1948, a committee was formed to support John as a candidate for the Democratic nomination for governor of Utah. John listed the following basic points as the program on which he would seek the office:

> To encourage and foster industrial development of the state without unnecessary government interference, recognizing fully the true definition of free enterprise implies neither a moral nor legal justification for exploitation of labor.
>
> To promote elevation of our educational system, making timely and adequate financial provision therefor. The practice of spending beyond our means without first providing for such fundamentals as schooling of our children, has tended to focus taxpayers' attention upon the cost of desirable expenditures while lavish and foolish spending escapes the public eye. This policy of placing the cart before the horse is a natural breeder of unsound and inequitable forms of taxation.
>
> To assume full responsibility in conservation, storage, distribution and use of water and water power. Too few of us realize how dependent we are on water available for our use. The Colorado and Green rivers present immediate and vital problems challenging our best efforts in protection of our water rights and in reclamation development. Conferences have lulled us into a false sense of accomplishment.
>
> To remove old age assistance and related welfare administration from the political arena. The unconscionable misuse of

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the welfare program for personal political advantage has and is crumbling the foundation of this important social legislation. Stability of the program must be attained without consideration of personal advantage of office holders or office seekers.

To give sympathetic consideration to farmers and sportsmen in their mounting conflict in use of our forests, ranges and streams with a determined purpose that a satisfactory solution must be found in reason and fairness to the privileges and rights of all.

To delegate political considerations to their proper place in affairs of state, making qualification and efficiency the prime considerations in the administrative branch of state government. The governor essentially is an executive officer. Each member of his official family must be entrusted with the duties within his sphere, without undue interference from the governor.

To pare governmental machinery to its correct proportions, eliminating clumsy administration and unnecessary duplications, to the end that appropriations will be, to the greatest possible extent, utilized for the intended purpose.

The Boyden for Governor Committee said: "The governor of this state must be a man who can demand the utmost from all citizens. Therefore, he must be a man of definitely superior morals, character, intelligence, and his personal integrity must be beyond question. John S. Boyden is such a man."

The Committee wrote:

It has often been said that a man's attitude toward public questions is largely influenced by the experience of his youth. A man who has made his education possible by employment as a farm laborer, section hand, railroad station helper, and the guy on the business end of an Irish buggy for a concrete contractor, can well appreciate the problems of the working man.

Mr. Boyden has said:

"I am convinced that the people of this state ask no more of their elected officials than a qualified, efficient and honest

administration. No one man has the capacity or the time to personally attend to all the state's business. Administrative achievement depends upon the selection of appointees of substance and worth with an honest desire to serve the people well.

"The Governor should seek advice but he cannot dodge the ultimate responsibility of selecting each member of his official family. Then, a faithful and effective official should be spared undue interference from the Governor and be allowed to work in an atmosphere of confidence and trust."

In 1948, Orpha was President of the Parent-Teacher Association at Uintah Elementary School, John Jr. was a Cub Scout, Steve was waiting to "grow into" his trombone, Carmen was taking dancing lessons and Paul, the baby, was the center of attention in the family.

John ran a good campaign, and it was said that his "popularity has constantly grown since the day he announced," but he lost to incumbent Governor Maw in the Democratic primary race, and Governor Maw was defeated by J. Bracken Lee in the November election.

The following succinct campaign speech was given to a Salt Lake Kiwanis Club August 26, 1948:

I have listened with interest as this campaign has developed with a view of determining the issues involved. At this point it appears the opponents to my nomination, after considerable effort, have produced the scathing indictment that I am too young and have not had sufficient experience. As I delve deeper into the affairs of our state government in a sincere attempt to keep myself on firm ground in the interests of all of the people of this state, I have reached the conclusion that if I am elected and diligently pursue the task of correcting present administration mistakes, there isn't a job within my knowledge that will make a 42-year-old man older any faster. As for experience — in my humble opinion, there are some experiences that it is just as well I have not had.

Some have labeled me as a religious fanatic. I make no

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apologies for my religious affiliations, but I do wish that my Bishop could hear of these charges. I am neither a reformer nor a crusader, but if it is old-fashioned or religious fanaticism to believe that public administration, as in private affairs, absolutely requires those fundamental virtues of honesty, integrity and efficiency, then I am of a different generation and must plead guilty to their charge.

Your sympathy is not solicited because this battle must be waged against a strong personalized political machine. My hope is to stimulate your thinking along these lines, and arouse a will to prevent the snowballing of a philosophy that strikes at the vitals of Democracy.

When 91-year-old Federal District Judge Tillman D. Johnson at last began to talk of retirement, in January of 1949, several Utah attorneys were mentioned as possible replacements. An article in the *Deseret News*, January 20, 1949, suggested that Utah's Democratic Senator, Elbert D. Thomas "looks with favor on all seven of the recommendations that have been made to him: Ex-Governor Herbert B. Maw; Ex-Senator Abe Murdock; Calvin W. Rawlings; Roger I. McDonough, justice of the State Supreme Court; Brigham E. Roberts, Third District Attorney; John S. Boyden, Utah lawyer; and Willis W. Ritter, Salt Lake attorney." Mr. Ritter was eventually appointed.

John was repeatedly asked to be keynoter for Democratic county conventions, and continued to be a favorite among the Young Democrats. His name was mentioned by Democrats who did not favor Senator Thomas, as a possible candidate for the U.S. Senate in 1950, when Wallace F. Bennett defeated Thomas. Mr. Boyden was encouraged to run against Lee for governor in 1952, but did not seek the party nomination.

As keynoter for the State Democratic Convention in 1954, John raised some serious questions concerning Governor Lee's duplicity in regard to the state's economy, then came down hard on the educational issue. Tracing the course of this controversy in which he took a leading part, Mr. Boyden recalled:

We have just passed through a most turbulent period of

heated discussion concerning the public school system.

In the early stages of the crisis, a sixty-man committee was appointed to study the problems of the public schools.

This committee was composed of men from all walks of life representing the various interests that have concerned themselves with education. Child-like, we then believed the Governor was sincere when he vowed to abide by the decision of that committee. At the next regular session of the legislature few were even suspicious when it was suggested that the legislature should adjourn before taking any action on the public school question in order to give the Survey Committee more time to make an adequate report. But after the legislature had gone home it was not long until we learned that reconvening of that legislature in special session hung on a prince's favor.

The Committee did report. The Governor was not pleased and on March 24, 1953, on a radio-television broadcast he said, "I am not satisfied with the report and I'd just as well be frank about it. The report from the sixty-man committee did not bring me any more information than I already had, that is, that the schools need more money." Those who had the children's interest at heart became panic stricken as the summer wasted away without any possible satisfactory recruiting program for teachers because of the unfavorable climate to education in Utah.

Parents were aroused and marched to the Capitol when they learned that Salt Lake City did not have sufficient funds to operate the second grades for a full day.

Those who became disgusted held their tongues, treating "His Majesty" as a temperamental prima donna.

But this white glove policy grew tiresome and some serious thought was given to the necessity of an amendment to our Constitution whereby a spontaneous public demand could result in a special call for the legislature, without the necessity of currying the favor of one man, though he be the Governor of the state.

(*Salt Lake Times*, June 4, 1954)

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Another jab was taken at Governor Lee in a keynote address on the campus of the Utah State Agricultural College in Cache Valley:

> Mr. Allen, Guests, Fellow Democrats: I am not only singly honored by being invited to speak to you on this occasion, but a near-nostalgic yearning to spend an evening at the Utah State Agricultural College is being most pleasantly relived. My father, my wife, and my wife's mother and father, all received their education at this historic institution. The old Sorosis Sorority still forms an adequate excuse for Orpha to meet with her old school companions of the A.C. School day stories from my father acquainted me with the whole Caine family and Uncle Ben Eldredge long before I had the pleasure of meeting any of them. I thrill with you in the realization of this Student Union Building — a magnificent addition to a grand school.
>
> My attention was directed to a short but interesting article appearing in the *Salt Lake Tribune* of yesterday morning. The headline, or caption, reads: "One Shot Lee Off." No, Mr. Allen, it does not say "a way off" it just says "off." The article then continues "Governor J. Bracken Lee left Monday afternoon for Lander, Wyoming, to participate in the one-shot Antelope hunt." Now, the Governor goes gunning quite often. You perhaps will recall that some time ago while returning from one of his frequent trips to the East he arranged for a stop-over to participate in a trap-shooting contest. The Governor is especially adept at trap-shooting. But the next time he attends a Governor's conference, heavily laden with his ideas on the United Nations, income tax, and education, he could avoid considerable embarrassment, and do the people of the State of Utah a distinct favor, if he would only learn to keep his trap shut. (Address delivered 9/1/54.)

John certainly didn't need another job in 1956. In addition to his other clients, he was being kept busy as attorney for the Ute and Hopi Indians, and by work for other Indian tribes. John had become Bishop of the Yale Second Ward in November, 1953, and would continue in that position until December, 1958.

One might ask why, after losing a bid for the Chairman of the State Democratic Committee in 1946, and for his party's nomination for governor in 1948, he would add to the burdens of an already busy life to seek the nomination for governor again in 1956. Although running for office did not cost the astronomical sums required today, it was not inexpensive to seek an important political office.

John's loyalty to the Democratic Party went back to the time when his Grandfather John was told he should be a Democrat when alignment with the national parties became important in preparation for Utah's admission as a state. Being a loyal Democrat was a tradition in the Boyden family, and being a good party member required filling a party assignment when asked and holding an office when convinced it would benefit state or local government.

John was also a loyal citizen, and sincerely believed that citizens had an obligation to support the institutions of their state and of the United States. This included the necessity of giving service when called upon if one were capable of making a contribution.

Thus, when he was approached by friends and party officials to seek the nomination for governor again in 1956, after serious consideration he finally accepted, with the assurance that he would be unopposed for the party nomination.

As it turned out, the powers that govern our lives apparently had other plans for John Boyden. First, he was not unopposed for the party nomination, for L.C. Romney and Frank (Ted) Moss also decided to seek nomination. Second, although John came out high man in the convention, many of his most loyal supporters, the teachers of the state, were convinced that they should cross over and vote with the Republicans in the primary elections so they could vote against the nomination of J. Bracken Lee for re-election by the Republicans. As it turned out, George Dewey Clyde did edge Lee out for the Republican nomination, but their candidate John Boyden without their support in the Democratic primary lost the nomination to L.C. Romney. Bracken Lee reentered the campaign as an independent resulting in a three-way Clyde-Romney-Lee race in November elections. Clyde was elected and the state continued to have a Republican for governor.

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Again, John had worked hard for the nomination and had spent the necessary money to conduct a good campaign. What hurt him most was seeing his son Paul, clad head to toe with posters and buttons, with tears in his eyes as John conceded his loss of the nomination during a telephone interview with a local TV station.

Paul's disappointment was equalled only by his grandfather's, Gill Sweeten. Orpha's father had been active in Democratic politics all his adult life. He had served as County Commissioner of Box Elder County three different times and was always a delegate to the party conventions. When he retired and moved to Salt Lake City, he spent much of his time and energy discussing and participating actively in politics. Gill took a job as bailiff in Judge Ellett's court, and in the halls of the City and County Building he could keep up on all the latest political rumors. One of his activities was referred to as the "grandchild full-employment program." Passing out Democratic posters and handbills at election time every year kept his four grandchildren very busy.

Alongside Gill was Sara Sweeten, Orpha's mother, who never missed clipping out a pertinent newspaper article and who spent endless hours on the telephone as well as stuffing, addressing and licking envelopes with her grandchildren. Politics in the Boyden family was definitely a family affair.

John had many friends who urged him to run for office and they were never discouraged. They believed John to be an ideal candidate and felt he could render a great service to the state. These loyal friends included James Faust, Bernard Brockbank, Calvin Rampton, Cliff Cockayne, Bill Thurman, Howard Evans, Dee Lowry and many others.

John and Orpha could always see a positive side to these activities. They traveled from one end of the state to the other more than once. Total strangers in the beginning, the people they met became friends, and in many cases these friendships lasted for life.

Much has been said and written about the apathy of the average American voter. But not enough has been said about the hard-working, loyal volunteer workers who invest time, energy and often money in candidates they want to elect. John never forgot the effort

which went into his campaigns and was humbled that so many were willing to help him. Of course there were those who, when asked to help, responded with, "What is there in it for me?" They wanted the promise of a job or political appointment or some other favor. John's response was always negative — he didn't want that kind of help.

By and large John always felt his political activity was worth the time, money and effort. He had a chance to express his views and meet good people whom he might never have known if he had not run.

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Young Democrats meet with President-Elect Franklin D. Roosevelt in 1932 at Warm Springs, Georgia. (FDR in car, John on the right.)

Campaign photograph of the family during 1948 gubernatorial race.

Family picture taken during the 1956 campaign (Carmen, Orpha, Steve, John, John Jr. and Paul).

John's official 1956 gubernatorial campaign portrait.

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Bishop Boyden of the Yale Second Ward

CHAPTER FIVE

The Lord has been kind to me all the days of my life. My supplications and prayers have been repeatedly granted. On several important occasions my requests have been denied but years later I came to know the denials were always definitely in my best interest. I now pray that I have been, and am continuing to, at least partially fulfilling the purposes for which I have been granted the privilege of coming to this earth.

John S. Boyden
1967

WHEN JOHN BOYDEN BECAME BISHOP IN 1953, John Jr. was attending East High, Steve was at Roosevelt Jr. High, Carmen was in the fifth grade at Uintah Elementary School, along with Paul who was in the second grade, and Orpha was chairman of the Cub Scout Committee on the Primary General Board, working on cancer and polio drives, active in the PTA, and doing the usual things expected of the mother of four children and the wife of an incredibly active husband.

John had been attorney for the Ute Indians about six years and attorney for the Hopi Indians two years by this time, as well as attorney for Utah communities, working with the development and conservation of water resources, representing the Utah Teachers Association, and still busy with numerous individual clients. Scouting and work with Orpha in the Cub Scout program, the garden club, the property in Coalville, political involvements and other interests including family projects made for a very busy life.

When the time came to replace Bishop Albert G. Olofson, "Gramp" (Orpha's father) said he didn't know how anyone could do

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as good a job as Bishop Olofson had done. Gramp used to love to tell what Bishop Olofson had said to him once. "Brother Sweeten, what can we do to get you to come to Church every Sunday?" Gramp replied, "Well, just put one of the Boyden kids on the program." When John was made Bishop, Bishop Olofson said, "Now we'll have one of the Boyden kids on the program every Sunday!" Gramp never missed another Sunday meeting until his last illness.

The bishopric was reorganized at the closing session of the Yale Second Ward Conference, November 15, 1953, in a meeting presided over by Elder Ezra Taft Benson, a former member of the ward, accompanied by Bishop Thorpe B. Isaacson. Albert G. Olofson was released as bishop, Thomas E. Robinson as first counselor and Grant E. Hayes as second counselor.

John Sterling Boyden was sustained as bishop, with Linden B. Alder as first counselor and Charles O'Neal Rich as second counselor. Short talks were given by Elder Benson, Bishop Isaacson and members of the new and retiring bishoprics. John was ordained a High Priest and set apart as bishop by Elder ElRay L. Christiansen on November 18, 1953.

A letter of December 16, 1953, signed by the Presiding Bishopric transferred to Bishop Boyden "as a corporation sole, without further legal process, the title to all ward property held by your predecessor." Church members seldom recognize what is required of a Bishop as a business executive and administrator. He tends to be thought of more as a father figure and spiritual counselor to ward members.

December 10, 1953, a testimonial program and party honoring the retiring bishopric was held in the cultural hall. Approximately 300 members of Yale and Yale Second wards attended.

February 25, 1954, the new bishopric (of course with lots of help from the members) held their first annual ward reunion, with dinner being served at 7 p.m., followed by entertainment provided by ward members. It was a good occasion enjoyed by the participants.

During the first half of 1954, there were the usual reorganizations that come with a new bishopric. July 18, 1954, in sacrament meeting, Presiding Bishop Joseph L. Wirthlin paid his respects to the Mormon pioneers with a speech on the life and accomplishments of Brigham

Young. October 17th Elder Richard L. Evans spoke at sacrament meeting, and October 24th, Elder Ezra Taft Benson, former ward member and, at that time, Secretary of Agriculture in President Eisenhower's cabinet, was the speaker.

During the summer and fall of 1955 renovations were made inside and outside of the meeting house: the sidewalks in front and some of the windows were repaired; nine new outside doors were installed; wallpaper was steamed off, walls were refurbished and new blackboards were installed in the classrooms; insulation and electrical outlets were installed; repairs were made and hot water was piped to both rest rooms; large glass partitions were placed between the chapel and foyer to provide a "cry room;" a trophy case and bulletin board were installed in the foyer; a new cap was placed on the chimney; and plans were going forward to remodel the kitchen. In November the building was painted throughout, new flooring and seating were installed in the chapel, new chairs in the Relief Society room, a new microphone was provided for the rostrum, and other necessary repairs were made.

The ward reunion, February 23, 1956, was made a special occasion. The theme, Safari to South Africa, was carried out by table decorations, and by snake skins, a stuffed lion, small animals and ferns placed in the foyer. The entertainment was a film showing ward members capturing a lion. The next year Brother and Sister Harold I. Bowman, Jr. were in charge of the ward reunion. In keeping with the Indian theme, the "Tribe of Many Feathers," the Indian student organization at BYU, was invited to furnish the program.

Other special occasions involving General Authorities were return visits and talks by Elders Benson, Evans, and Sill; two visits from Elder Joseph Fielding Smith, in 1955 and 1956, when he officiated in the blessing of his grandson, bore his testimony, and told of his recent trip to the Far East, then on a second occasion gave a talk on the obligation of church members to be involved with genealogical work; Elder Henry D. Moyle was present when Dan Oniki (one of John's Japanese scouts) returned from the Japanese Mission and told of the organization of the Church in the Far East. On February 24, 1957, President David O. McKay was the speaker on the occasion of

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his grandson Douglas R. McKay's testimonial, before departure to the Uruguayan Mission.

Working with young men to prepare them for missions, and seeing the change in them when they returned, was an experience that brought great pleasure to Bishop Boyden. He called Dr. Richard S. Tanner (who later succeeded him as bishop) to head a special missionary preparation program in the ward. During John's five years as Bishop, he saw the following young men through their preparation, the farewell testimonial and in some cases their return from the mission field:

1. Richard N. Simonsen - Norwegian Mission - February, 1954
2. Harold James Kemp, Jr. - British Mission - June, 1955
3. C. Dennis Smith - West Central States Mission - October, 1955
4. Delbert Tolton Goates - Swedish Mission - January, 1956
5. George Thomas Elliott - Swiss-Austrian Mission - June, 1956
6. Douglas Rich McKay - Uruguayan Mission - February, 1957
7. George E. Holt - West German Mission - February, 1957
8. Robert O'Neal Rich - Spanish American Mission - April, 1957
9. Arthur Taylor Nelson - Uruguayan Mission - June, 1957
10. John Sterling Boyden, Jr. - East Central States Mission -November, 1957
11. Daniel Redd Bryner - South Australia Mission - May, 1958
12. Lane Farr Smith - Hawaiian Mission - May, 1958
13. Robert Mason Stayner - Northern States Mission - June, 1958
14. Richard Marion Noyes - Australian Mission - June, 1958
15. Richard Werner Lohner - Swiss-Austrian Mission - June, 1958
16. David Austin Shand, III - Northwestern States Mission - October, 1958

During this period, ward members Harold I. and Nina Bowman were presiding over the Spanish American Mission headquartered in San Antonio.

In contrast to the joy among ward members with each new mission call was the solemnity evident whenever a death occurred within the ward. Assisting families where someone had passed away was a sad and very emotionally demanding part of the Bishop's assignments. Yet this was a time when John could often do the most good. His unusual abilities in counseling with the bereaved family to assure them of their departed loved one's well-being and to bring a spirit of peace were truly appreciated. John's speaking skills were perhaps never better employed than in preaching funeral sermons. He had a particular gift of insight into each personality and could paint the character of the deceased with a few small stories and observations which were always sensitively presented. He never overstated a person's virtues, but recounted them in such a way as to give deepened appreciation of the individual's life by the congregation. A hallmark of John's sermons was the quotation of scripture and often poetry particularly fitting to the occasion. Often these excerpts were given from memory; but if he couldn't find just the right sentiment, John would compose a poem of his own. At the conclusion of each message was always the simple assurance that all was well with the departed and that it remained for the living to keep the faith until the day of reunion. The largeness of his stature, the warmth of his oversized handshake and the genuineness of his intent all seemed to echo the security and the peace of his words to the sorrowing saint. John's compassion ran deep, and he was often requested to speak at funeral services for friends, neighbors and members of Orpha's Sweeten and Evans families. He continued to speak on these occasions throughout the years until ill health prevented him from accepting further invitations.

One of the most difficult experiences in conducting and speaking at a funeral came on August 10, 1957, when John participated in services for his first counselor, Linden B. Alder, who died very suddenly. In addition to working together in the bishopric, John and Linn were members of the "Mudheads," the oldest and most enduring of the social groups to which John and Orpha belonged.

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Linn had originally formed this group soon after the Yale Ward was divided, including couples from each side of the new boundary. The group consisted of: Linn & Georgia Alder, John & Orpha Boyden, Paul & Ora Dixon, Frank & Maude Gunnell, Lynn & Eleanor Hales, ElRoy & Alice Nelson, O'Neal & Catharine Rich, David & Melba Shand, Sherman & Lois Christensen. The first time the group met John had just returned from Hopiland, and he was describing a Hopi wedding ceremony which he had witnessed. The term "mudhead" (the dancer in the ceremony representing the mudhead kachina) fascinated the group and was adopted as the official name. The Mudheads met consistently over the years until ailing health prevented regular gatherings. Once-a-year reunions are still held, hosted by the Junior Mudheads, the children of the original tribe. These, along with many other close relationships, made service in the church a very satisfying, though demanding, experience.

After Linn's passing, President Frank Bowers presided at the reorganization of the ward bishopric on September 8, 1957. Charles O'Neal Rich was sustained as First Counselor and Issac T. McQueen as Second Counselor.

The children recall, "Dad was an outstanding teacher and loved the scriptures. He was known for the great love and comfort he found in the Gospel and his ability to express that love to and for others.

"At the time of his passing, many ward members mentioned his large, soft hands which could communicate security and well-being with one firm handshake. He could hold a hymnbook in one hand with a finger sticking over one edge and his thumb extending beyond the book on the other side (much to the amusement of the deacons on the front row). One hand was sufficient to hold up a new baby after its blessing to give the congregation a better look. The same hand on a shoulder sent a message of caring and comfort to the wayward and bereaved. The comforting nature and innate goodness of Dad led many outside the ward and outside his faith to look to him in times of sorrow."

John's term as bishop was characterized by an emphasis on missionary work at home as well as abroad, and several individuals

joined the church from within the ward boundaries. Special attention was given to members who had not been too involved. Supporting scouting activities, performing wedding ceremonies, encouraging auxiliary leaders and counseling individual members were typical responsibilities which he worked diligently to fulfill.

At the last Ward Conference held October 26, 1958, before John's release December 7, 1958, the list of officers working with the bishopric included: George S. Nelson, James E. Lowry, Charles M. Griffin, and Richard S. Bowen as Ward Clerks. There were fourteen ward members on foreign missions and five in the armed services. On December 21, 1958, John delivered the Christmas message to the congregation as the former Bishop. The depth and meaning of friendships which developed in the Lord's work cannot be overestimated. John and Orpha touched and were touched by many. Letters of appreciation came to them from ward members expressing gratitude for the contributions they made during the time when John was Bishop.

The following are excerpts from two typical letters:

> I [a missionary] received word just a few days ago that you are no longer my Bishop. Well, I would like to say that you have done a wonderful service for the ward and especially for me, and as far as I am concerned, you will always be *Bishop* Boyden to me.

> John, the atmosphere you've created in church meetings, the finishing touches to good sermons and music, the proper word when the sermon was not so good, have given a special tone to Sacrament and other meetings. For these the ward members have been rewarded intellectually, emotionally and spiritually. For these we have been, are grateful. Moreover, this attitude which is part of you permeated all the ward activities.

The Relief Society presented their former bishop with a beautiful blue and white cross-stitched quilt. This exquisite gift was the product of many loving sisters working under the direction of Sister Pearl Mason, Relief Society President.

The *Deseret News* Church Section for the week ending April 25,

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1959, announced that John "was appointed this week to the
School General Board by General Superintendent George
After a biographical sketch, the article continued: "Supt
Elder Boyden will perform duties with the board on a part
until he completes some previously committed out-of-to
ments in connection with his law practice." Within a few
entries began to appear in John's journal relating to travel and
ments for the Sunday School General Board, and by 19
assignments appear frequently. By this time John Jr. and
were studying at the University of Utah, Steve was in Central
on his mission and Paul was at East High. Orpha's assignme
Primary General Board continued into 1963, so the family
busy.

An excerpt from Orpha's writings at the conclusion of her
personal history summarizes that period of family life very

> When I was called to the General Board of Primary
> Paul was only six years old. The Brethren were very
> against calling women with young children, and I was
> down at first. On further inquiry it was found that my
> lived near and the children would have good care (even
> in my absence, so the second time around my appointment
> approved... Because Cub Scouting was a new program
> Church I was gone two or three nights a week, plus
> daytime meetings. This kept up during the first years.
>
> A year following my appointment John was made Bish
> Yale Second Ward and served five years. Those were
> years. We know we were blessed beyond measure or we
> could have handled it. John Jr. was fifteen and Paul
> when I went on the board and we lived through it eleven
> half years. John, during five of these years, was bishop and
> ried on a campaign for Governor. He never missed a Su
> meeting. As soon as he was released as bishop Brother
> R. Hill, General Superintendent of the Sunday School
> him to the Sunday School General Board...
>
> At this point in time (to use a phrase made famo

...tergate) I don't know how we all stood it, but somehow we
... Actually, I do know how we stood it and I acknowledge
...Lord's blessings upon our family.

...Yale Second Ward, Bonneville Stake, 1953. Front — Linden B. Alder, ...selor; John S. Boyden, Bishop; C. O'Neal Rich, Second Counselor. Rear ...s Nelson, Clerk; C. L. Kelly Ericson, Clerk.

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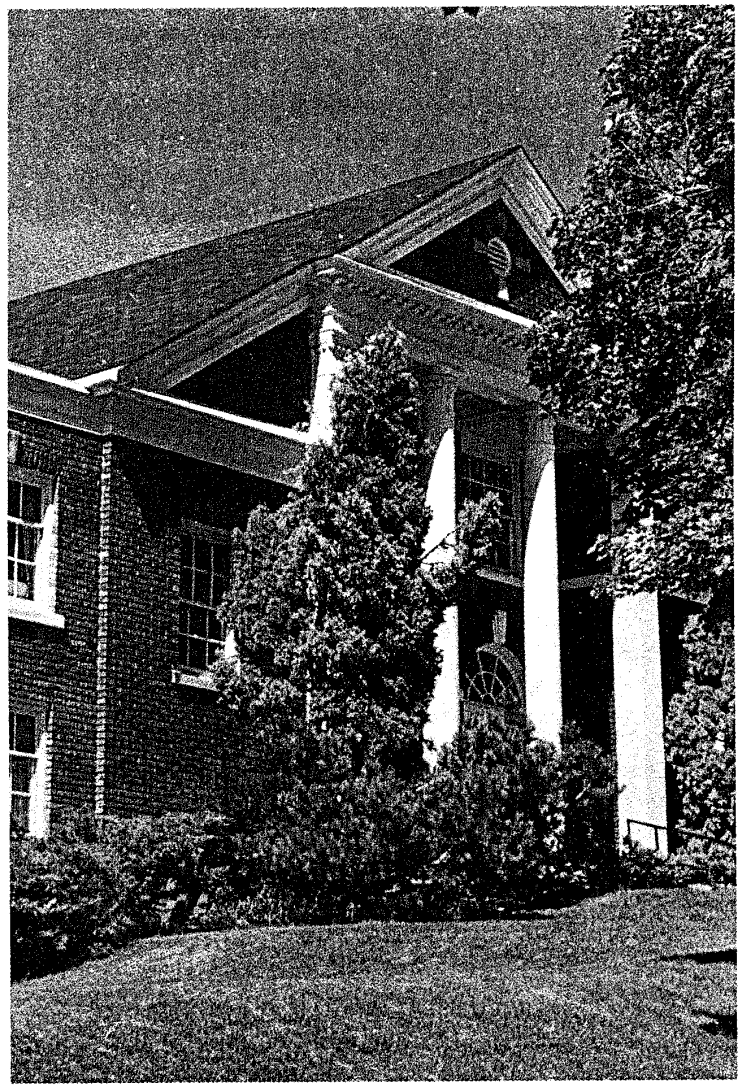
C. O'Neal Rich, First Counselor; Bishop John S. Boyden; Isaac McQueen, Second Counselor. (Brother Alder Passed away August 8, 1957, and bishopric was reorganized on September 8.)

Brother Boyden on assignment for the Sunday School General Board.



Yale Second Ward Chapel

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John, member of the Sunday School General Board, presenting award to Sunday School leaders in the Auckland, New Zealand Stake.

The Mudheads at Nelsons' cabin, summer of 1977. Front — ElRoy Nelson, Frank Gunnell, Sherman Christensen, Lynn Hales, John Boyden. Rear — Orpha Boyden, Ora Dixon, Maude Gunnell, Georgia Alder, Lois Christensen, Eleanor Hales and Alice Nelson. Absent - Catharine & O'Neal Rich.

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Advocate for Indians

CHAPTER SEVEN

I had a sudden realization of the magnitude of the past help the Ute Tribe has received from Mr. Boyden and the loss that it would be to the Tribe if his help was suddenly not available.

Reginald O. Curry
Former Chairman of the Ute Indian Tribe

That strong bond of faith and trust that Big John, which we called him affectionately, established with the Hopi people will be long remembered by two generations of Hopi friends. Our prayers go with him as he joins his fathers.

Abbott Sekaquaptewa
Chairman, Hopi Tribal Council

WHEN APPEARING BEFORE A CONGRESSIONAL hearing in Washington, D.C., John was introduced by Congressman Stuart Udall as "the foremost authority in Indian law in the United States." How did a farm boy from Coalville develop the interest and the expertise in this field? There were certainly no classes on Indian law for the University of Utah law students in the 1920's. But John's interest in the Indian people began long before law school, and essentially he was self-taught.

Coalville was located on the Shoshone Indian migration route. As a young boy, John had plenty of opportunities to watch them first-hand, and he was fascinated with what he saw. Occasionally he found arrowheads when he was digging in the soil. When John became a lone scout, someone in Coalville, responding to his interest

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in Indians, gave him a piece of black Indian pottery. He was extremely proud of his Indian pot, and it marked the beginning of his lifelong hobby of collecting Indian artifacts (now housed in the Chase Fine Arts building, Utah State University).

As was mentioned in a previous chapter, John was given all the Indian matters while in the District Attorney's Office because everyone there knew of his interest in this field. On some assignments, he went to live on the reservation for a few weeks or months so that he could understand their problems more fully. Through these experiences he developed a great appreciation for Indian culture and had many close friends among the Indian people.

John's friendship with the Indians and his empathy for their grievances motivated him to work for many years without pay simply because it was a cause he believed in. John's keen interest was, of course, shared by the whole family. All the children have memories of sitting long hours on the stone steps outside of government buildings on the reservations, listening to lengthy discussions among tribal members and their attorney with each statement being interpreted. Orpha fixed meals for the family over a Coleman stove, and the kids enjoyed playing with the Indian youngsters.

Several factors make John particularly well suited for this type of work. Steve recalls, "Dad was always optimistic about life and the basic goodness of man. He was very patient, yet equally tough. These characteristics served him well for work with the Indians. He often found himself in the middle of a controversy as a mediator between warring factions of the tribe, trying to forge an understanding or work out a compromise. Because of his profession, he lived with adversity all his life. He became upset occasionally, but never struck back at personalities. Many times the individuals who were most vocal against Dad in a meeting would be his strongest supporters when they met again."

General Counsel for the Ute Indian Tribe of the Uintah and Ouray Reservation

John had intended to write a book dealing with the period he represented the Ute Tribe, and had planned to title it, *Lawyer's*

Modern History of the Utah Utes. In 1971, John wrote the first (and only) chapter for this book which he was unable to complete. It reads as follows:

THE SPECIAL INDIAN GRAZING UNIT

During my tenure in the United States Attorney's office, from 1933 to 1946, I became generally familiar with the struggles of the Ute Indian Tribe to withstand the onslaught of the non-Indian livestock industry. The private livestock business, with its public implications, was not exclusively predicated upon private ownership. It relied very substantially upon the special privilege of a small segment of our society to graze livestock upon the public domain, a privilege that had found a measure of security under the terms of the Taylor Grazing Act of June 28, 1934, (48 Stat. 1269), as later amended. This degree of security was not without its price to cattle and sheep men. The promulgation of "game rules" was not only an effective means of slapping down the newcomer, it touched off an interior strife for survival. And I do mean interior in its dual sense. The Department of the *Interior* had become the umpire with a charge to halt the overgrazing that threatened a reckless waste of our natural resources, while the *interior* of the livestock industry was seething to determine who, under the new rules, could be reduced in range privileges or perhaps eliminated entirely. A third *interior* might be added for the battle that ensued left many with their interiors exposed. The Ute Indians in Utah were generally unschooled in this aspect of civilized culture and seemed easy prey to make non-Indian elbow room.

The lands we view today were encompassed within Unit G. District No. 8, Utah. The Uncompahgre Utes were moved from Colorado to the "unoccupied agricultural lands as may be found in...the Territory of Utah," near the "mouth of the Gunnison River" on the "Grand River" or Colorado River as it is now known. (Agreement of March 6, 1880, ratified June 15, 1880, 21 Stat. 199). In this vicinity in Utah, next to the Colorado border,

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nearly two million acres were set aside by the Executive Order of January 5, 1882. The ensuing pattern of allotments of part and restoration to the "public domain" of the balance of the reservation set the stage for future battles: first, between the Uncompahgres and other Indians of the Ouray Reservation; second, between the Ute Indians and the homesteaders and other white livestock operators for the right to graze livestock in these parts; and third, between the Ute Indian tribe and the State of Utah over jurisdiction and reservation boundaries. It was a battle without arrows and bullets, almost, yet in dead earnest with the economic survival stakes high. The inevitable overgrazing came. While the temporary withdrawal in aid of legislation on September 26, 1933, withdrew all vacant and entered lands within the Uncompahgre Reservation, the action was for the benefit of both Indian and non-Indian users and had as an immediate objective the protection of the range from overgrazing.

I shall not attempt to review the multiple attempts at Congressional legislation between 1935 and 1944, either to extend the boundaries of the Uintah and Ouray Reservation or otherwise control the grazing of the area. The Solicitor very aptly described the whole process as the pursuit of a tortuous and futile way. Legal maneuvering was equally fruitless. I well remember my anxiety as a legal representative of the United States in the Department of Justice when attempts to air the matter in the Utah Federal District Court clearly exposed a sharp conflict within the Department of the Interior. The Bureau of Indian Affairs and the grazing service appeared to me to be in an irreconcilable deadlock.

On April 3, 1946, the Solicitor General of the Department of the Interior Gardner submitted to counsel for the Indians and the non-Indian livestock men a proposal for settlement. It contemplated the issuance of grazing permits to all users, Indian and non-Indian, after adjudication under the Federal Range Code in substantial conformity with the provisions of the Taylor Grazing Act. It is not surprising that the non-Indian

users found themselves in substantial accord while the Indians were more than skeptical. Counsel for the Indians voiced objections and insisted upon the institution of trespass proceeding against the non-Indians. In this same year, and for reasons entirely unrelated, I resigned as Assistant U.S. Attorney to devote full time to the private practice of the law.

At the request of the Indians and two days after the Uintah and Ouray Tribal Business Committee had adopted a resolution, by a vote of 4 to 2, appointing me as the general counsel, I entered upon a somewhat shaky assignment to be put to the test for a period of seven and a half months as tribal attorney. Superintendent Forrest R. Stone gave me a full-flavored recommendation and in less than a month I had the approval of the office of Indian Affairs, which was then located in Chicago, to continue the work I had already commenced. The grazing rights involved in the "Special Indian Grazing Unit" constituted one of the three specific subjects within the defined scope of my employment. I prefer to regard my continuous employment under successive contracts since that time as complimentary in nature, but there may be those who feel it has taken me this long to complete a seven and a half month's job. The battle goes on with new problems. Only eighteen days ago (1971) we learned that Grand County is still attempting to force a road through this area when the State Attorney General ruled that the State Land Board had no authority to grant such a right-of-way.

During the first part of December 1946, I went to Washington, D.C. to confer with the Solicitor's office of the department. There our case was presented and we awaited advice. It was learned that W.H. Flannery, Assistant Solicitor, had drafted a memorandum to the Secretary reviewing the history of the problem and outlining a procedure for the adjudication of the respective rights of parties claiming an interest in Unit G of District 8. By the 30th of January, 1947, the Flannery memorandum remained somewhere in the department, and I decided to call to the attention of the solicitor a defiant provocation on the part of a certain non-Indian stockman who had brazenly grazed the

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lands covered by the permits of two Indians, David Tabbee and Pawwinnee. A demand was made to end the "apparent moratorium on presecution of offenses against the United States where rights of the Ute Indians are concerned."

It was further stated that if the solicitor's opinion affecting the problem could be released before the next Tribal Business Committee meeting on February 10, it might serve as a guide in reaching some permanent settlement. A copy of the letter thus expressing our attitude was sent to the Commissioner of Indian Affairs. On the 5th day of February, 1947, the Flannery memorandum dated December 10, 1946, was approved by C. Girard Davidson, Assistant Secretary of the Interior. Whether our protestations were effective or merely coincidental makes little difference. The fact remains that the release of the opinion did furnish an effective guide for settlement. This appears as an appropriate place to acknowledge the studious devotion, the courteous manner and the ingrained fairness of Bill Flannery whose influence on the final settlement cannot be denied.

The Solicitor's opinion provided for a special impartial examiner to adjudicate the conflicting claims in conformity with the Federal Range Code, except (1) Indian base properties not submitted prior to June 28, 1938, were allowed to be used, and (2) the determination of the grazing privileges attaching to base properties purchased for the Indians were to be made on the basis of grazing use during the priority period and upon the productivity of the base properties at the time of the acceptance of options by the Indians. The allocation of federal range was to be made, however, on the basis of productivity of the base at the time of adjudication, the difference to be considered in a nonuse status with grazing privileges to attach as productivity of the base property was restored. After elimination of unqualified and Class 2 applicant, those shifted into Unit G from other states or other parts of District 8 were to be subordinated to those customarily within the area. The troublesome factors of loss of productivity of lands while being accumulated for the Indians and the moving of livestock interests from Colorado to

Utah having thus been determined the Indians were no longer confronted with the previous marked disadvantages. The fairness of the approach was recognized by both sides and it was agreed to make independent exploratory calculations without the long processes of adjudication.

Knox Patterson and Hugh W. Colton, attorneys of Salt Lake City and Vernal respectively, represented the substantial non-Indian interests. These interests were commonly referred to as the "Six White Users," and were composed of Albert Smith Investment Co., a corporation, the David Smith estate, a co-partnership, Blanche, Moroni and Emery Smith, a co-partnership, Steve Chuturas, H. A. Tyzack and D. R. Seeley and Sons.

Our independent circulations were near enough to permit compromise and by the month of July, 1947, conferences were arranged to be held in Salt Lake City. Time may have erased many of the details regarding our negotiations but I shall never forget the hot weather that accompanied our hot subject when we met in my office in the Boston Building, without benefit of air conditioning, to draw a boundary based upon our calculation. Paul A. Krause was Range Manager on the Uintah and Ouray Reservation and possessed a working knowledge of nearly every hill and creek in the vast area under consideration. I still own and treasure the Hamilton Map Measurer, Model No. 33, he used to trace the agreed boundary lines and calculate the mileage for the description. Paul was a master of his work and the Ute Indian Tribe will forever owe him a debt, payable only by sincere appeciation of his skillful efforts.

We had resolved to agree upon a boundary line only if the white users would agree to support us in the establishment of an addition to the Ute Reservation to include the agreed area to be grazed by the Indians. To this proposition they agreed and in good faith discharged their obligation in this regard by sending Hugh Colton to Washington to help in the passage of the bill. It was a pleasure to work with Hugh as he enhanced his sincere effort with emotional fervor when our encounters with the Department of Justice at times tested our mettle and taxed our

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patience.

A few sweltering July days measured the hours it took to reach an agreement. On July 18, 1947, the attorneys fixed their signatures to a document that ended the contention and paved the way for Enactment of Public Law 440 of the 80th Congress (62 Stat. 72). On that same day the Uintah and Ouray Tribal Business Committee unanimously approved the agreement.

The legislative struggle, the acquisition of state lands within the new reservation, I leave to another chapter on another day.

As the original Ute claims against the United States proceeded before the court of Claims, with Ernest Wilkinson as claims attorney, John played a role, from 1946 to 1950, not only in the solution of political problems between bands in relation to the eventual settlement, in the coordination of efforts in the preparation of exhibits, and travel in connection with the hearing that lasted 16 weeks in Grand Junction, but also as a facilitator between tribal business committee members and Ernest Wilkinson when they were trying to reach agreements necessary to the final settlement in 1950.

The U.S. Court of Claims awarded the Confederated Ute Bands almost $32 million in July 1950. John was involved with the development of a "program of economic and social development" for the tribe. This was a necessary requirement before Congress would release the Judgment fund for the use of the Utes.

The "Three Year Plan" included recommendations for the purchase of lands and their improvement, established a credit fund for the use of tribal members, and made funds available for adult education. Over $16,000,000 was made available to individual members as per capita payments, but the balance was held in trust so that tribal programs could be funded from the interest.

In 1956 a "Long-range Plan" which John had helped the Tribal Business Committee to develop was approved by the Secretary of the Interior. In the 1960s tribal enterprises were developed in an effort to lead the Utes toward greater economic independence.

Additional claims were filed under the Indian Claims Commission Act of 1946. These brought additional millions of dollars to be shared

by the confederated Ute Bands. Litigation was required in relation to Ute water rights, to determine the rates to be charged in mineral leases etc.

John did not favor the Termination policy promoted by Congress during the late 1940s and 1950s, but he found himself embroiled in it when the "full-blood" Utes, upset by the growing imbalance of "mixed-blood" influence in Ute politics generally and on the tribal business committee particularly, with the encouragement of the BIA, promoted the termination of mixed-bloods (with 50 percent and less Ute blood) in 1954. Contrary to John's advice, the mixed-bloods met as a group and voted to be terminated from federal supervision. By 1961, all arrangements for the finalization of termination had been completed and 450 mixed-bloods had their status changed from members of the Ute Indian Tribe to that of Affiliated Ute Citizens, or non-members of the Ute Indian Tribe.

During the late 1930s, the development of mineral resources on the reservation was under discussion. The first oil royalties were awarded in 1949, and productive wells were drilled on the reservation in 1949 and 1950. Mineral leases were to be an important source of income in later years.

One of John's continuing duties as attorney for the Utes was to work with the natural resource personnel of the Bureau of Indian Affairs, to ensure that the land base continued to be protected, was added to as opportunity arose, and that all resources, such as water and minerals, were guarded and effectively used.

The 1960s saw much of the initiative in resource development transferred from the Superintendent and other Bureau employees to tribal representatives. This put an additional burden on the tribal attorney as he worked with his clients in the development of resources, land use programs, and the improvement of grazing units for tribally owned livestock.

The 1960s also saw a heightening of the involvement of government agencies other than the Bureau of Indian Affairs on the reservation. There were numerous federal agencies or departments: Office of Economic Opportunity; Economic Development Administration; Housing and Urban Development; Health, Education and Welfare; Labor and Agriculture. Taking advantage of the opportunities that

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these programs offered involved the commitment of personnel and resources by the tribe. Usually, the programs also involved contractual arrangements and brought added pressure on the tribal attorney.

As Superintendent Stanley D. Lyman described tribal operations in 1968:

> As a corporation the Ute Indian Tribe owns a million acres of land, three-fourths of a million acres of subsurface, five thousand head of cattle, and eight million dollars. As a corporation, the Ute Tribe uses these resources, with the help of BIA, to make money for itself.

They also had the help of John Boyden, by this time with the assistance of his son, Steve, as tribal attorney.

In addition to taking advantage of natural resources, the tribe invested in the Bottle Hollow Resort, Ute Fab, Ute Research lab, Ute Tannery, Ute Bowling Alley, etc., to provide income and employment for tribal members. All of this involved the time of the tribal attorney to be certain that each contract, lease and program was legally sound and consistent with federal statutes and the Ute Tribal Constitution. Tribal members were introduced to the various businesses at all levels, but the Tribal Business Committee became so enamoured with control over the enterprises that many decisions became more political than business oriented.

Into the 1950s and 1960s, the work as Ute tribal attorney continually took larger and larger portions of time. It helped considerably to have Steve there to share the burden. Steve observed the following in watching his father at work:

> Dad always overprepared for court. He would try to think of every aspect of the case or issue that might be questioned, and then would prepare an answer for every possibility. Since he anticipated problems, he was ready for almost anything. In addition, he had a fantastic memory for facts and legal issues which he could call to mind in court. He was very eloquent and had the ability to distill issues to their most simple terms, then with his sense of the dramatic, he was a most formidable trial opponent.

Among other important contributions to the Utes, John was instrumental in quantifying the tribe's water rights and securing their development. The Deferral Agreement which was worked on by Rex Curry and E. L. Decker proved to be a powerful tool. The Utes became one of the first tribes in the United States to quantify water rights for irrigation purposes. An increment was added for municipal and industrial use as well as in-stream uses in the Deferral Agreement. Those provisions served later as a foundation for a compact between the State of Utah and the tribe. After John, Rex Curry and E. L. Decker died, the tribe decided not to ratify the compact, and they have not participated in the Central Utah Project to any degree, losing the vision of those men.

In the early seventies, there was growing Indian militancy, and members of a number of Indian tribes forcibly entered the Bureau of Indian Affairs office and took it over in a state of seige, causing great damage to the building. A number of local Indian leaders called John and wanted to make a statement against such action. They held a press conference in John's office, and the Utes, Goshutes, Shoshones and Paiutes disassociated themselves from these violent acts.

Over the years John became almost like a legend on the Ute Reservation. It seemed that everyone in the tribe knew him personally. When John would enter a meeting, he would stop and shake hands with everyone including all the shy ladies who often sat in the back wrapped about with a shawl or blanket. John was very sensitive to all members of the tribe. He had great respect for their traditions, and they considered him as though he were a member of the family. It was much more intimate than the usual attorney-client relationship.

General and Claims Counsel for the Hopi Indians

Much of John's life was devoted to assisting the Hopi Indians in their land claims.

Concerning the aboriginal use the Hopi made of the area east of the Colorado River and north of the Little Colorado River in present northeastern Arizona, Brew stated:

> The basis of Hopi life and the reason that the tribe could

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persist in their harsh, dry environment and attract others to them in periods of serious drought was the skill with which the Hopis developed especially adapted plants and their ability to coax them into high yields.

Gregory explained:

> For those people, who are capable of running 100 miles without stops, it is a matter of small moment that pine boughs must be brought from the San Francisco Mountains, wild tobacco and flax from the Little Colorado, and wild berries from the highlands along the San Juan.

By the last quarter of the 19th Century, the Navajo had come from their country east of traditional Hopi homelands and had begun to interfere with Hopi freedom to use their resources without interruption.

While John was assigned to do Indian litigation in the office of the U.S. Attorney, the Indian Reorganization Act was passed in 1934, a minority of the Hopi voted to be incorporated under that litigation, and with the help of Oliver LaFarge, a writer who was working with the Hopi at the request of John Collier, the "Constitution and By-laws of the Hopi Tribe, Arizona" was developed in 1936, and was approved by the Secretary of the Interior December 19, 1936. (John later noted that the Hopi Constitution was written by a non-lawyer — and showed it.)

The Hopi Tribal Council established by the Hopi Constitution failed to function about 1940, after a somewhat shaky start. It was too much to ask of sovereign villages to all pull in the same direction. No village was willing to subordinate its authority to the tribal council indefinitely. While on a trip to Washington, D.C., in 1950, Hopi representatives were told that the most effective way for them to press their land claim was to reactivate the Hopi Tribal Council, secure the services of an attorney, and submit the claim.

Paul and Steve made the following observations:

> The Hopi Tribe was politically disadvantaged by the fact that it had never really functioned as a tribe, but rather as a group of autonomous villages and clans controlled by the religious leaders known as "Kikmongwi." In drafting the original constitution, LaFarge had hoped to unite the various factions for political strength, leaving the local Kikmongwi free to exercise only his religious functions. The hope was to leave as much of the traditional culture intact as possible, yet create a new political system to deal with modern political realities. The first time it was tried, the traditional power structure finally won out.

When Dad came on the Hopi scene, it was evident that only a centralized Hopi government could deal with the Federal Government and the encroaching Navajos. Dad found it necessary to be not only a strong advocate but an astute politician meeting with various village leaders in extremely heated discussions regarding the relative merits of a centralized Tribal Council as well as the issues involved with the land claims themselves.

Dad visited every Hopi village, meeting with traditional leaders. Mistranslations, jealousy and distrust were rampant because of previous bad faith promises of the United States. Dad patiently persuaded the traditional leaders to send representatives to the council and give it a try. Some elders, sensing his sincerity and leadership skills, went so far as to prophesy that Dad was the "One from the North" that would save their lands as had been foretold by their fathers. He had won their confidence, and a clear majority agreed to hire Dad. Others stood by and waited to see what would happen, not wanting to give up local authority in favor of a united Hopi front.

John had been in the Hopi-Navajo area many times before the meetings that began in 1950 resulted in an appearance with a Hopi delegation, July 12, 1951, before District Judge A.H. Ellett in Salt Lake City, to sign the contract with their first attorney, John S. Boyden. High on the agenda for the new attorney were matters relating to Hopi land claims. An aboriginal land use claim was submitted that year before the deadline for filing claims with the Indian Claims Commission had expired in August.

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The Hopi also continued to express their concern about Navajo land use and occupation of territory within the 1882 Executive Order Reservation. Events within the Bureau of Indian Affairs during the 1931 to 1943 period had tended to reinforce the implied settlement of Navajos in the Hopi 1881 Reservation with the approval of the Secretary of the Interior, first evidenced by Commissioner Rhoads' letter of February 7, 1931, endorsing Hagerman's 1930 recommendation that the reservation be divided.

Actions taken by BIA officials, resulting in the administration of the 1882 reservation for both Hopis and Navajos, conveyed an inference that, with the establishment of Land Management District 6, in 1936, Navajos were settled in the reservation with the right of use and occupancy. However, the Solicitor's Opinion of 1941 gave evidence that Navajo rights were not exclusive and could not be made exclusive without Hopi consent.

With the final establishment of a boundary for Hopi District 6 in 1943, the BIA had effected an administrative separation of the two tribes within the 1882 reservation. In 1946 a Solicitor's Opinion held that Navajos who settled on the 1882 reservation prior to October 24, 1936, had co-extensive rights with Hopis in respect to the mineral estate.

By the Navajo-Hopi Rehabilitation Act of April 19, 1950, Congress authorized appropriations of $88.5 million "to conserve and develop natural resources, provide employment opportunities, develop business enterprises, relocate Indians, improve educational programs," and other measures designed to improve the standard of living for members of both tribes, on both reservations, but in 1954 the Commissioner reported that the resource base for both Hopis and Navajos was inadequate.

In "Hopi Hearings, July 15-30, 1955," p. 370, Lawrence Lomavaya from First Mesa mentioned the problem of disunity among some of the Hopi factions associated with their representation by a single attorney:

> Five years ago the Hopi Tribal Council hired us an Attorney at Law...Mr. John S. Boyden, Salt Lake City, Utah. He began his work and has been hard at it ever since to get all the facts from all the traditional chiefs whichever pertains to our land claims. Some of the villages of course refused to work with our attorney, protesting the attorney was hired without their consent or knowledge. But they will get their share when he gets it done. They have got their shares many times already, so they might as well get in line.

By 1956, the Navajos wanted to lease the minerals underlying the Hopi Reservation. The Navajos claimed that their occupancy of some of the surface of the Hopi Reservation entitled them to the subsurface as well.

In 1956, energy companies had developed considerable interest in the oil, gas and minerals underlying the Hopi Reservation and had approached both the Hopi and Navajo tribes about obtaining exploration permits. Steve recalls:

> Dad sensed that this was the opportunity the Hopis were looking for to bring their land claims into the courts. The Navajo Tribe was anxious to lease the subsurface of the Hopi reservation, claiming interest in it by virtue of their surface occupancy. The Hopis stoutly maintained that the Navajos had no interest in the Hopi reservation and were not entitled to share in any of the minerals or oil and gas. Dad was successful in obtaining the assistance of the Bureau of Indian Affairs whose trust responsibility it was to oversee any tribal leasing. The BIA took the position that the Navajos could not unilaterally lease mineral interests in the Hopi reservation to third parties. Furthermore, the BIA acknowledged that the respective interests of the two tribes had never been determined.
>
> The Navajos were very unhappy with the Hopis and the BIA, but Dad proposed a very attractive solution. He suggested that both the Hopi and Navajo tribes go to Washington, D.C. and obtain authority from Congress to institute a quiet-title action in the federal courts to finally determine the respective interests of the two tribes. The United States as trustee stood in the way of a judicial solution, unless Congress waived the immunity and authorized the lawsuit.

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The Navajos, motivated by anticipated revenues from the mineral estate, saw the opportunity to go to court with the smaller, under-financed Hopi Tribe. Undoubtedly, the Navajos assumed they could take advantage of the apparent mismatch, so their lawyers readily accepted Dad's proposal and joined with the Hopis in petitioning Congress for authority to commence the lawsuit. In retrospect, this was probably the single most significant event in the relationship between the Hopis and the Navajos as it opened the door to the Hopis to obtain relief through the courts — a door which previously had been closed.

By the Act of July 22, 1958, Hopis and Navajos were enabled to seek a court determination of their rights. In a hearing in preparation of this legislation, June 3, 1958, Congressman Stewart L. Udall of Arizona stated:

> If the Hopi Tribe or any other tribe in my state came to me and asked me to select them an attorney who would be conscientious, who would look out for their interest, who would be willing to give of his own resources in order to help them, I do not know of anyone in my state that I would select before John Boyden who is sitting here.

The sustained intellectual, emotional and physical investment in *Healing vs. Jones* made by John and his partners, Allen H. Tibbals and Bryant H. Croft, was incredible. A short excerpt from a poem John wrote at Jane's request for Al's sixtieth birthday summarized the strong bonds developed through years of working together:

> True friends mean more than profession,
> There is a warmer touch.
> As we join in life's procession,
> Little things amount to much.
>
> Time will ne'er erase
> Our ties and bonds with you.
> With a smile upon each face,
> There's love to see us through.

The following is an account written by Allen H. Tibbals of the preparation and trial of this case.

HEALING vs. JONES

The case was the culmination of over a century of constant conflict between the Hopi and the Navajo Indian Tribes over rights in the Hopi Indian Reservation, and perhaps also the culmination of a lifetime of devotion to the cause of the Indians by John S. Boyden. Had it not been for him this case which has been characterized as "the greatest title problem of the West," would never have been tried.

How John came to have such a commitment to the Indians probably can never be established, but when asked he would sometimes say he believed it was an inherited interest and would then tell the following story involving his grandfather John Boyden, quoted from Tullidge's Histories of Utah:

> "In the summer of 1867, some forty Indian Warriors made a descent from the foot-hills upon the town of Coalville. There had been no intimation of their presence in the vicinity, consequently it was a complete surprise. But three men, Bishop Cluff, John Boyden and another neighbor, were in the settlement. The women and children were much frightened and the men comprehended that it was a critical moment. Bishop Cluff came from his house out to the street to talk, when an Indian pulled his hat off, raised it on a pole in the middle of the street and a war-dance was had around it. A few valuable articles that were lying around were stolen, but by taking matters coolly the Indians were finally bought off with eight sacks of flour and several beeves."

Whatever the reason, in about 1938 John came in contact with some of the leaders of the Hopi Tribe of Indians, a peace loving, agrarian, pueblo living tribe of Indians making their homes on the Mesa tops in Northern Arizona. From these leaders John learned of the plight of the Hopi. This tribe has one of the earliest authenticated

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histories of any of the Tribes extant on this continent and were among the earliest occupants of the cliff dwellings in the Western United States.

Being peace loving by nature they and their lands were imposed upon by the more aggressive tribes such as the Apaches and the Navajo and for their safety, and in fact their very existence, were forced to withdraw to the mesa tops where their villages were only accessible after a most arduous climb up the face of the escarpments on trails so narrow and hazardous that only the brave dared venture upon them.

The research conducted by John and his associates in preparation for the case disclosed that for many years the Hopi had been trying to obtain recognition of their needs by the Government of the United States — the Great White Father in Washington, D.C. Being substantially outnumbered by the Navajo Tribe little heed was paid to their entreaties, but finally at the urging of the then Indian Agent assigned to the area and other advisers, President Chester A. Arthur set apart an Indian Reservation for the Hopi Indians. The Executive Order creating the Reservation reads as follows:

> It is hereby ordered that the tract of country, in the Territory of Arizona lying and being within the following-described boundaries, viz: beginning on the one hundred and tenth degree of longitude west from Greenwich, at a point 36 degrees 30 minutes north thence due west to the one hundred and eleventh degree of longitude west, thence due south to a point of longitude 35 degrees 30 minutes north, then due east to the one hundred and tenth degree of longitude west, thence due north to the place of beginning, be, and the same is hereby, withdrawn from settlement and sale, and set apart for the use and occupancy of the Moqui and such other Indians as the Secretary of the Interior may see fit to settle thereon.
>
> CHESTER A. ARTHUR

"Moqui" is an alternative name by which the Hopi were known and much used in early history and writings concerning these people.

The reservation thus created contained approximately two million four hundred thousand acres of land. Having created such a large reservation it would appear that the troubles of the Hopi would be resolved, but the Government did nothing to aid the Hopi in actually implementing the delivery of these lands to the Hopi or protecting them for the Hopi use. The Navajo continued their aggression and the Hopi were as badly oppressed as at any time before.

The Hopi Traditionalists claimed all of the lands of the southwest as their own from the San Francisco Mountains on the West to Canyon de Chelly on the East and refused to recognize the rights of any other in this area. They could not accept a view which tolerated the "taking of their lands by any other power" hence could not recognize any right in the United States Government in these lands, or indeed any right in the Government to control said lands. This position greatly complicated the effort to obtain aid for the Hopi.

John began a serious study of the problem relating to the Hopi rights in the reservation which had been set aside for them, believing at first that by a proper exposition of their cause to the Bureau of Indian Affairs of the Department of Interior, surely some administrative relief could be obtained. All efforts proved non-availing. The Navajo, some one hundred thousand strong as opposed to the Hopi numbering about four thousand souls, were more influential in government circles. The Hopi were totally without funds to employ counsel to espouse their cause. Ultimately in 1951 the Secretary of the organized Hopi Tribal council requested John to attend the Council meeting to be held for the purpose of negotiating a contract for representation of the Hopi in asserting a claim to Hopi traditional lands, apart from the reservation. As an ultimate result of these negotiations a contract was also negotiated with the tribe whereby John undertook the general representation of the Tribe. After much research for historical data and detail to support the Hopi claim, John in 1952 made a direct petition on behalf of the Hopi to Oscar Chapman, Secretary of Interior. The ultimate result of this effort was the recognition that no opinion of the solicitor of the department of the Interior could satisfy the demands of the two opposing Tribes, and that undoubtedly some form of court determination would be required.

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There was no basis available on which the matter could be presented to an existing tribunal. John, therefore, conceived that it would be necessary to have Congress pass special enabling legislation creating a special tribunal to hear and determine the dispute.

This legislation was accomplished under John's leadership and the Act of July 22, 1958, Public Law 85-547 was enacted by Congress. The Act authorized the chairmen of the tribal councils of the respective tribes, and the Attorney General on behalf of the United States, to commence or defend an action against each other and any other tribe of Indians claiming any interest in the 1882 Reservation. The purpose of such an action as defined by the act would be to determine the rights and interests of these parties in and to the lands and to quiet title thereto in the tribes or Indians "establishing such claims pursuant to such Executive order as may be just and fair in law and equity."

Having anticipated this day John had personally and with the aid of associates Bryant H. Croft and Allen H. Tibbals and some other personnel researched the history of the Hopi land use diligently in all available sources, such as the Library of Congress, federal document depositories, federal and state archives, libraries, such as the Huntington Library, even college libraries, amassing a tremendous quantity of documentation which established the Hopi claim to the land and which dealt with the troublesome problem created by the language of the Executive Order creating the 1882 Reservation, "and such other Indians as the Secretary of the Interior may see fit to settle thereon."

The Navajo claimed to have been settled by the secretary. Tremendous effort was to be expended by John and associates in exhausting all sources of available material to prove the truth or lack of truth of that contention. This material had been analyzed and organized in anticipation of the need and when the President of the United States signed into law the 1958 act of Congress creating the tribunal, John immediately was prepared and filed the complaint which became the initial pleading and set out the claim of the Hopi in the case officially entitled, DEWEY HEALING, CHAIRMAN OF THE HOPI TRIBAL COUNCIL OF THE HOPI INDIAN TRIBE, FOR AND ON BEHALF OF THE HOPI INDIAN TRIBE, INCLUDING ALL VILLAGES

AND CLANS THEREOF, AND ON BEHALF OF ANY AND ALL HOPI INDIANS CLAIMING ANY INTEREST IN THE LANDS DESCRIBED IN THE EXECUTIVE ORDER DATED DECEMBER 16, 1882, *PLAINTIFF*, VS. PAUL JONES, CHAIRMAN OF THE NAVAJO TRIBAL COUNCIL OF THE NAVAJO INDIAN TRIBE FOR AND ON BEHALF OF THE NAVAJO INDIAN TRIBE, INCLUDING ALL VILLAGES AND CLANS THEREOF, AND ON BEHALF OF ANY AND ALL NAVAJO INDIANS CLAIMING ANY INTEREST IN THE LANDS DESCRIBED IN THE EXECUTIVE ORDER DATED DECEMBER 16, 1882; ROBERT F. KENNEDY, ATTORNEY GENERAL OF THE UNITED STATES, ON BEHALF OF THE UNITED STATES, *DEFENDANTS*. As permitted by the enabling act the case was docketed in the United States District Court for the District of Arizona as No. Civil 579 at Prescott, Arizona.

John's genius at organization and presentation manifested itself, and while the Navajo opposition was staffed with several attorneys, numerous clerks, secretaries and research specialists of all kinds, the Hopi were represented by John, his two associates, his office Secretary and John's beloved wife Orpha who came to the office night after night and took hundreds of pages of dictation from John and his associate counsel, typed, copied documents, and in general performed miracles in putting together in usable form the mass of information which the research had accumulated. John conceived the idea that instead of setting forth pages and pages of documents in which perhaps only two paragraphs related to the subject matter of interest in the trial that an abbreviated manual could be made with reference to the full document in a compilation thereof, but limiting the immediate presentation to the pertinent language.

Innumerable trips to the Hopi reservation were made by John and by his associate counsel where interviews were conducted with many older Hopi Indians who gave their histories and those of their friends and ancestors in the area. All of this material was similarly organized and indexed in accordance with a plan devised by John so that court presentation would be speedily and effectively made.

Ultimately a special three judge Federal court consisting of the Honorable Frederick G. Hamley, Circuit Judge of the Ninth Judicial

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Circuit acting as chief Judge, the Honorable Leon R. Yankwich, United States District Court Judge from Los Angeles California and the Honorable James A. Walsh, District Judge from The United States District Court of Arizona, convened at Prescott, Arizona September 26th, 1960, in the United States District Court in the Federal Building in that City. The trial continued for four weeks. The Navajo counsel and aids occupied an entire floor of the largest hotel in Prescott, the Hassyampa Hotel. Since the Hopi had no funds and Mr. Boyden was financing the Hopi presentation, John, Bryant Croft and Allen Tibbals, and his wife Jane (she had been asked to come to keep house and cook for the team representing the Hopi) were housed at the Apache Motel in one two-room suite which had a very small kitchen and one other double room. The suite was occupied by the Tibbals, and John and Bryant occupied the double room. The opening day of the trial the Navajo entourage showed up at the Courthouse with an entire moving crew, several assistants and two principal attorneys, Norman Littell of Washington, D.C., chief counsel for the Navajo, and assistant Joseph McPherson. The subordinates wheeled in several file cabinets which were lined up at the back of the court room. Mr. Littell in his opening statement pointed out the "overwhelming" nature of the evidence which the Navajo had to present, pointing to the file cabinets. The Hopi had carried in a few cardboard boxes containing exhibits and the carefully worked out condensations of exhibits which Mr. Boyden had planned. The condensations and the boxes of evidence prepared by counsel for the Hopi were much used in the course of the trial. The multitudinous file cabinets of the Navajo remained essentially untouched throughout the four week trial.

The daily routine of counsel for the Hopi became established: up at 6:00 a.m. or earlier, breakfast at the Tibbals quarters at 7:00; discuss the evidence and examine any documents typed or prepared the night before, (Allen Tibbals was the typist and had brought along his L. C. Smith Corona Sterling Portable on which all the documents prepared in Arizona for the trial, and there were several, were typed); be at Court by 9:30 a.m.; adjourn for lunch at noon; return to the motel for lunch which had been prepared by Jane Tibbals; be back in Court by 1:30 p.m.; continue with the trial all afternoon, adjourning

generally at 5:00 or 5:30 p.m. at the pleasure of the court. The first week the weather was warm and there was a swimming pool of sorts at the Apache Motel and John, Bryant and Allen would have a swim, followed by dinner prepared by Mrs. Tibbals, and then back to preparation for the next day's Court session until preparation was considered adequate, whatever the hour of the night.

In court, John carried the burden of the active representation and examination of witnesses, addressing the Court. Bryant Croft assisted, readied exhibits, made suggestions to John and served as liaison between Allen Tibbals who kept notes of the proceedings and checked to make sure no omissions occurred in presentation of plaintiff's case.

The court sessions varied from tedium, as the Navajos relentessly testified through interpreters, refusing to speak English even though able to do so, reciting the presence of themselves, their parents, their grandparents and great grandparents as permanent residents on the Hopi reservation in the attempt to make it appear that they had either been settled thereon by the Secretary of Interior or by having lived there acquired some right through merely being there, to high drama as testimony of the Navajo depredations against the Hopi came in. Much of the Navajo testimony was discredited in either cross-examination by Mr. Boyden, or by presentation of Hopi witness who were able to testify in English, without an interpreter and who were able in many instances to establish factually that the Navajo had been nomadic, did not remain on the reservation in one locale, and, if anything, were trespassers and interlopers on areas long before settled by the Hopi.

The detail of the trial, while fascinating to a lawyer or perhaps to an historian, need not be recited in this context. Suffice it to say that after four solid weeks of trial the Court adjourned after having directed counsel for both sides to prepare proposed Findings of Fact and Conclusions of Law and Judgment espousing their view of the evidence presented to the Court.

Work on this monumental task was interrupted by the necessity for John and Allen to return to the South Rim of Grand Canyon for a period of ten days to appear before the Indian Claims Commission in presentation of evidence of the Hopi aboriginal claim to lands usurped

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by the United States, and for which, if the evidence substantiated the Hopi claim, the Indians were entitled under the Claims Act to compensation for the wrongful deprivation of their lands.

The deadline for submission of the Findings, Conclusions and Judgment was met and then came the long wait for a judgment of the Court. The decision, written by Judge Hamley and unanimously adopted by the other judges, came down September 28, 1962. The Court said:

> The applicable facts and law of this case do not permit of a declaration that one tribe or the other has the exclusive interest in all of the 1882 Reservation; or that all of the 1882 reservation is divisible into areas of exclusive interest for one tribe or the other. The only part of the reservation which may be, and herein is, so classified is the District 6 area, as defined by on April 24, 1943, the Hopi Indian Tribe having the exclusive interest therein. As to the remainder of the reservation, the Hopi and Navajo Indian Tribes have joint, undivided, and equal interests as to the surface and sub-surface including all resources appertaining thereto, subject to the trust title of the United States.
>
> *Healing v. Jones*, 210 F. Supp. 125, 191-92 (1962).

In September, 1962, a release was prepared for the newspaper outlining the way Healing vs. Jones had proceeded until that time:

> Today, three Utah attorneys saw years of effort culminate in success in a decision handed down in the United States District Court in the State of Arizona.
>
> A special three judge Federal Court, created by an act of Congress, July 22, 1958, filed a unanimous decision settling many of the problems involved in eighty years of controversy between the Hopi and Navajo Indian Tribes. The effect of the decision was to reverse a 1946 ruling by the Department of Interior solicitor with respect to Navajo interest in the equivalent of approximately one million additional acres.
>
> The Court, consisting of Judge Frederick G. Hamley of the United States Court of Appeals of the Ninth Circuit, Federal District Judge James A. Walsh of Tucson, Arizona, and Federal District Judge Leon R. Yankwich of Los Angeles, California, noted in its opinion that the conflicting claims of the two Indian tribes to the Hopi Reservation in Arizona, presented what has been characterized as "the greatest title problem of the West."
>
> Today's decision brings to a close the trial of the lawsuit commenced four years ago in the Federal Court in Arizona on behalf of the Hopi Indians by Salt Lake City Attorneys John S. Boyden, Allen H. Tibbals and Bryant H. Croft, members of the law firm of Boyden, Tibbals, Staten & Croft. The case involved the ownership of a 2,500,000 acre Indian Reservation in Northeastern Arizona. This reservation, created in 1882 by Executive Order of President Chester A. Arthur, was set aside "for the use and occupancy of the Moqui (Hopi), and such other Indians as the Secretary of the Interior may see fit to settle thereon." The 16,000,000 acre, oil-rich, Navajo Reservation now completely surrounds the Hopi Reservation.
>
> At stake in the case was the right to what is believed to be some of Arizona's richest, Atom-Age treasures of oil, gas, coal and other minerals. Development of these potentials has been blocked for years by conflict between the Hopi and Navajo Tribes over the ownership of these lands. At the outset of the case it was described as being possibly "one of the nation's most important Federal Court actions, in many decades."
>
> The Navajos, represented by attorneys Norman M. Littell and Joseph McPherson of Washington, D.C., have claimed title to all but 448,000 acres of the Reservation. The Hopi Indians have claimed that the Navajo Indians, having a reservation of their own, had no rights in the lands in question. Administrative efforts to resolve the conflicting claims have, for seventy-five years, met with frustrating failures. Finally, through the efforts of counsel for the respective tribes, Congress in July, 1958, passed a law creating a special three-judge Federal Court and authorized the filing of a lawsuit to determine the ownership of these lands.
>
> The actual trial of the case at Prescott, Arizona, lasted four

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weeks. During the trial 52 witnesses were called, many of whom spoke through Indian interpreters. The litigants together introduced 1,020 written or documentary exhibits. Hopi occupation of the area in question was traced back to the sixth century, A.D. and the court in its opinion noted that no Indians in this country have a longer authenticated history than the Hopis.

The court Friday filed a 228 page decision containing the Court's opinion, a chronological account of the Hopi-Navajo controversy, Findings of Fact and Conclusions of Law, and the Judgment. The court, by its decision, awarded about one-fourth of the reservation to the Hopi Tribe as their sole and exclusive property, quieting title in such portions of the reservation, now principally occupied by the Navajos, and from which the Hopi have for years been excluded by administrative action of the Government. The Court declared that the virtual exclusion of the Hopi from the use and occupancy of this part of the reservation by administrative action of the government from 1937 to 1958, "has at all times been illegal."

Mr. Boyden, General Counsel for the Hopi Tribe, stated:

It is indeed gratifying to know that at long last the petitions of an earnest and law-abiding tribe have received such deserved attention. The Hopi Indians have been neglected by both the Congress of the United States and the administrative officials of the government for nearly seventy-five years. Notwithstanding such neglect, the Hopis maintained a peaceful and cooperative attitude toward the government. Their efforts over the years, culminating in the trial of this case, reaffirm faith in the ultimate triumph of fairness and confidence in just treatment at the hands of the judiciary.

Appeal lay from this Court's determination directly to the Supreme Court of the United States. The Navajo immediately appealed the decision to the Supreme Court. Since the Appeal was instigated the Hopi filed a cross appeal of that portion of the decision

declaring the Navajo had a joint interest in part of the 1882 reservation. Jurisdictional statements were prepared directed to the Supreme Court and the Hopi through John directed a Motion to the Supreme Court seeking affirmance of the portion of the Judgment awarding to the Hopi District 6 (an established grazing district of which the boundaries had been established and recognized by stipulation of the parties). On June 3, 1963 the Supreme Court granted the Hopi Motion to affirm and affirmed the judgment of the lower court as to both appeals without further proceedings, briefing or argument before that court. This brought to a sudden close the litigation.

The Hopi, who throughout had been without funds, were now in a position to exploit some of the rich mineral deposits believed to underlie part of District 6, of which the Hopi now were declared the sole owners. Ultimately John assisted the Hopi in perfecting the sale of oil and gas leases in District 6 which netted to the Tribe $3,119,000.00. Out of these funds, after proof and justification had been made to the Tribe and to the Secretary of the Interior Mr. Boyden was awarded for his efforts covering more than sixteen years, and on behalf of the other counsel who had from time to time worked with him, a fee of $1,000,000.00.

It would be a happy conclusion of this episode of John's life if it could be reported that the Hopi troubles were solved as a result of the cast of *Healing v. Jones*, but such was not the case. The Navajo refused to vacate the land declared exclusively Hopi, and as had been characteristic of the Government since earliest times, the Government refused to, or perhaps more accurately simply did not enforce the decree of the court awarding District 6 exclusively to the Hopi. John continued the battle to achieve a just result for his client to the day of his death. He was joined in his action by his son, Steve and other associate counsel in the newly formed firm of Boyden and Kennedy. But as of this report twenty or more years after the termination of the case of *Healing v. Jones*, a total resolution of the problem between the Navajo and Hopi has not been accomplished.

The situation was clearly improved, but not resolved. The two tribes and the Bureau were left with the administrative problems arising from the joint ownership of an area occupied mainly by Navajo

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Indians. In spite of the Court's decision, the Hopi's were not allowed to exercise equal rights in the joint-use area by the stubborn Navajo Tribe and a reluctant Bureau of Indian Affairs.
Steve recalls:

When the Hopi frustration level reached the breaking point, Dad suggested the Hopi go back to court and ask for help in implementing the judgment. Unfortunately, Judge Walsh, the trial judge, was of the opinion that the federal district court had no jurisdiction to enforce the decision in *Healing v. Jones.* Dad urged the trial court to issue a special Writ of Assistance in the case which would compel compliance with the initial decision, but was forced to appeal to the Ninth Circuit to reverse Judge Walsh. Afterwards, Judge Walsh issued many orders regarding livestock reduction and construction of new homes, even to the extent of finding the Navajo tribe and its Chairman Peter MacDonald in contempt for failure to comply.

The dogged defiance of the Navajo tribe of the court's orders made bitter litigation the order of the day, with daily acts of violence or trespass being recorded by the Hopi tribe or B.I.A. Navajos cut fences, trespassed openly on Hopi exclusive lands, drove livestock onto Hopi lands, and even shot holes in Hopi water tanks while they fought with police officers trying to enforce the court orders. Militant groups from off the reservation often visited to rabble-rouse the local residents whose plight became the focus of national attention. The joint, peaceful undesirable solution of partition became the only real alternative even though it meant the forceable relocation of many Navajo people.

Once again Congress became the forum for the now-famous Navajo-Hopi land controversy. Dad and I spent the better part of six years working with Congress until legislation was passed which authorized the partition of joint lands between the Hopis and the Navajos with provision for judicial review. Some of Dad's greatest moments came in several hearings before the Senate and House of Representatives wherein he used all of his

skills as an advocate and orator for the Hopi cause. His obvious sincerity and great vigor spellbound the committee members and brought tears to the eyes of even casual observers. Several Senators and Congressmen as well as old staffers often commented to me that they had never heard such moving words or witnessed such effective advocacy.

The following poem was read by John to the United States Senate Interior Committee and was later published in the report of the hearings:

Justice is no eagle that commands the mesa heights —
It is an egg; fertile, fragile possibility of rights.
Hold it warm within your Council,
Beneath Congressional wing;
Expediency has no ardor
From which righteousness may spring.
Come the day of purification
It may live, self nurtured, free.
But here neighbors covet lands —
Where is the equity?
In this world the many have force to crush the few;
Only thoughtfulness and courage can prompt
What's right to do.
'Way out on the desert,
Where the sands the winds do blow —
O careful, Mr. Congressman,
Justice is in embryo.

(With thanks to Carol Lynn Pearson from whose thought this adaptation sprang)

On December 22, 1974, Congress enacted legislation:

To provide for final settlement of the conflicting rights and interests of the Hopi and Navajo Tribes to and in lands lying

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within the joint use area of the reservation established by the Executive Order of December 16, 1882, and lands lying within the reservation created by the Act of June 14, 1934, and for other purposes.

The administrative problem of removing the Navajo Indians from land partitioned to the Hopi Indians remained, and further court action would be required to determine what belonged to the Hopis within the area enclosed by the 1934 Act designating the boundary for the Navajo Reservation in Arizona.

The Hopi missed John's leadership and devotion to their cause as was eloquently testified to by the former Chairman of the Hopi Tribal Council, Mr. Abbott Sekaquaptewa in his remarks at John's funeral.

On June 11, 1980, the Hopi Tribal council unanimously adopted the following resolution:

WHEREAS, John S. Boyden, Sr., has in this year of 1980 passed his fortieth year of faithful and dedicated service to the Hopi Tribe and the Hopi people as Claims and General Counsel; and

WHEREAS, for nearly half of this period of time, Mr. Boyden unselfishly and willingly expended his time and energy on behalf of the Tribe without compensation and in a manner far beyond the call of duty; and

WHEREAS, as a result of Mr. Boyden's labors, the Hopi Tribe has regained nearly one million acres of its ancestral lands and is on the threshold of recovering significant additional areas of traditional lands which constitute a large portion of the Hopi Tribal Inheritance; and

WHEREAS, Mr. Boyden has been able to accomplish this great work under the most adverse conditions, yet in faithful compliance with the traditions of the Tribal elders among whom now he has earned a special place,

NOW THEREFORE BE IT RESOLVED by the Hopi Tribal Council, that the Hopi Tribe hereby expresses its most grateful

appreciation to John S. Boyden, Sr., for his faithful and dedicated service to the Hopi people for nearly a half century, and for his unswerving friendship with the members of the Hopi Tribe.

BE IT FURTHER RESOLVED, that in recognition of his unrelenting service to the Hopi people in defending and protecting the ancestral lands and traditions of the Hopi people, John S. Boyden, Sr., is hereby accorded the special distinction of Honorary Hopi Tribal Elder and Honorary Member of the Hopi Tribal Council.

Abbott Sekaquaptewa, Chairman
Hopi Tribal Council

Kedrick L. Outah, Secretary
Hopi Tribal Council

Aboriginal Land Claim

In the case before the Indian Claims Commission, the Hopi were awarded much of the territory they claimed. The Commission failed to award them the eastern portion to the Meriwether line, and exceptions were taken to some other Hopi petitions.

Work on Hopi claims against the United States was running simultaneously with *Healing vs. Jones,* and hearings on the Hopi-Navajo overlap area were postponed to avoid conflicts with John's schedule while *Healing vs. Jones* was in process.

Some of John's statements in his "Objections to Navajo and U.S. Proposed Findings and Briefs" are representative of his clear thinking, and of his methods in pursuit of Hopi claims:

The 44 pages of proposed finding 4 are simply "dumped" upon the Commission in much the same fashion as Navajo evidence was submitted during the trial, with reckless abandonment of the objectives of relevancy and probative value but with the obvious hope that the Commission might be impressed

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with the sheer bulk of the paper... The conglomeration is badly in need of legal attention.

A finding of fact is a written statement of the ultimate facts. A proper requested finding is not a recitation of favorite bits of evidence nor is it a vehicle to impress the Commission through psychological repetition, even as a radio tobacco commercial or TV spot announcement.

In his reply to the brief of Defendant U.S.:

Counsel for defendant cannot be expected to concede the Hopi claim but he must have certainly spoken with tongue in cheek when he suggested that the weight of the evidence limited exclusive Hopi occupancy to an area smaller than his own witnesses had conceded to the Hopi. The insignificant variation between lines delimiting exclusive Hopi use and occupancy drawn by Petitioner Hopi witness Dr. Eggan and by witnesses for the defendant, Dr. Reeve, Dr. Ellis and Mr. Schroeder, was remarkable, but it is not astounding that competent witnesses using a fair and impartial approach and equipped with the same evidence should arrive at a remarkably close decision...

Agreement of government expert witnesses with those of the petitioner can result only when both sides are voluntarily controlled by reason. Government counsel may abandon his witnesses and petitioner's counsel, being dissatisfied with the result, may grasp for more, but the facts so developed remain firmly rooted.

The compromise settlement was presented December 2, 1976, and a final award of $5 million was made "for settlement of claims for compensation for land, rent and for a general accounting."

The Hopi Chapel

Since the L.D.S. Church had an active missionary program among the Indians of the Southwest during the 1950s and 1960s, periodically missionaries would come to John with problems or to discuss possibilities for programs that might be useful on a particular

reservation. Various Christian churches had established missions for the Hopi people on the reservation, and some in their zeal had failed to follow established rules before building. John describes how this affected the efforts of the L.D.S. Church to build a chapel:

When the Assembly of God Church constructed a minimal cinderblock meetinghouse on the Hopi Reservation, the Hopi Tribal Council was incensed because proper procedures had not been followed to get the approval of the council. As Tribal Attorney I was asked what steps they should take with the illegal structure. I advised them that since freedom of religion and the right of assembly are protected by the Constitution of the United States and the Hopi Tribal Constitution, it would be unwise for me to take any action since there was minimal intrusion on property rights and Hopi individuals had actually given permission for use of the building site and had helped in the actual construction. I felt the council should just ignore the situation as it appeared to be a matter of local village concern. Interestingly, Dewey Healing, a former Tribal chairman who had been a party to the construction, lost the next election as a councilman because of his involvement in the situation.

Missionaries of the L.D.S Church approached me after my advice had become known and asked why under the circumstances they could not go ahead and commence construction of the new chapel they contemplated building without applying formally to the Tribal Council. I replied, "Because you are members of the church to which I belong, and we do things right."

It took several more years before the procedures prescribed by the Tribe could be accomplished in a manner satisfactory to the councilmen. The final hearing on the matter was held in the new Tribal Council chambers in Oraibi, Arizona. Mission President Dale T. Tingey was there on the occasion. There still existed in some members of the tribe, who chose to call themselves "Traditionalists," a strong resentment for any Christian religion to manifest itself on the reservation. The debate was not

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confined to Tribal councilmen. Feelings ran high. I endeavored to keep the matter on a strictly legal and equitable basis, making a plea for a right of religious assembly for then over 450 members of the Church of Jesus Christ of Latter-day Saints on the reservation. The final approval for a site for a meeting house, east of First Mesa on the road to Keams Canyon, was granted on that occasion.

The opposition was tenacious. They secured the assistance of one of the attorneys from the Native American Rights Fund to exhaust their appeal rights. However, he lost at the Area level and at the Secretarial level. In due time the structure was completed and dedicated.

Subsequently, John received several letters regarding this matter which meant a great deal to him. On February 2, 1971, Dale T. Tingey, Mission President of the L.D.S Southwest Indian Mission, wrote:

I just wanted to write and express sincere gratitude for the tremendous effort you put forth in helping us get the site. We know that without your influence and help, along with the help of the Lord, it would have been impossible.

We hope you didn't suffer too many scars. We will await further direction from you. We wish you every choice blessing.

On February 9, Spencer W. Kimball, Acting President of the Council of the Twelve, wrote:

Please accept our sincere thanks for the assistance you gave the Southwest Indian Mission in looking toward approval for a site for a meeting house. We know of your constant efforts and appreciate your devoted service.

LeGrand Richards, a member of the Council of the Twelve, wrote on February 17:

Upon my return from Australia, I find a letter from Dale Tingey, president of the Southwest Indian Mission, and this is one of the missions I am helping to supervise, expressing appreciation for the great assistance rendered with the tribal council of the Hopi Reservation in obtaining a site upon which to build a branch chapel.

President Tingey feels elated over the success, and gives you full credit therefor, and so I thank you also for your assistance in this important matter. May the choice blessings of our Heavenly Father attend you.

Steve said:

Dad was very sensitive about his position of trust with the tribe and could not take advantage of it even on behalf of his own church. He did not want to use his influence to help his own church at the expense of the right of the Hopi people to govern themselves as they saw fit. By requiring his church to go through all the necessary steps established by the Tribal Council over a period of many years, he was criticized by Hopi members of the church for slowing the progress of the church. Dad felt that the Christian virtues of honesty and integrity were more important than expediency in building chapels. In the long run, the Hopis respected Dad and his church that taught such ideals together with respect for Hopi rights of self-government.

The Power of Prayer

A statement on the "Power of Prayer" that relates to an event that included Rex Curry, a Ute tribal leader whom John worked with for many years, and his relationship, through prayer, with an accident that John experienced while on a trip to the Hopi Reservation, serves to tie together John's involvement with the two tribes.

This is Rex Curry's statement:

Do you believe in the promptings of the Spirit? Do you believe that God hears and answers prayers? If you doubt, then

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let me tell you of an experience I had recently that has wiped away all doubts from my mind.

While in Salt Lake City on business for the Ute Indian Tribe, my employer, I learned that Mr. John S. Boyden, Attorney for the Ute Indian Tribe, was in Arizona on business. I was not in immediate need of legal advice, but felt that had Mr. Boyden been in his office, I could have used his advice to advantage in the tribe's business and was somewhat disappointed that I had not seen him.

I was returning home to Roosevelt and was nearly to the summit of Daniels Canyon when I had a feeling of great depression and impending trouble, and the many and important and far-reaching problems of the Ute Indian Tribe came to my mind and I had a sudden realization of the magnitude of the past help the Ute Tribe had received from Mr. Boyden and the loss that it would be to the Tribe if his help was suddenly not available.

By the time I reached the Strawberry Valley my concern for his well-being was so great that I was prompted to stop my car and say a prayer on behalf of his safety. I immediately felt better, and it wasn't until several days later that I learned that Mr. Boyden had been a passenger in an automobile that had been involved in an accident in which the driver was seriously injured, and in which Mr. Boyden was only slightly bruised.

This is John's description of the accident:

During the month of March, 1967, I made a trip to the Hopi Reservation in Arizona for the purpose of meeting with the Hopi Tribal Council. Since the weather seemed favorable, I drove so Orpha could go with me. I met with the Council on March 11th. During the course of the meeting a topic was discussed which Frisco Johnson, the Governor of Kyakotsmovi Village thought I should present to his village. I accepted his invitation and agreed to attend a meeting that evening. The U.S. Government being interested in the subject matter, Clyde W. Pensoneau, Superintendent of the Hopi Agency, offered to

furnish the transportation. After dinner he called for me where Orpha and I were staying in Keams Canyon, and we started for Kyakotsmovi.

Clyde knew I was interested in livestock. For that reason, we stopped at a corral to look at two horses Clyde owned. After a few minutes we proceeded on our way. By this time it was about 7:00 p.m. necessitating the use of headlights.

As we approached a point near milepost marked 377.1 on Arizona Highway No. 264 I noticed the headlights on an automobile approaching us from the opposite direction. Just as it was about to pass us, it crossed the highway center line, striking the car in which we were driving on the left front fender and wheel. A large piece of metal from the other vehicle came through the windshield of our car, striking Clyde on the left side of his head, splitting the skull and upper jaw bone.

I was apprehensive but not frightened, holding still as the momentum of our then driverless car carried us off the left side of the road, narrowly missing a utility pole and coming to a rather sudden stop in the sand. Clyde fell into my lap. The dome light from our car enabled me to see the pulsation in his exposed brain. I carefully slipped out from under him, leaving him on the front seat. I hurried back to the road and flagged down the few passing cars, regardless of which way they were travelling. Each driver was briefly informed of the situation and appealed to for help.

By this time Clyde had removed himself from the wreck, was on his feet, moving aimlessly about and uttering incoherently. With the help of someone who had stopped, we laid him down on the ground to await the arrival of the ambulance.

Orpha later told me that she, Irene, Clyde's wife, and others, were traveling to watch an Indian dance at one of the villages but were stopped by a motor policeman and informed that there had been an accident in which we were involved. The policeman took Irene into his car. They all hurried to the scene of the accident. In the meantime an ambulance had arrived. Clyde was carried into it. Those who were then taking charge

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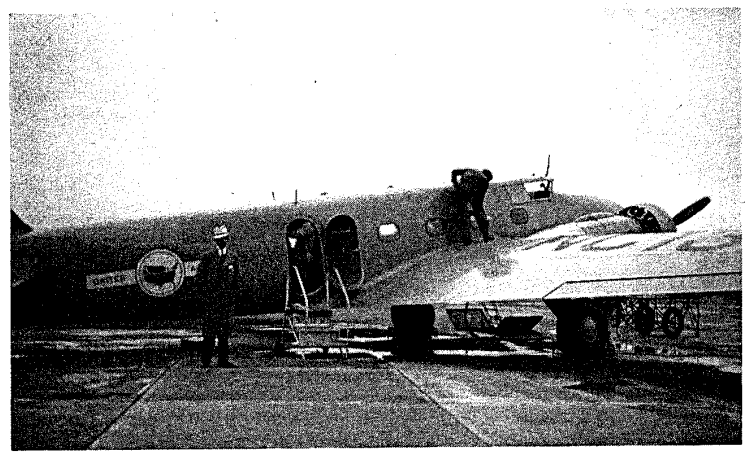
insisted that I sit in another car. Orpha arrived before we all left for the hospital at Keams Canyon. I remember her expressed fear and anxiety as she sought to learn of the extent of our injuries. She didn't know which one of us was being taken in the ambulance. Upon being informed, she came to the car where I was sitting and accompanied me to the hospital.

Due to the serious nature of Clyde's injuries, Joseph M. Lucero, administrative manager at the agency, recruited twenty vehicles to light the airstrip and Clyde was flown to the St. Joseph's Hospital in Phoenix. My injuries were only superficial.

The next day an insurance investigator came to the place where we were staying to talk with me. I told him that I had no injuries requiring any further attention. During the course of the interview he asked to see my knees. On one knee there was a little pink spot, smaller than my little fingernail. The investigator said he would not have believed it because the instrument board on the superintendent's car involved in the accident was obviously bent, leaving deep impressions where my knees had forcefully contacted it. I knew I had been blessed.

After we returned home, my good friend, Reginald O. Curry, a former chairman, and then an executive employee of the Ute Indian Tribe of the Uintah and Ouray Reservation, told me of his experience which I asked him to reduce to writing. It is reproduced above, without alteration.

The Lord has been kind to me all the days of my life. My supplications and prayers have been repeatedly granted. On several important occasions my requests have been denied but years later I came to know the denials were always definitely in my best interest. I now pray that I have been, and am continuing to, at least partially fulfilling the purposes for which I have been granted the privilege of coming to this earth.



John on his way to Washington, D.C. in the early 1940's.

Young attorney

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John speaking before the Navajo Tribal Council at Window Rock, Arizona while Orpha records the proceedings.

Ute Squaw Dance at Fort Duchesne

John with Ute delegation and Senator Arthur V. Watkins.

John with Ute delegation [front: Supt. Forest Stone; the Commissioner of Indian Affairs; O. Rex Curry; rear: John, Ab Harris, Francis McKinley, and Mr. Cuch].

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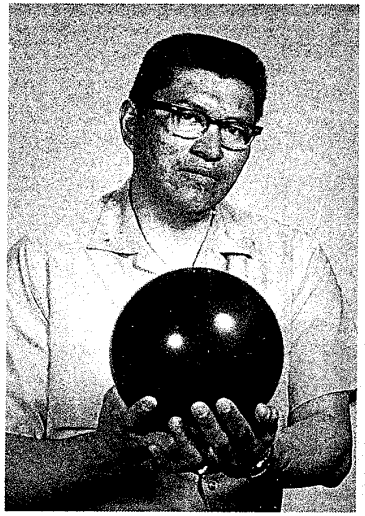
Rex O. Curry



Robert Chapoose

Frances Wyasket

Irene Cuch

John with Hopi Indians [front: John, George Cochise, Gene Fredricks; rear: Logan Koopee, Jacob Cochise, Peter Nuvamsa].

Abbott Sekaquaptewa

Logan Koopee

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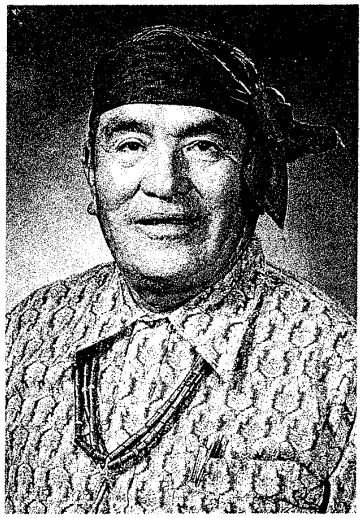
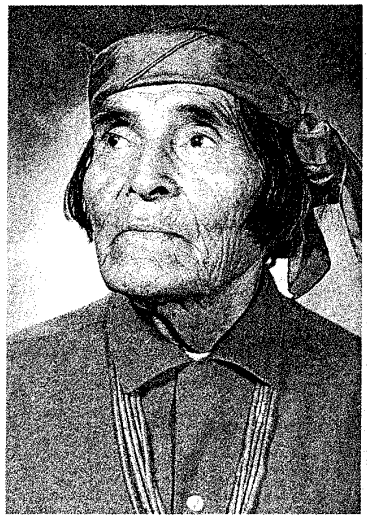
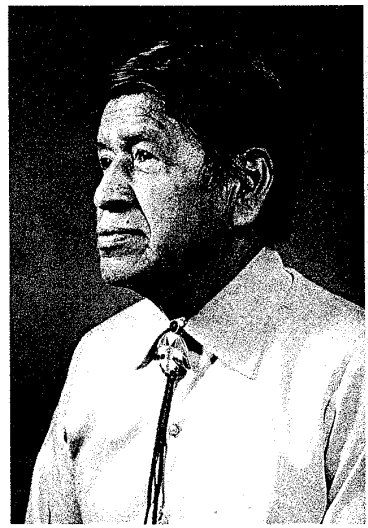


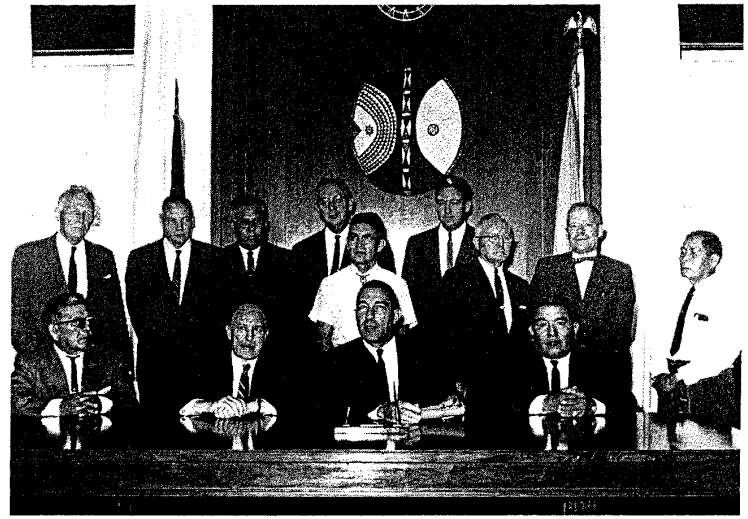
Dewey Healing



Peter Nuvamsa



Clarence Hamilton



John with Hopi delegation in Washington, D.C. (Stewart Udall, Secretary of the Interior, is seated in the center).

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Conferring of the degree of Juris Doctor carries with it no omnipotent power.

Beyond the hills of justice lies a royal purple range of mercy borne of the upheavals in man's weaknesses and imperfections, but extending peaks of wisdom and understanding. From these heights we see through compassion's eyes a clearer view with promise of a brighter day.

On this same occasion, John was awarded the prestigious "Honorary Order of the Coif."

Steve was taken into the firm to help John with his Indian cases and other matters. He had worked there as a clerk during law school. John Jr. soon finished his internship in surgery at the New York Hospital (Cornell University) and had moved to California where he worked for a law firm. He and Marge and their two children decided to return to Utah, where John began work with the law firm of Worsley, Snow and Christensen, in March 1968.

In 1970, John and Orpha decided to give their extensive collection of Indian art to Utah State University. In recognition of their valuable contributions, both in service and in the art collection, USU gave its highest recognition, the Distinguished Service Award to both Orpha and John at a banquet on November 13, 1970. The commendations read at the time the awards were presented, and the description included in a brochure prepared for the Indian Art Collection are included as an appendix.

In March, 1971, Orpha and John were honored by initiation into Utah State University's Old Main Society. The citation reads:

Mr. and Mrs. John S. Boyden have presented Utah State University with a valuable collection of Indian items and ceremonial artifacts. The extensive collection, to be housed in the Chase Fine Arts Center, includes Hopi Kachina Dolls, rare Navajo rugs, Hopi weavings, and excellent examples of Indian basketwork, among other items. Mr. Boyden, a prominent Utah attorney, is the Chairman of the Utah State Board of

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went to the barber shop for a haircut. Walking home from the barber shop, he slipped on the ice by Uintah School and broke his arm. He was admitted to the University Hospital for treatment. While he was there, his previously scheduled prostate surgery took place. This was when his cancer was first discovered. His recuperation from surgery was such that he felt it necessary to resign as an official of Ideal National. On April 12, 1977, he wrote to the Board of Directors:

> As you all know, it has been over three months since I was physically able to participate in your deliberations. It is now evident that it is in the best interests of the company and my own personal welfare that I now tender my resignation as a member and Chairman of the Board of Directors. My association with you has undoubtedly been one of the finer experiences of my life. It is with regret that I must now yield to the practicalities of the situation.
>
> I wish you every success in your continuing efforts to protect the interests of the policy holders, shareholders and employees of Ideal National.

A response came the following day from Duain J. Pearson, President of Ideal National:

> It is with sadness that I advise you that your letter of resignation dated April 12, 1977, was understandably accepted by the Board of Directors with deep personal regret. Your requested resignation was unanimously approved April 12, 1977, on motion of Dr. Ernest L. Wilkinson and seconded by Dr. ElRoy Nelson. The motion directed that I convey to you the sincere and grateful appreciation of the entire Board of Directors for your many years of dedicated and devoted service as a director and Chairman of the Board.
>
> It is a compliment to your ability and integrity that you have held the position of Chairman of the Board since the beginning of the Company to the present time. Your wise and discerning leadership will be sorely missed. Each and every member of the Board feels a keen personal loss not only because of your guidance in important corporate and legal matters with respect to the Company but also because of their warm association and friendship with you over the last twenty years.
>
> I, as well as all of the members of the Board of Directors, individually express our most sincere and earnest wish for your speedy recovery and look forward to the time when you will enjoy good health and regular association with your friends and loved ones.

The malignancy from the tumor had caused deterioration of John's back, and he was forced to wear a back brace which severely limited his activities. John's health did improve and he was able to resume some personal and professional interests for a time. Then difficulties with his heart found him in the LDS Hospital intensive care unit for a few days. After recovering from this incident, he felt well enough to take a trip to England with Orpha, John Jr. and Marge. Within a few days of his return, John was back in the hospital — this time with gall bladder surgery.

Numerous friends called, wrote, and in other ways expressed their love and appeciation for John during his severe illness. One such friend was Ernest Wilkinson Sr. As expressed by John: "Our close association commenced a long time ago when I was still in the United States Attorney's Office. After that time we both felt free to discuss matters of common interest in addition to the association we had in legal matters." Ernest died of a heart ailment in the spring of 1978. On this occasion John wrote to Glen Wilkinson and Robert Barker of the law firm in Washington, D.C.:

> As you know, I lost a very dear friend when Ernest left us. When I was dangerously ill a little over a year ago, Ernest called me on several occasions to inquire as to my health...Since the many very adequate and, sincere expressions concerning Ernest as a man and his accomplishments in life, any attempt on my

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part to explain why I held him in such high esteem now seems feeble and unnecessary. I think you both understand.

On June 22, 1979, a reception was held in the law offices, on the 10th floor of the Kennecott Building, in recognition of John S. Boyden and J. Stuart McMaster having completed fifty years in the practice of law. Boyden and McMaster had attended and completed law school together, then began the practice of law in the same office in Salt Lake. This was a very special occasion which gave family and friends an opportunity to honor and pay their respects to both John and Stu. By this time, John and the family knew that his time was limited; however, the reception was not a time for sadness but a time to celebrate a rewarding and successful life.

Pat's Journal includes an "amusing" incident that occurred November 29, 1979, during this difficult period when John still wanted to participate in the life going on around him, but his bodily limitations made this difficult.

Two of our boys had major roles in "Christmas Carol" playing at Promised Valley Playhouse. All seats were general admission, so it was necessary to get there at least an hour early in order to get a good seat.

Dad was anxious to see the production, but it was impossible for him to sit that long. Pat Davis, one of the administrators of the Playhouse, is a member of our ward. I asked her if there would be any way to reserve him a seat. She said not to worry, that she would have four saved for us.

When we arrived opening night, at 7:55 p.m., the place was packed, except for the best four seats in the theater, which were roped off. A hush fell over the theater as we were ushered to them. I'm sure people were expecting President Kimball or some other dignitary! Steve's mother (Orpha) was mortified. I got quite a kick out of it (major character flaw). When we were all seated Dad leaned forward and said to me, "I tried to look as old and sick as I could."

Eventually, the malignancy spread to the point that John was completely incapacitated. Carmen's journal contains entries that include reminiscenses of the last months:

It's difficult to watch a big, strong, dynamic and active father slowly lose the ability to walk anything but a short distance and to even be unable to sit more than a few minutes in one position. He has a great deal of pain, and we all sense his frustration at no longer being able to work or do the gardening he loves so much.

I want to record — before the memories dim any more with passage of time — some of the experiences, feelings and thoughts that center on Dad's passing. I won't attempt to organize my remembrances since the experience itself was not organized, but was a collage of sadness, hurting, laughing, looking back, listening for the spirit, looking forward, wanting time to stand still, wanting, for his sake, to have time pass more rapidly.

It was a time of clinging to family and of seeking seclusion with one's own thoughts, a time of helpfulness and helplessness, of grieving and gratitude. Perhaps our feelings ran so deep because the man himself ran so deep.

Some of the best feelings I had during Dad's illness were the occasions when I fixed a meal and sent plates for Mother and Dad to share. It was the caring thoughts more than the food that make those meals seem special. Their realization that there was precious little I could do to ease the burden, and the pleasure we all felt when Dad could actually enjoy an occasional meal in his almost constant state of nausea.

The best feeling of all was when I sat in the kitchen just a few feet from Dad's bed (which had been moved into the dining room) and worked on his scrap book. Dad's last project was to compile his memorabilia, newspaper clippings, etc., to prepare

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his personal history. He ran out of steam well before the project was completed, and I had the privilege to sit beside him and paste clippings into his book.

Dad was always so meticulous, and I tried to do everything as neatly and orderly as possible to produce something that would be equal to his standards. I took the hides from the Coalville cattle to the binder and discussed just how these things should be put together and then discussed the results with Dad. We agreed the front should bear the "lazy JB" brand. Dad had already written the title page, "Three Score and Ten in Retrospect." I kidded with Dad that, if he hadn't done so many things, I'd have had the job completed long ago.

It was interesting how each of us children found our own special niche for showing our love and concern: John, Jr., of course, handled the medical end of things. He stopped by nearly every morning on his way to work to check out medications, answer questions, etc. At his insistence, mother called several times in the middle of the night and he came immediately to assist. Dad had made it clear that he did not want to go to the hospital or have anything done to prolong his life. This made it difficult for John — not being able to do the things he had been trained to do. Mother and Dad were so careful not to impose on his physicians (Dr. Ernest Wilkinson, Jr., Dr. Russell Nelson and Dr. Richard Middleton), and it was wonderful for them to be able to depend on John in this way.

Steve handled all the legal and financial affairs. He spent endless hours arranging things just as Dad wanted them, and helping Mother understand new financial arrangements. He is patient and reliable and a great deal like Dad, and it was expected that he would inherit the task of carrying on Mother's business concerns.

Paul made his contribution for Dad by constantly altering the physical environment to suit Dad's changing needs. He built

a platform to elevate one end of the big bed, installed holding bars and equipment in the bathroom, and had several other gadgets made to make things easier for Dad. I remember the night Dad died Paul spent the anxious waiting hours restoring the bathroom back to normal for Mother.

Carmen wrote the following to express the feeling of the family concerning John's period of sickness:

Dad's character received its final refinement during his last three years which were filled with illness and suffering. Excruciating pain was stayed by a temporary reprieve which Dad knew was the result of a family and ward fast for him. Nevertheless, his time had come. He bore the increasing infirmities without complaint and worked on legal affairs and his personal history as long as he possibly could. He had some very special personal experiences which confirmed his deep faith in the Savior, and he continually reminded us all that the Lord is aware of us personally and loves us.

He had no fear of death because he gave his best to life and knew that he was physically incapable of doing more. It seemed to us that he was looking forward to the challenge of what lies beyond the grave. Dad always looked forward to new experiences and new challenges, and he viewed death in the same way. He was always concerned for Mother and appreciative of the wonderful way in which she met his needs during his illness. She didn't do for Dad what he could still do for himself, but she had a special sense for what was needed and provided it.

As children we always thought Dad was the epitome of kindness and all that was good, and we never questioned his love for Mother. But during his illness there seemed to be a further refining and deepening of an already deep soul and a special bonding of an already-secure and strong relationship with Mother. We sorrowed at his suffering but marvelled at the transformation. His willingness to submit to all things was an example we shall never forget. Dad was never one to shrink

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from a challenge, and his last experience with life was no exception, Dad bore his suffering, not with bitterness, but with deep appreciation for the love of the Lord which he felt so strongly.

John, Jr. said, in reference to the last hours of his father's life:

> Dad was physiologically very strong. We could not predict when he would be taken. He gave us the signal on the afternoon of his death when he said (to Orpha), "Oh Mama, I'm going home." Later in the evening I stood at his bedside sensing that it was near the end. I took his pulse and felt the heartbeat of this great man slow, and then stop. In that quiet moment of intense feeling I realized that at last he had obtained his release.

John died July 17, 1980, and the funeral services were held Monday, July 21, 1980, at 12 noon, in the Bonneville Stake Center. Those who took part in the funeral service were family members and persons who were or had been associated with John professionally or politically (the program for the funeral service is included as an appendix).

The funeral was well attended; and, in addition to friends from Salt Lake and Coalville, there were Hopi and Ute Indians from Arizona and the Uinta Basin. One of Carmen's friends, Nena Hawkes, attended the funeral and wrote the following in her journal:

> I went early enough to talk with Carmen, her mother and brother Paul. When I entered the chapel to find a seat, I was attracted by a friendly Japanese gentleman who was sitting alone. I asked if the seats were going to be occupied by his family and he said, "no." He introduced himself...and said, "I was in John Boyden's scout troop over 60 years ago...Times were very difficult for a Japanese American, but John wouldn't let me get discouraged. He encouraged me to make something for myself. I am a pharmacist now and it's all because of John." After a short period of time he said, "I have a daughter who is just completing her medical degree and I have another daughter who is a pharmacist, and it's all because of John's encouragement." He

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present Hopi leaders, could be here to pay tribute to this great man who has done so much for the Hopi and for other Indian peoples over the years. Chairman Sekaquaptewa has devoted much of his own life fighting for Indian causes. He is presently in his second elected term as the chairman of the Hopi Tribe and he also is serving presently as chairman of the board for Futures for Children, which is an international charitable organization dedicated to assisting children, particularly Indian children here in the western hemisphere. Now as we listen to this great Indian leader may all of us rededicate our lives to service with compassion, with integrity, with vigor and with charity, which were the hallmark of John Sterling Boyden, is my prayer in the name of Jesus Christ, Amen.

Talk: *Abbott Sekaquaptewa*

I feel very humble, at the same time very much honored, to have the opportunity to say a few words in memory of a great friend, because we come today to pay tribute to the man who has been both a friend and a counselor to the Hopi Indians for nearly half a century. He was not only a friend and a counselor, he was a great leader among the Indian people. That strong bond of faith and trust that Big John, which we called him affectionately, established with the Hopi people will be long remembered by two generations of Hopi friends. Big John never hesitated to seek the advice of tribal elders and tribal leaders among whom he earned a respected place. Even in very personal matters he sought the advice of his friends. I well remember the day he asked the then chairman and vice chairman of the Hopi Tribe for guidance when he was being considered by his party for their high state office, and he accepted the advice of the tribal leaders in making his decision not to be a candidate. Such was the dedication of this great leader and friend to the people to whose interest he dedicated his life.

In his office were two Hopi Indian kachina dolls that were given to him by one of the tribal elders in the form of an admonishment. The owl, which is considered a warning figure by the Hopi Indians, was an admonishment to watch for and warn of impending danger to

his Indian friends. The bear, a warrior figure, was a sign of courage, a reminder to fight like a bear does for her cubs. Big John was always faithful to these admonishments. He never wavered, even in the face of adversity.

A short time ago Big John was given a distinction that no one to my knowledge has ever been given by the Hopi Indians. They passed a resolution commemorating the passing of his fortieth year of faithful and dedicated service to the Hopi Tribe and the Hopi people as their Indian claims and general counsel, saying that for nearly half of this period of time Mr. Boyden unselfishly and willingly expended his time and energy on behalf of the tribe without consideration of compensation, and in a manner far beyond the call of duty. As a result of Mr. Boyden's (Big John's) labors, the council said, the Hopi Tribe has regained vast areas of ancestral lands and is on the verge of even greater accomplishments as a result of Big John's work. The Council said that Big John was able to accomplish this great work under the most adverse conditions, yet in faithful compliance with the tradition of the tribal elders, among whom he has now earned a special place. The council resolved that in expressing its most grateful appreciation to John S. Boyden, Sr. for his faithful and dedicated service to the Hopi people, and for his unswerving friendship with the members of the Hopi Tribe, in recognition of his unrelenting service to the Hopi people defending and protecting their ancestral lands and traditions, that he is by this resolution hereby accorded the special distinction of honorary member of the Hopi Tribal Council and honorary Hopi tribal elder.

For 22 years I've known Big John and I've learned many many things from him. During the time when relations between Indian people and non-Indian people have become very critical at a time when there is a lot of distrust, Big John has been able to earn that special trust and confidence because of his dedication to the cause of his Indian brothers. The old elders would ask me, "When is la via coming again?" to talk with them. He spent hours discussing the plans of the tribe for the future. I can't say that we always agreed with him but we always knew what was in his mind, what he thought was right, and what he thought was in the best interests of his friends

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to do. And he always had the courage to stand up for what he believed in. I don't know if anybody can really fill his shoes, to be able to earn the trust and confidence of the tribal elders is no easy task. We can only say as it has been said already, that he was a great inspiration to the Hopi people and other people who knew him. We can hope and aspire to his example as a friend and as a leader. And we are grateful to the Great Spirit and the Giver of the Breath of Life that he saw fit to provide this great leader and friend who has dedicated so much of his life, his very energy and his being, to a people that he loved, and we feel a special privilege to be here today to pay tribute in his memory, and our prayers go with him as he joins his fathers.

Talk: *Elder James E. Faust*

I feel the sweet spirit which has been in these services, rejoice with all of you in the choice fellowship which is gathered here. I am fulfilling a request which was laid upon me by John some weeks ago as I came to his home. It was a beautiful day. John was dressed and seated on the front porch. As I came up he had his usual warm, relaxed, gracious smile, and we had a wonderful visit. I think I enjoyed it more than John because he soon tired somewhat and Orpha asked if he should like to go inside and he indicated that he did. I was privileged and honored to give John a blessing. Under the inspiration of heaven, great blessings were pronounced on John, which I believe, Orpha, have been substantially fulfilled.

The 116th Psalm says: "Precious in the sight of the Lord is the death of his Saints." And we've heard something of these precious relationships. Mine was also of that category. I can't remember when I first met John, but a long time before, I remember my father telling me about young Johnny Boyden over in the U.S. Attorney's office. That was many years ago. And I enjoyed being in the practice of the law as a young man and coming under his influence. And there were some of us of both political parties who thought that John would make an excellent governor of this state. I don't think John sought political office — it sought him. He was of that stature, and John was then in his younger years and secured the nomination in the

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