

GUEST: JIM BURNS: HIS OWN MAN

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I'm told that you really haven't sat down for a one-on-one interview about you, ever. It's usually been about your father, it's about your wife, it's about something else, the law.

I never thought my life was worthy of publication. I mean, I read my father's book, and I say, Now, that's something worthy of writing about. That's a significant life. I look at my life, I don't think it's that significant. John Burns was a very significant person, so who is this guy, Jim Burns? I think you really have to live your own life, and find your own niche and your own space, and become as good at it as you possibly can. You know, you don't live your father's life; you live your life, and that's what I tried to do, without embarrassing him. [CHUCKLE]

John Burns was elected Governor of Hawaii in 1962. By then, his youngest child Jim Burns had finished law school and was trying to find his own path. Jim Burns, next on Long Story Short.

Long Story Short with Leslie Wilcox is Hawaii's first weekly television program produced and broadcast in high definition.

Aloha mai kakou. I'm Leslie Wilcox. James Stanton Seishiro Burns went to work on his father's campaign for governor after returning home from seven years at college and law school on the continent. His father, John A. Burns, won the election, and Jim had no real plans after that. So, he did as he had always done, and followed whatever path opened up for him.

I think back on my life, and it's amazing. People always ask me, When did you decide to be a lawyer? You know, I really never decided to go to anything. I went step-by-step, and kinda fell into it, piece-by-piece. You know, I graduated high school, and I said, Well, what do I do now? So, I decided, Okay. My father knew of this college in Kansas, and I said, Well, okay, I'll go. So, I went. And I went to college and I said, Well, what do I take? I didn't know what to take, so I took political science. And then, I finished college and I said, Well, I got a degree in political science; what do I do now? And my brother knew of a new law school in the East, and he said, Why don't you try to go to law school? And I

said, Well, okay, I think I'll do that. So, I went to law school. And, you know, just piece-by-piece.

I've seen you for years, Jim, and you don't seem to have anything to prove. I mean, you've had a wonderful career, but you don't really talk about it or exploit it. I mean, you're just very secure in yourself.

Well, you know, what you say may be—well, it's true. But that's how I feel. I don't think I had anything to prove. I just kept marching, put one foot in front of the other, and just kept going.

But especially when you became an adult and your dad was governor, people must have wanted to know your father through you, and tried to use you.

Well, fortunately, by that time, I was a lawyer. And I laugh, because I know people come up to me and says, What was it like to be raised in Washington Place? And I say, No, I was not raised in Washington Place; I was a lawyer by the time he was elected governor. So, I was a little more able to handle it than if I was younger.

Well, I don't know what would prepare you, though. I mean, it seems logical to think that you would have gotten, you know, the bad side of it, people trying to exploit you or use you. But then, you would have gotten perks from it, too.

Well, yeah, but you stay away from the perks, because you know what's gonna happen. You start getting perks, and people are gonna say, Well, the only reason you got it is because you're the governor's son.

But they're gonna assume it anyway.

Yeah; I understand. But you limit it as much as you can. And you know, my father was not one of those that wanted to brag or boast, or anything. He just wanted to get the job done. And I think I was very much the same, and I wanted to stay out of their way. I knew that whatever I did, if it was something wrong, it was gonna be front page, and I knew what the headline was gonna be. Governor's son did or didn't.

He never had to worry about that with you.

I stayed out of the way as much as I could. So, everything I ever did, I always said, How would this look on the front page? I didn't want to embarrass the family. I really didn't want to be noticed. You know, let him do his job, and I'll do my thing.

The fact that you became a State Intermediate Court of Appeals Chief Judge, and you couldn't get involved in politics; was that the plan?

No. Again, I didn't have any plan. You know. Tell you my plan; go all the way back. I came home from law school, participated in the campaign. The day after he was elected, I got drafted in the United States Army. Refused a commission, did basic training at Helemano. In fact, the picture you have in front of you is—during basic training, he was inaugurated. So, I had to come out of basic training to go to the inauguration.

And why did you turn down the commission?

Because it was three years, and they would send me off to the mainland. Two years, and I stay here.

Okay.

So, they didn't know what to do with me. They put me in the legal office, and I did legal assistance for the soldiers and their dependents. And I learned a lot of things, but I learned three. One is family law, landlord tenant law, and how to deal with car dealers. Because that's the people who were really taking the soldiers for a ride.

Very useful things to know; all those things.

Very useful. So, I get out of the Army, my father's governor, he's appointing judges, and so, a lot of things I can't do in court. I can't go before a judge that he appointed. Could not.

Well, that's not a perk. [CHUCKLE]

Yeah. But Family Court, he didn't appoint them. Sam King, a guy that eventually ran against him, was the Family Court judge, so I could practice in front of Sam King. So, I sort of went down the Family Court road.

Family Court; that sounds like it could be depressing. Lots of divorce, and just inter-family problems.

Never bothered me. You know, you deal with it. People are divorcing, you decide the case, and move on. It didn't bother me. So anyway, I'm practicing law, but I'm still kinda, you know, What do I do? I'm not gonna live my life doing family law. That's not what I'm gonna do. So, I went to see my father's good

friend, Matsy Takabuki, for advice and counsel. And he said, Come ... come with me. And so, I went with him. Now, I wasn't his partner, but he mentored me. And that was in Chinn Ho's office, Capital Investment. So, I got to know that side, and I actually became in-house counsel, sort of, with Capital Investment. So, that took me down another road. And then, Bill Richardson, who my father appointed Chief Justice, at that time started harassing me about, I think you should be a judge. And I kept saying, Judge? Me? Mm; no.

You have the demeanor. I mean, they probably saw that.

I didn't think of that in those days. But I just didn't think of myself as being a judge. And so, I said, As long as my father's around, no. I mean, as long as he's governor, no. I mean, that would have been ridiculous. So, after my father died, Bill kept harassing me, and I said, Well, let me try it. So, I became a per diem judge, and they put me in Family Court. And the first case I ever had, you know, a little difficult case, and actually, it was a civil case, and I decided it. I was a little shaky, but I decided it. And afterwards, I decided, Hm, I can do this, I can do this. So, I said to Bill, Okay, I'll go be a judge. And they appointed me Circuit Court judge. And again, they threw me in Family Court, and I was there for three years. And I was just about to move to Civil Court. I said, You know, I'm not gonna stay in Family Court all my life. And just gonna move, and they created the Court of Appeals. And so, Bill said, You're going to the Court of Appeals. And I said, Mm-mm; no. Write opinions? Oh, my god; that's awful. Just sit there and read and write, read and write. He said, No, no; you're going. So, I got drafted onto the Court of Appeals. And that's how I got there. And fortunately for me, I didn't know anything about Court of Appeal work, and there was a colleague named Frank Padgett. And Frank taught me everything I know about doing Court of Appeal work. I mean, a brilliant man, and was nice enough to teach me. And two years later, he went to the Supreme Court, and so did Chief Judge Hayashi, went to the Supreme Court, and I was left by my lonesome. So, Governor Ariyoshi made me Chief Judge, and then brought in two other people.

How did that sit with you? 'Cause you did it for a long time; twenty years.

Yes; twenty-seven years. Yes. It was okay. I enjoyed that. And I was fortunate; I always had great colleagues, great judges to work with. So it was fun. I enjoyed it.

The Intermediate Court of Appeals was a lot of researching, reading, and writing. And Judge Jim Burns led in some landmark decisions.

Perhaps, your best-known decision with the Intermediate Court of Appeals is something that so many people can relate to. It has to do with the neighbor growing their tree over your fence onto your property.

Yes; yes.

Tell me about that.

That was interesting. You know, that was an argument; tree in one yard, hanging over into another yard. And the guy that owned the yard where the tree was hanging over wanted to force the guy owning the tree to cut it.

And this was not a fun mango tree; this was a banyan tree.

That's correct. And he said, You know, your tree is in my yard, and it's bothering me; I want you to cut it at least at the property line. He actually wanted the tree cut down. And so, he sued and he came to court. And when I got into it, I found out that Hawaii didn't have any law whatsoever on the subject. So, I researched it around the country, all over the United States, and then brought it down into three different views. Back in the East, they love trees, so they a pro-tree decision. In the West, California, they hate trees, so they had an anti-tree decision. And then, over in Virginia, they had sort of a modification. So, the question was, pick one of the three, or do a fourth. And and you know, when I say I, I mean, I was the lead person, but we're talking about two other judges, too, and they agreed. Decided to go with a modified Virginia, which was a love-tree decision, and basically decided that the boundary line would decide. And anything on your side of the boundary line was yours, and anything on the other side of the boundary line was his. Just look straight up, straight down, roots, boundary line. So, if you wanted to cut the roots of his tree, you could. Now, if it killed his tree, too bad for his tree. You know. If his tree was gonna fall down, too bad for his fallen-down tree. You know, that sort of thing. Obviously, you had to warn him about it. And of course, it had to do with mangoes, it had to do with whatever fruit was hanging over. Anything at the boundary line, that's yours. Now, the one modification was, if the mangoes are gonna fall on top of the house of my roof and it's gonna put a puka there, then I can make him cut that branch. You can't force me to do it. And if the roots are gonna go into my plumbing and mess things up, I can make him do it. And that was the ruling.

Elegantly simple.

I see it in Kokua Line all the time. It's lasted. When we wrote it and published it, I said, Hm, I wonder if the Legislature is gonna do anything? Now, this is

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interesting about courts. When there is no law, you can say, Well, there's no law, so we're not gonna say anything, we're gonna let the Legislature figure it out. Or, the court can say, Well, we'll say something, and if the Legislature wants to change it, go ahead. And I often wondered if the Legislature would change it. And no, they didn't; they left it. And then, every once in a while, I go the Legal Google to find out how they're doing it across the country. And a whole lot of states followed us. Now, I look at the mango from my neighbors, and I say, That's mine.

[CHUCKLE] What else? What are some of the other decisions that you remember most?

I sat on the Supreme Court on the same-sex marriage case, in the lower court, this same-sex couple said, We want a marriage license and they won't give it to us. And the Circuit Court judge says, You're not entitled to it, and just threw it out, didn't even have an evidentiary hearing. Just said, No. And so, it got appealed, and I sat on the Supreme Court as a replacement for a judge who had to recuse himself. And the decision by the Supreme Court was, two-one-two. Two said, mm, essentially, yes. Although it was, you gotta go back to the lower court to figure out a few things, but essentially, their answer was, yes. And there were two that said, no. No; we agree with the lower court. And I was the guy in the middle. I agreed with the folks who said, Yes, go back to trial court, but I had not yet made a decision as to whether it was gonna be yes or no. I wanted the trial court to have evidentiary hearing, evidence, facts, testimony, et cetera, and make findings before I would come to any decision. And one of the questions I wrote in there for the lower court to determine was, whether same-sex is biologically fated, or choice. Because at that time, you know, the opponents were saying, It's choice. And there are still people who say that. And so I said, No, it goes to the trial court, you go listen to all the experts, and you come to a decision. Is it choice, or not? Is it biologically fated, or not? What are the facts? But it never got back to the Supremes, because eventually, the law was changed.

How did you feel? It was last year, as we speak, in 2014, that the Legislature ratified same-sex marriage.

Well, if I were in the Legislature, I would have voted to ratify it, to allow it. Yes; I am pro same-sex marriage. Back in those days, I think you needed a little more facts, but I think you have enough facts now. I think it's biologically fated.

This makes me think of that decision that your father had to make about abortion. And I think he struggled with it.

M-hm.

He was a dedicated Catholic.

M-hm.

And he felt very strongly personally about it. But could you talk a little bit about that, and how you feel about that method of determining?

Well, you know, he and I talked about it in that time, I think because of, you know, my birth situation.

Because, yeah, all the medical people said you should have been aborted.

And then, I wouldn't be here if there had been an abortion. So, we did have a chat about it. And he struggled with it. But I mean, he explained it quite well. Basically, you know, I have my own private views, but as governor, I don't impose my private views on the world. I go with what is best for the constituents. And given there's a lot of anti-people and a lot pro-people, it's mixed in between, so he went with that modified bill. He didn't approve it. You know, he let it go without his signature, but it became law.

You're not a politician, but you ran for office.

Yeah. Actually, twice, I think. One for Constitution Convention. But you know, I live in Kailua. My father never, ever won in Kailua. Every time he ran, never won in Kailua. Kailua is a little bit Republican. So, I ran for Con Con because, you know, I'm a lawyer, and Con Con would be a good place for me. But I ran for the House of Representatives once, and I did it just to see what it felt like. And I knew I wasn't gonna win, but I just wanted to say, Well, you know, throw my name in, and besides, you need some name on the Democratic side. And very quickly, I decided, No, I don't like this.

What didn't you like?

I don't like asking people to vote for me. You know, I don't like standing up and saying, I'm gonna do this, and I'm gonna do that. I just didn't like it.

Jim Burns' parents weren't the only well-known people in his life. He had occasion to meet many celebrities, including Emme Tomimbang, whose broadcast journalism and television hosting career made her a household name. As of this conversation in 2014, they've been married for twenty-seven years, and he still calls her his soul mate. Both Jim and Emme have recently had

serious health problems, and they've been able to help each other through them.

How did you two get together?

Oh, boy. Again, piece-by-piece. Just unintentional. I mean, I watched her on television, so I knew of her. I think, you know, the first time that I became more fully conscious about her was Chinn Ho's eightieth birthday. And I took my mother; we went to the birthday, and Emme gave the birthday speech. And I was thoroughly impressed with her ability to get up in front of an audience and give that kind of a talk. I sure could not have done it. And I'm going, Wow, you know, that's pretty good. So, after the speech, I said to her, quite innocently, you know, and I was trying to compliment her, not in a direct way, I guess, which isn't my method of doing things. And I said, Well, gosh, I hope you speak at my eightieth. That's all I said. And she said, Oh, thank you, and we moved on.

You're seventy-seven now.

I keep reminding her.

[CHUCKLE]

Time's getting short.

Got a speech coming up.

She better start preparing her speech. So, I'm being very nice to her, so that she gives me a good speech.

Did people consider you an odd couple? You're a judge, she's a television newscaster.

I'm sure they did. You know. Why did she marry him? Why did he marry her? What are they doing together? That sort of thing. And, you know, again, we have to dance a little bit, we had to, to make sure her occupation didn't interfere with mine, my occupation didn't interfere with hers, and we didn't overstep our bounds one way or the other, being very cautious about that.

And that's all in the past now, because she's left that profession, the news profession anyway, and you're not judging anymore.

Yeah; I'm starting to feel a little freer.

[CHUCKLE] With Emme?

Well, not only with her, but with the world. A little freer. You know, I get this itch now to just, you know, say what I feel, and do what I like, and that sort of thing. Not be too cautious about it.

Because that was always in your mind; right?

Yes.

Do you and Emme have children?

Uh, no; no children. But we have a puppy. Now, this puppy, he was over a hundred pounds; now we got him down to a little less than hundred pounds. He's a big Rottweiler. But that's her number two soul mate. I don't know if you know, but Emme suffered an aneurism, broken aneurism and collapsed, and Rufus kept her awake and helped her get to the phone so she could call me, so I could call 911. So, essentially, saved her life, and so, they became even closer. So, now, I'm number three in the house.

[CHUCKLE]

It starts with Emme, then you go to Rufus, then you come to me.

[CHUCKLE]

But that's okay. You know, I don't mind. He saved her life, so I'll give him second place.

And so, the last few years have seen you and Emme dealing with health problems.

Yeah.

Each of you has had health problems, serious health problems.

Yeah; the two of us were indestructible, and then all of a sudden ...

That's true. Both of you worked long, hard hours.

Yes.

For many, many years.

Yeah.

And had good health; right?

It came at me totally unexpected. You know, I had a few minor issues here and there, you know. This thing, I gotta take a pill for; that thing, I gotta take a pill for. And then all of a sudden, I had a lump on one side of my throat, went to the doctor, and I said, What's this? And he said, Hm, gotta check that out. Checked it out, and I had Stage 4 throat cancer.

Stage 4.

Stage 4 throat cancer. But fortunately, again, you know, the doctor says, Well, we might be able to, so radiation, chemotherapy, and lots of tender care from my Filipino nurse. And so that was, what, latter part of 2011. And here I am today.

Both of you; you've had, you know, fallout from your brush with what really could have been death.

Yes.

And so has Emme.

Yes. And so, I mean, if you look at us, we're medical marvels. I think the doctors should parade us. Hey, this is what doctors can do for you. Because you know, they have really done an amazing job on both of us. We're just very fortunate to be here, and in the condition we are. We can't do the twenty-four-hour bit, but you know, we still can do the twelve-hour bit.

You've had a remarkable career, but you don't feel like you need to say that.

No; no. Well, you know, I mean, I do the best I can, with what I've got, and you know, I'm surprised that I got this far. It shocked me. If you'd asked me in high school, This is gonna be your life, I would have said, You're smoking something. No; that can't be me. But you know, I got here, say thanks to my parents that I got this far. You know, smart enough to marry Emme Tomimbang.

And it doesn't bother you to be with a larger-than-life individual. Because, you know, Emme's media reach is so large.

Yeah; she's larger than me. Yes. I enjoy watching it.

But I know you know, when you say that, that you have totally different skills.

Yes.

And they're complimentary.

Yes; yes. I kid people. She and I make one good brain. I have a good left brain, she has a good right brain, and together, we make one good brain.

Humor mixed with humility has come to be a trademark of Jim Burns. He can argue that he is just a local boy who made his way, piece-by-piece; but that approach took him all the way to one of the most prominent judicial posts in Hawaii. Mahalo to retired Judge Jim Burns of Kailua, Oahu for sharing his stories with us. And mahalo to you, for joining us. For PBS Hawaii and Long Story Short, I'm Leslie Wilcox. A hui hou.

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You have two children from a previous marriage.

Yes.

What do they do?

Yes. I have two wonderful children. My daughter Meredith, she graduates from high school, and goes off to college. And then, she goes off to other countries to work in refugee projects. And then, she says, I'm going to law school. And I almost fell off the chair. I mean, You are? So, she goes to law school, gets a degree, and now she is an attorney with the National Labor Relations Board here in Hawaii. And then, my son, same thing. Graduates high school, goes to college on the mainland. He went to Wheaton, eventually got himself into education, and he now is the principal of Aina Haina Elementary. And from what I hear, doing quite well there. I always check with his students every time I meet one. I say, Who's your principal? They tell me, and I say, How's he doing? They say, Oh, he's doing great. I say, Fine; you tell him, you tell him you met his daddy.