

COOK COUNTY COURT ORAL HISTORY PROJECT

Judge Edward Burr

Interviewers: Eleanor Mahoney, Lisa Calahan, Jenni Traverse
HIST 483: Oral History: Dr. Manning

Judge Edward Burr Interview Abstract

This interview was conducted as part of the Cook County Oral History Project supervised by Dr. Christopher Manning of Loyola University Chicago. The interviews were conducted by graduate students for the course Oral History: Methods and Practice. The goal of the project is to provide insight into the workings of the judiciary by conducting a series of interviews with both retired and active Cook County Circuit Court Judges.

At the time of this interview, Judge Edward Burr had been retired from the bench for approximately 3 months. The interview covers Judge Burr's childhood in the Chicago neighborhoods of Hyde Park and Lakeview, his high school years in Wisconsin and New Jersey, his college years at the University of Illinois, his law school experience at Northwestern, his early years as a lawyer in both the private and public sector at the Corporation Counsel's office, his time as an Associate Judge (1984-1988), his time as a Circuit Court Judge in the Law Division (1988-2006), and his current position as a mediation consultant with Alternative Dispute Resolution (ADR) systems.

Prominent subjects and ideas discussed in the interview include Judge Burr's early experiences with anti-Semitism, his experiences as an Air Force policeman, his volunteer activities including years as a pre-trial mediator, his work as an adjunct law school professor, his decision to start a judicial extern program within the Cook County Circuit Court system, and his struggle to balance work and family. Additionally, Judge Burr elaborates on his judicial philosophy as well as his work to draft a constitutional amendment to eliminate the election of judges. He also discusses the Greylord scandal, legality of judicial age limits, his views on Medical Malpractice and on libel and slander.

The main themes of the interview are the role of the judiciary in society, the ethical underpinnings of the law, and the importance of remaining committed to one's core values over time. During a legal career spanning some forty years, Judge Burr exhibited a commitment to civic virtue, volunteerism, and integrity, serving the interests of both the judicial system and society more generally.

Judge Edward Burr Biographical Outline

Born July 14, 1931 in Chicago

1949 – 1953 – Undergraduate Studies, University of Illinois (B.A. Political Science)

1953 – 1955 – Active duty in the Air Force

1955 – 1958 – Northwestern University School of Law

1958 – He began his legal career as an Associate at the Law Firm of Lane, Gross, Carmen & Dee.

1960 – He moved on and worked as an Assistant Corporation Counsel for the City of Chicago.

1963 – He began working with his uncle as an Associate with the Law Firm of Burr & Golden.

1964 – He began his own firm and served as President of the Law Firm of Edward R. Burr, Ltd. He maintained his own practice while being involved with other projects.

*Mid 1960s – He was a Hearing Officer for the Board of Appeals.

1965 – Appointed by the Chief Judge, U.S. District Court, Northern District of Illinois, he served as a member of the 1st panel of the Federal Defender Program.

*Late 1960s – He became Special Counsel for the Chicago City Council Committee on Police, Fire, Civil Service, Schools and Municipal Institutions.

1984 – After spending the majority of his career in private practice he sought out and was appointed as an Associate Judge of the Circuit Court of Cook County.

1988 – After four years as an Associate Judge, he ran and was elected as a Judge for the Circuit Court of Cook County.

2006 – In July, right before his 75th birthday, he decided to retire and not run in a contested election the following November.

2006 – Currently he is working for ADR Systems of America. ADR stands for Alternative Dispute Resolution. This company specializes in helping law firms and companies resolve disputes without going to trial.

*At the time of the interview Judge Burr could not be precise regarding the dates he held these positions.

Admitted to Practice:

-Illinois Supreme Court

-United States Supreme Court

-United States Court of Appeals, 7th Circuit

-United States District Court, Northern District of Illinois

-Federal Trial Bar

-United States Court of Military Appeals

Worked as an attorney for:

-Law Firm of Lane, Gross, Carmen & Dee

-Corporation Counsel's Office, City of Chicago

-Law Firm of Burr & Golden

-Law Firm of Edward R. Burr Ltd.

Teaching experience:

- Adjunct Professor of Law, John Marshall Law School; Judge Trial Advocacy Class.
- Adjunct Professor of Law, IIT Chicago – Kent College of Law; Judge, Moot Court Competition; Judge, Trial Advocacy Class.
- Lecturer, University of Chicago Law School; Judge, Trial Advocacy Class.
- Faculty, American Academy of Judicial Education: Complex Litigation; Products Liability; Advanced Evidence; Experts and Opinion Testimony; The Trial, Procedure and Management; Alternative Dispute Resolution.

Organizations he is/was a member of:

- Chicago Bar Association – Committees: Development of the Law (Chair, 1988-89); Constitutional Law (Chair, 1990-91); Civil Practice (member Section III & Executive Committee); Entertainment; Law & Literature; Senior Lawyers section; formerly: Federal Civil Practice (Chair); Military Law, Mentoring
- Illinois State Bar Association – Committees: Civil Practice; Local Government; Commercial, Banking & Bankruptcy
- Illinois Judges Association – Member, Board of Directors (2000-06); Committees: By-Laws (Chair, 1988-89); Convention; Public Affairs, Public Education; Inter-Bar Relations; Judicial Selection & Retention; Speakers Bureau; Computers for Judges; Legislation
- Women’s Bar Association of Illinois – Member of the Judge Mary Heftel Hooton Memorial Building Fund Committee (1995-present)
- Decalogue Society of Lawyers – Board of Directors; Continuing Legal Education Committee
- Illinois Academy of Criminology
- American Judicature Society – Member of the National Board of Directors (1998-02); Member of the Elmo B. Hunter Center for Judicial Selection Advisory Committee; Member of State Chapter Oversight Committee; Chair, Committee on Illinois Initiatives; Liaison to National Board for the Illinois Chapter
- Mentoring Program, Mentor for new judges of the Circuit Court of Cook County
- American Board of Trial Advocates – Member of the National Board of Directors (2000-02)
- Jewish Judges Association of Illinois – Founding Committee Member –Treasurer (2002-03); Vice President (2003-06)
- American Constitutional Society for Law and Policy

Awards:

- Fellow of the Illinois Bar Foundation
- Recipient, scholarship award from M.R. Bauer Foundation, Illinois Judicial Scholarship Fund.
- Recipient, Golden Apple Award, National Practice Institute for Teaching, April 1997.
- Lifetime Achievement Award, Decalogue Society of Lawyers, 2005.
- Women’s Bar Association of Illinois, Judge Mary Heftel Hooton Award, 2006.

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Judge Edward Burr Interview Time Index:

00:00:00 – 00:04:26

This introductory section covers Judge Edward Burr's early life including his place of birth, his experiences living in Hyde Park, and his experiences in Lakeview as a child. He also mentions his attendance at Nettelhorst Elementary School in east Lakeview.

00:04:26 – 00:11:51

This section covers Judge Burr's high school experiences. It begins with his time at a military school in Wisconsin and includes a discussion of the anti-Semitism he suffered there. It then moves on to his time at the Hun School, a prep school affiliated with Princeton University in New Jersey. He also discusses what it was like to live away from his family for the majority of the year.

00:11:52 – 00:28:46

This section covers Judge Burr's decision to go to college and ultimately continue on to law school. Judge Burr mentions his involvement in ROTC and then in the Air Force. He also talks about his experiences as a graduate student at Northwestern and the professors there who helped shape his future career.

00:28:47 – 00:34:52

This section covers how Judge Burr decided on becoming a trial lawyer. He talks about the influence Fred Lane had on forming him as an effective and fair litigator through both working with him at Lane, Gross, Carmen, and Dee as well as taking a trial technique class offered by Lane.

00:34:53 – 00:46:20

This section covers Judge Burr's early years as a lawyer in the private firm of Lane, Gross, Carmen, and Dee; his public sector work at the Corporation Counsel's Office, and the start of his own private practice. He also discusses the types of cases he tried as a young lawyer and the important cases that stood out to him.

00:46:21 – 00:59:09

This section covers Judge Burr's decision to become a judge, how the selection process takes place for an associate judge, and his experience running for election to the position of a circuit judge.

00:59:10 – 01:03:07

This section covers the memorable cases and the types of cases that Judge Burr presided over (e.g. commercial and medical malpractice cases).

01:03:07 – 01:12:37

This section covers Judge Burr's views on medical malpractice. He gives an example of a case that he is working on through ADR Systems and discusses how doctors should be held responsible in a court of law.

01:12:37 – 01:21:52

This section covers Judge Burr's principles that he upheld while a judge, his views on jury selection, and how being a litigator helped him in his career as a judge. He emphasizes the importance of education and how technology has changed to make things easier and more accessible in the courtroom.

01:21:53 – 01:34:34

This section covers volunteer experiences and significant cases while a Cook County Circuit Court Judge. Judge Burr mentions his work as a volunteer pre-trial mediator, his work as an adjunct professor, his experience beginning a judicial extern program, and his experiences with medical mal-practice, slander, libel and employment law cases.

01:34:35 – 01:40:10

This section covers both Judge Burr's reasons for retirement and his post judgeship plans. He also discusses his views on the mandatory retirement statues faced by circuit court judges in Illinois.

01:40:11 – 01:50:07

This section covers Judge Burr's views on the election of judges in Illinois, including the change to a sub-circuit system of election in Chicago. He discusses his attempts to eliminate the election of judges and his support of an appointive system, such as the drafting of a constitutional amendment.

01:50:07 – 01:54:13

This section covers corruption in the judiciary including a brief discussion of Operation Greylord.

01:54:13 – 01:58:20

The interview concludes with Judge Burr offering advice to future judges.

Transcript of Judge Burr Interview

Interviewee: Judge Edward Burr

Interviewer 1: Eleanor Mahoney

Interviewer 2: Lisa Calahan

Interviewer 3: Jenni Traverse

Time: 1:00 PM

Date: October 14, 2006

Location: Loyola University, Lake Shore Campus, Crown Center

(00:00:00)

Interviewer 1: Today is Saturday, October 14th and Jenni Traverse, Lisa Calahan, and Eleanor Mahoney are interviewing Judge Edward Burr for the Cook County Oral History Project on the, on the court system of Cook County.

(00:00:20)

Interviewer 1: I guess we just want to start out with a few questions about when and where you were born and where you were...

(00:00:26)

Interviewee: I was born here in Chicago. I think I was delivered at Michael Reese Hospital on July 14, 1931. Remember that year girls, remember?

(00:00:40)

Interviewer 1: No. [Laughter]

(00:00:44)

Interviewee: It was a good year.

(00:00:46)

Interviewer 1: Where did you grow up in the city?

(00:00:49)

Interviewee: The first ten years of my life my family lived in Hyde Park, which is, as you may or may not know, is on the South Side of the City. I can still remember the last apartment we lived in, it was... 5479 South Hyde Park Boulevard, don't ask me why I know that, I have no idea. And then, my family moved north, we lived at 3300 North Lake Shore Drive. And at that point, I think I was in the fourth grade, and I started attending Nettelhorst Grammar School, which is a public school, located on Broadway and... I want to say Aldine and Melrose. And I graduated from there. Umm... what year would that be? I was about fourteen I would guess. No... I'm sorry, I'd have to do the math.

(00:02:02)

Interviewer 1: In the 1940s.

(00:02:03)

Interviewee: Yes.

(00:02:05)

Interviewer 1: Were your parents-

(00:02:06)

Interviewee: I think it was 19...something like 1940... 45, I'd guess.

(00:02:20)

Interviewer 1: So, were you parents from Chicago as well?

(00:02:22)

Interviewee: Yes, yes.

(00:02:24)

Interviewer 1: And did you have brothers and sisters?

(00:02:26)

Interviewee: I have one older sister. She's still living and she lives in Chicago. She's widowed and she had three children, all of whom are living. One is in Texas, one is in Naperville, and one is out in Northbrook, I think.

(00:02:50)

Interviewer 1: So, what was, what was your neighborhood like growing up here in the city, both, either in Hyde Park or later when you moved north?

(00:02:59)

Interviewee: The nice thing about Hyde Park was after school the kids could walk over to the Museum of Natural Science and Industry. And they didn't charge anything to get in in those days and it was a marvel, I mean, you know to be able to walk freely through that area was wonderful. And we would do that probably once or more a week. And, when we moved north, we lived along the lake and there were wonderful public parks running all the way from Belmont north. And there were tennis courts and... we just had a free wonderful life. It was, it was a great way to grow up as opposed to how some of the poor people would live. But the city of Chicago, you probably noticed, has always tried to have a lot of open area and that's nice. It's a beautiful resource for the city, but the parks and everything along there. And then of course the schoolyard was great. You know, we had all of our games and sports and fights there. [Laughter]

(00:04:20)

Interviewer 1: So did you like Nettelhorst School where you went?

(00:04:22)

Interviewee: Did I what?

(00:04:23)

Interviewer 1: Did you like the Nettelhorst School where you went?

(00:04:25)

Interviewee: Oh yeah, yeah.

(00:04:27)

Interviewer 1: So where did you go to High school then?

(00:04:30)

Interviewee: For the first two years of my life, I, at high school life, I went to St. John's Military Academy in Delafield, Wisconsin. And for the last two years of my life, I went to an all boys' school in New Jersey called the Hun School, H-U-N, Hun School. And it was a prep school that was loosely affiliated with Princeton University.

(00:05:00)

Interviewer 1: So, was that a big change to go to Wisconsin first and then to New Jersey?

(00:05:05)

Interviewee: Yeah, it, the military school life was very rigid. And, unhappily there was a great deal of anti-Semitism, and I happen to be Jewish. And, they had a new boy old boy system, like a plebe system, and the first year everybody caught it and there was physical hazing as well as mental hazing. But in the second year, you're a so-called old boy, but it didn't stop, the hazing didn't stop. And I just didn't like it and I told my folks, this is in my view inappropriate. And it wasn't pleasant and then, although I did participate in a lot of athletics there and I enjoyed that part of it. Academically, I think that they were pretty advanced. I remember taking Latin, from a fellow by the name of Smiley, I don't remember his first name. But that's how I learned to speak English really, grammatical structure by learning Latin. So, then when I got to Princeton, again athletics were wonderful. It was all male, at that time, it's now no longer restricted in that fashion. And I participated in athletics, but the educational emphasis was very strong and I think it prepared me for what I chose to do down the road.

(00:06:45)

Interviewer 1: Had the neighborhood you'd been living in, in Chicago, been predominately Jewish and was that- you'd mentioned anti-Semitism at the, at the high school, was that a big change?

(00:06:52)

Interviewee: I think that for the large, large part both when I lived on the South Side- [Judge Burr's cell phone rings] I think the answer to your question is that most of the people that I would socialize with and that my family socialized with were

probably Jewish people. And, there was a predominance of Jewish people my age in both locations. But I also remember when we first moved to the North Side that there was a building on the corner of Melrose and Lake Shore Drive that was restricted, no Jews allowed. And there were several such buildings like that in the Chicago area. The world has changed a lot, thank god. And... but I didn't experience the kind of problems that I had in military school. But I do have a story that you don't want to hear, I gained a reputation at Nettelhorst. The Catholic parochial school on Belmont got out of their classes about fifteen minutes earlier than the kids in the public school and a lot of them would wait around to fight with us and call us, you know, "dirty Jew" and all that kind of stuff, pejorative remarks. And I used to be scared as hell and I'd run home. And I told my dad about it several times and he said "Well, why don't you just stand there and fight 'em?" And, I wouldn't be disrespectful to my father, I wouldn't say 'Are you crazy?' but that's what I was thinking. He said, "If they have to pay a price for what they do, they may not want to pay that price." And I thought about it for the longest time and one day, sure enough, I said, 'You know what I'm not going to take this.' And there were a bunch of kids standing around and this one kid came up and started with it and he gave me a push, and I swung and I decked him and he went down and just like some cowboy movie I said 'Anybody else?' [Laughter] You know that kind of real bravado, it was stupid, I was it was a good thing nobody said yes. But from that day on, we were never bothered and I learned a lesson. If you don't want something to continue you have to object to it in whatever way you can. It was a good lesson for me, and I got a nice reputation in the school as being a tough guy.

(00:09:38)

Interviewer 1: You had mentioned before that you took Latin in high school, were there any other classes that you had in high school or subjects that really interested you then?

(00:09:47)

Interviewee: Yeah, Physics and Biology and I, I thought I was going to go into pre-med when I got into college. And that's what I had always thought about. And, I really was interested in that and History, I liked those areas. And we had really good teachers at the prep school, really good people who cared. And that was very rewarding. But for those four years, I didn't live at home 'cause in the summer times, when I was younger I went to camp, so I didn't live at home during the summer months either, you know, very much.

(00:10:30)

Interviewer 1: Was that hard, not getting to come back to Chicago and see your family?

(00:10:35)

Interviewee: Well, I pretty much enjoyed what I was doing. My father was a dress manufacturer. And, that industry doesn't exist any longer in Chicago; it's just been killed off. But he would go to New York and they would have their shows

there and exhibit their merchandise. And the train was less than an hour from Princeton, New Jersey into New York City and when he was there I would visit with him and you never flew in those days, but we would, I would take an overnight train to come back into Chicago. And god, when you think of sending a kid my age by himself or herself on a train, overnight alone, most of us wouldn't do that today would we? [Laughter] But, no, it was okay. I enjoyed... I think my folks wanted to give me every possible advantage, neither one of them completed high school. And I think they had a respect, however, for education, and they wanted to see that my sister and I each were given that opportunity and they did what they thought was best. I really don't have any complaints.

(00:11:53)

Interviewer 1: So, you were on the east coast in Princeton, how did you decide to come back to the University of Illinois because I think that's where you...

(00:12:00)

Interviewee: Yes. Well, the summer that I graduated from high school, and I was here in Chicago and I wasn't going to, wasn't going to summer camp any longer. I was at a beach with a bunch of my friends and I met this adorable little girl, she was so cute. And, we started seeing quite a bit of one another and I started thinking about- and I, I was registered to begin classes at Princeton University at that point and I didn't want to be that far away from her. And so at that point I made application to Northwestern. And their, believe it or not, Jewish quota was filled by that time, because I was a late appliqué, making application, but they had a quota in those days. I can't believe I lived through all that of now, it's just amazing to me. That brings me to the sixties when women started to fight for their rights. I thought it was absurd at the moment, but I'll get to that another time. But anyway, so I was too late and I applied to Illinois and got in, it was a little farther away from home than I wanted to be, but it worked out all right because I ended up marrying her and we've been married for fifty-three years now. And we have three great kids and six wonderful grandchildren.

(00:13:36)

Interviewer 2: So did you have a professor or a teacher in high school or family members that encouraged you to continue your education?

(00:13:45)

Interviewee: You know, I, it was never a question. It was just presumed that I was going to go on to college. And, I would always been talking about medical school after that, there, it wasn't a decision I was making. It was always assumed that that's what was going to be.

(00:14:08)

Interviewer 2: And, lets see, so, why did you decide to change from pre-med in undergrad?

(00:14:16)

Interviewee: Well, there were...I think the primary reason had to be the same reason that took me to Illinois. Going on to medical school and internship, residency, you know, we're talking about twelve years maybe and I didn't want to wait that late to get married, you know. [Laughter] But I didn't know what else to do. And the University of Illinois offered aptitude tests, to students, to determine, for those of us who were lost, you know, what we might be suited for 'cause I didn't have a clue. And, surprisingly, all of the aptitude tests that I took indicated Political Science and Law. I always was fascinated with it. I remember living through World War II, and reading the paper and listening to the news every single day and following all of these things. And once I remembered, for example, when I learned that Adolph Hitler had been a Corporal in the German Army during World War I, I wanted to know more about World War I. And when I think it was the first time I real- learned that my father had been a marine in during World War I. He didn't see combat, he had some surgery and they had to discharge him. And I found pictures of him, but I was always fascinated with history, and so it seemed logical that what they were telling me might in fact correspond to my interests. And so I started-you know, when you first started you didn't name a major right away, remember that? So, when it was time to name my major, select a major, I opted for Political Science and Sociology, split major, and that's what I did. And I always figured I could, I could make up the classes for pre-med if I, if this was something, but I really fell in love with it right away and, I just continued on.

(00:16:31)

Interviewer 2: And I know you mentioned that your father was in the military, and I saw on your biography that you were in the Air Force?

(00:16:38)

Interviewee: Yes

(00:16:39)

Interviewer 2: Is that correct? Can you tell us a little bit about that experience?

(00:16:41)

Interviewee: Yeah, when I got to college, it was a state university and it was a land grant college. Consequently, every male student had to have two years of ROTC. And, we all went through it. The Korean War began and they started drafting people out of college. And, the only way you could finish and stay and get your degree, is if you registered for senior ROTC. And you'd continue on that way and upon graduation you'd be commissioned as a Second Lieutenant. And I opted for the a, I opted for the Air Force as opposed to the Army because I always wanted to learn how to fly and I thought that would be great, but as a Second Lieutenant they were not going to send me to flight school, I didn't know that. They took enlisted people who would apply. So, because I had lettered both in...I had 16 letters in high school from athletic and I'd played baseball at the University of Illinois, when I got into the Air Force, you know, you go down to Texas, to an Air Force

base down in Texas everybody would go there. And they would look at my transcripts and saw that and they thought, "Boy he must be big strong guy" or something like that and they put me in the Air Police. I-and they sent me to school to learn how to become an Air Police officer. And I married my wife on February 3rd, 1953, and I went away on our honeymoon up to Wisconsin with her, and came back and graduated from the University of Illinois on February 15th. And she was able to travel with me while I was in the Air Force. After I was separated from the Air Force, I stayed in the reserves, and that's when I started law school. So, I was a couple years older than most of the people who were starting law school at that time. And when I finished law school, I transferred my military reserve capacity to Judge Advocate General Corps and continued, had about thirty-five years as an Air Force reserve officer. And it was a wonderful experience too because I met lawyers from all around the country. And we would attend different classes, seminars, go on active duty and a matter of fact even had cases referred to me by out of state lawyers. And I of course, when I had the chance, would refer to them too, so I met a lot of wonderful people that way. And I ultimately retired from the Air Force, after I was on the bench.

(00:20:00)

Interviewer 2: Okay, let's see... So you had originally, when you went into Political Science, you knew that you would want to go onto law school?

(00:20:12)

Interviewee: Yes.

(00:20:13)

Interviewer 2: There was no question?

(00:20:14)

Interviewee: Yeah, it was always my intention at that point, when I got released from active duty to go to law school and that's what, that's what I did.

(00:20:24)

Interviewer 2: What was your experience at law school like being married and was it tough to get through?

(00:20:29)

Interviewee: Well, for the first year my wife was working and I drove a cab for a little while, and I had the GI Bill, that helped too. And after my first year, I got a scholarship, which helped. And I also worked part time as an insurance adjuster. And my family lived in the neighborhood, so I would often visit with my mom and my dad... after class, not in between classes. And, you know, we lived frugally, but we never wanted for anything, it was a good life. And I met great people, wonderful people, people you know of today. If you are familiar with, like, Marv Aspen, I don't know if you know Marv Aspen? He was the Chief Judge of the United States District Court for the Northern District of Illinois. He's still on the

bench, and he was one of our classmates. We had a congressman, the head of the FCC, Judge Elrod, who I mentioned was the sheriff of Cook County. Any number of people, that we, that were in my graduating class, that really made names for themselves after school, wonderful folks, a lot of them.

(00:21:55)

Interviewer 2: How did your experience differ from U of I and Northwestern?

(00:22:01)

Interviewee: Well, it wasn't a campus life, of course, in that sense. And I think, you probably notice a difference as graduate students from being undergraduate students. And I, I think there's a corresponding difference too, between an undergraduate student, living on campus, and going on to a professional school. I don't know how else to explain it. I, I was a family man at that point. Now, at the end of my first year of law school, my wife and I had our first child. So she couldn't work any longer, and that was kind of interesting. I'm glad I got that scholarship, that helped a lot. And we, we moved into an apartment, it cost us seventy-five dollars a month. And it was a nice apartment and we met people in our- it was one of those courtyard places, and we met some nice people who still are our friends today. And we, I don't know how to say expect that I've been very, very fortunate all my life. I just, everything it seems to have gone right for me.

(00:23:20)

Interviewer 2: And, do you believe that your education at Northwestern really helped to propel you into the future as opposed to attending a different law school in the city?

(00:23:33)

Interviewee: I can't say that I do. Umm... I know that, now there are nine law schools in the state of Illinois. University of Chicago and Northwestern, I think probably have the better reputations among the nine. And maybe for purposes of getting employment, graduating from those two schools, either one of those two schools, might give somebody an advantage. But it's, it was then and it still is very competitive and I don't know that it really made, in the long run, made much difference. I think if you didn't do reasonably well in school, it would be an impediment to finding employment. So whatever school you matriculated through you would probably do okay if you did well in school. I can also tell you that I was lucky 'cause I passed the bar exam the first time. I know people who did not, had to re-take it. One person I know had to take it three times and, and those people have done very, very well. Some people test better than do others. And I can't say that simply because somebody may not have been in the upper ten percent of his or her class that it necessarily reflects on their intelligence or their ability to function in their professions or their careers. But I think the outside world looks at it that way. And maybe there's some value to it, I'm just not, you know, qualified to say that it is a good criterion or not.

(00:25:27)

Interviewer 1: You had mentioned that at the undergraduate level Northwestern had quotas for Jewish students. Was that the same case in the law school? Do you know?

(00:25:37)

Interviewee: Not to my knowledge, I don't think so. Umm... it may or may not have been so, but it's quite possible in the years that passed, you know, from high school, going through college, and in the Air Force, and then going to law school they changed their policies. They certainly did change their policies. You don't have to be Catholic to go to this school [Loyola University] and I don't know that they ever required that. I saw walking over here that there's a Hindu Student Association. I mean, that kind of thing, I think, is pretty much behind us thank god, but I don't think that by the time I was ready for law school that that was any longer in play.

(00:26:24)

Interviewer 1: Were there a lot of other like working class students at Northwestern at that time, who had, who were married like you or had to work?

(00:26:30)

Interviewee: I don't think so. Not, not too many, no... I think most, most of them came from families with resources. It was my choice. My, my dad would have been happy to pay for it, but I, that was not what my wife and I wanted. We were very young adults, but we were adults, and it was our time to take over for ourselves.

(00:27:01)

Interviewer 1: Did you have any mentors among the professors there when you were studying?

(00:27:08)

Interviewee: Umm... there were certain people that I regarded more highly than others obviously. But we didn't, we didn't sit around with the law school professors after class. It was all strictly academic exposure, period. So, I can't say really yes. There was a guy by the name of Pedrick, Professor Pedrick, his name comes to mind. He, he was a wonderful professor. There were a lot of good professors there. He went on to be the first Dean of the Arizona State Law School. And when my son, who went there, and and I would go to visit, I saw his portrait there and you know, that kind of made me think, think back a little bit on my days and... Dean Havighurst taught us contracts, he was a remarkable guy, remarkable guy. Most of the people who were serving as professors in that law school had wonderful reputations, a lot of them had written extensively in their specific fields and were highly regarded nationally. And maybe that's one of the reasons I wanted to and did ultimately, serve as an adjunct professor at two law schools because I, I thought that what they did in helping me was a wonderful thing and so when the opportunity presented itself and I could make that contribution I wanted to do it.

(00:28:49)

Interviewer 1: How did, how did you decide what area of the law to specialize in while you were in law school?

(00:28:54)

Interviewee: I didn't decide then. I didn't know for sure. I thought I wanted to be a litigator. But, I was and I was lucky enough to get as my first job out of law school a position as an associate with the law firm then known as Lane, Gross, Carmen, and Dee. And, that firm doesn't exist anymore. Fred Lane is still a practitioner. Fred Carmen is still a practitioner. I don't know what happened to Tom Dee, he just seems to have disappeared. Norm Gross, unhappily, passed away much too young. I had a professor at Northwestern by the name of Goldstein and he taught the students trial advocacy and I liked that. And before I graduated, he became a circuit court judge. And he started, because he was busy as a, as a judge at that time, he started working with Fred Lane. Goldstein wrote a book called *Goldstein on Trial Technique*. And he and Fred Lane worked together to continue to revise it and update it. And when I got into that firm, Fred asked me to do a lot of the research and writing and I wrote several of the chapters in that book. And when Judge Goldstein passed away, Fred later wrote *Goldstein and Lane on Trial Technique*, and later *Fred Lane on Trial Technique* and I continued to contribute in that way. And Fred Lane started a trial technique course, which he would offer to people who wanted to learn litigation techniques in the evenings. And, when my son went to law school and graduated, I insisted that he take that course. Fred Lane later contributed that course to the Illinois State Bar Association, he was the past president of the Illinois State Bar Association, and he continues to teach it along with other people. One night a week, in the evening, from about six to nine o'clock for several months, but it would only take one night for the student to give up that time to attend. And, this- the price is very reasonable, you know, it's less than a thousand dollars for that long period of time and they still get a lot of people attending. Anyway, Fred Lane was the kind of a guy who was very patient and he was a good teacher. And I thought, you know, 'I'm going to learn to be a litigator, I'm going to be a tough guy and blah blah blah' and get up in people's face, and he would always just simply say, "You know, wait a minute now, let's think about that. Have you thought about doing it th-" in other words, he didn't say "Stop!" he wasn't one of those heavy fisted kind of guys, he would guide you to doing what made a lot of sense, you know. And just the fact that it was such common sense you couldn't fight with him about it. And he was very helpful to me, in assisting me to become a litigator, as a matter of fact, because of the way he would guide us.

(00:32:20)

Interviewer 1: What sort of things did you cover in the trial technique class?

(00:32:25)

Interviewee: Well, you start with learning how to prepare pleadings. Discovery rules have changed dramatically since I became a lawyer. It used to be, you know, trial by

stealth, and it's not that way anymore because that just means that you may get lucky and win as opposed to having a jury or the trier of facts learn the actual facts and making rational decisions on who should prevail. So discovery opened up, both written discovery, asking interrogatories, answering them under oath and taking oral depositions, asking questions put to you by the attorneys, under oath, and a court reporter present to take everything down so once you said it, you couldn't go back and change it later because it was advantageous to do so. So you would learn the discovery techniques. You'd have to really look at the text material to really appreciate how one can learn to ask appropriate questions. Now, you, you had to have a good background in the rules of evidence before you even started litigating, excuse me... because certain things are going to be excluded and other things not, and so you had to know what was, what would be admissible as evidence and what wasn't. And then they would teach you how best to ask the questions both on direct examination and on cross examination to make your point within the boundaries of what is permitted as a matter of evidence. And, you know, some lawyers aren't- not known for civility, that's not Fred Lane's method of practice and it wasn't mine after he straightened me out. And as a judge, it certainly wasn't mine. But that'll take you through it, that course, about a nine-month course and really give you a big leg up if that's what you want to do.

(00:34:56)

Interviewer 3: Okay so, you were mentioning when you got out of law school you worked, you worked for a firm, correct? And...

(00:35:03)

Interviewee: Yes.

(00:35:05)

Interviewer 3: Did you ever think of working, like, for the State's Attorney Office or the Public Defender's Office, did that ever interest you?

(00:35:11)

Interviewee: I did, as a matter of fact, work for the law department of the city of Chicago, called the Corporation Council's Office, as Assistant Corporation Council for a period of time. I got interested in it because my friend Dick Elrod, whose name I've mentioned to you before, went right out of law school into that office and he kept telling me about his experiences. And, it was broadening 'cause this-the law department does, did so many different things. I mean, things you don't even think about normally, zoning, I-you just not only tort defense, you know, but contracts. There's so many things, environmental law, so I thought it would be a good exposure. And, I ended up in the Tort Division, and it was more litigation, and this was after I left Lane, Gross, Carmen, and Dee.

(00:36:08)

Interviewer 3: So that was your second job then?

(00:36:10)

Interviewee: Yes.

(00:36:12)

Interviewer 3: How long were you at the Council's Office?

(00:36:16)

Interviewee: Corporation Council's Office, I would say two to three years something like that.

(00:36:21)

Interviewer 3: And, where did you wind up moving onto after that?

(00:36:26)

Interviewee: I started my own practice in conjunction with working with my uncle's law firm. It was Burr and Golden. His offices were in the old First National Bank Building. It was a beautiful marble building, that building has since been torn down. And I practiced there with him and developed my own practice while I was working with him as well, which he was very tolerant of my doing. And, I built up my own practice ultimately. I left his office and started my own practice. And while I was developing it, to supplement my income, I worked as a hearing officer in the Board of Tax Appeals.... And when I was in the Corporation Council's Office, at that time, I was permitted to take cases of my own as long as there was no conflict of interest. In other words, I couldn't handle anything where the city of Chicago might be involved in any way. So, but they've changed the rules since then and if you are an employee of the State's Attorney's Office of the City of Chicago you cannot have any outside practice at all. We were permitted to do that, when I was, you know, at that stage in my career.

(00:37:55)

Interviewer 3: So did you like having, being in practice for yourself, more than working, for, like working for the Corporation Council's Office?

(00:38:04)

Interviewee: Oh, I had no intention of ever continuing in government practice. It would be too limiting. And it really, you don't have any control over your life really, so that that was never a thought. That's not what I wanted- intended to do. I might have, if the opportunity had come along, affiliated with another group in private practice, as opposed to starting my own firm, but I didn't want to continue in government service.

(00:38:37)

Interviewer 3: Were there any cases early on that, you know, had any particular importance to you professionally that sort of influenced you in anything? Anything that sticks out as being an important experience?

(00:38:50)

Interviewee: Nothing really comes to mind, but in order to make a living, even though I wanted to do primarily litigation, I did some matrimonial law too. Handling some divorces things of that sort. And one, I remember one crazy lady I represented, who threatened to kill me. So yeah, that stands out, you don't forget that. [Laughter] She was really off the wall. And I did a lot of real estate work too. And almost anything I could get to keep alive, but the thing that I really wanted to do, and did mostly, was to litigate. And as I got more litigation clients I did that more exclusively and limited the other practice.

(00:39:43)

Interviewer 3: Were there any people, that you worked with that, at that time early on that you know really influenced you or sort of directed how you were, or sort of...?

(00:39:52)

Interviewee: Well, like I said Fred Lane, was a great teacher and mentor... I took a lot of, I took a number of criminal cases too, and, yeah one case I remember, 'cause it changed a lot of things. I tried a case in the Federal court. And it was a theft from interstate commerce case and there were two defendants in the case. I had one, and another fellow, by the name of John Powers Crowley, had the other. And we both gained not guilty verdicts on behalf of our clients. John Powers Crowley went on to become a U.S. District Court Judge. And at the conclusion of that trial, the then chief judge of the... of the U.S. District Court...in that, in those days they were gods you know, came up to me and he put his arm around me and he he he did... And that was like a way of strangling you really so you couldn't get a way. He says, "We're starting a Federal Defender Program here, how would you like to volunteer to be on the panel?" And you know, it was like being in the service, if somebody said would you like to volunteer for something and if you were stupid enough to say yes and if you tried to say no to him, you you you, well you couldn't say no. So I ended up being on the first panel of the Federal Defender Program. And as a consequence of that, I tried of number of Federal criminal cases. And do you remember Otto Kerner, do you? He was the governor of the state of Illinois at one time. He was a circuit court judge prior to that. And I had cases in front of him and after being governor he went on to the 7th Circuit Court of Appeals and he wrote an opinion on a case that I had tried in the lower court in which he actually mentions my name in a very positive and flattering way and it was kind of nice I thought. Unhappily what happened to Otto Kerner was that he ended up going to jail as a consequence of something that they alleged that he did when he was the governor. And there was a guy by the name of Ted Isaacs, who I would think really was the responsible party. Knowing Otto Kerner, the way I learned to know him, as a trial lawyer, and appearing in front of him, and all that kind of stuff, I really to this day find it hard to believe that he knowingly committed the felonies for which he was convicted and for which he spent time in prison. And they let him out early because he had lung cancer and he died, unfortunately. It's funny, not funny. John Powers Crowley, I told you he ended up going on the district court as a trial judge. He resigned after

a number of years, because he wanted to make some money for his kids, you know, 'cause you were kinda stuck as a public servant in what you could earn. And he went back into practice and he also died of lung cancer, at a relatively young age.

(00:43:34)

Interviewer 3: What kind of an impact did your practicing law have on your like personal and your family life? Was it, a part of, you know, like did you bring your work home with you a lot and was that sort of...

(00:43:45)

Interviewee: I worked almost seven days a week, it was very hard. And as my kids got older what I would do... I, I didn't spend a lot of time on Sunday, and only half a day on Saturday. But what I would do, as I said we had three kids. We had our two boys first and then our daughter. And I would take each one of them in turn and 'You're spending Saturday with me.' They would go down to the office, I would open the mail, do the things I had to do, and then we would go to lunch or a ball game depending on the but...with my daughter, she quickly learned that her best thing in life was to shop. [Laughter] So, so we we would...we did, I did with them those things that that I thought they liked to do and it was just one on one. So that helped to make up for the fact that I couldn't be home for dinner every night. And you know if you're on trial, when the court closes you're not through you have to prepare for the next day. You have to interview witnesses and prepare them for their testimony and all that kind of stuff. So there were many nights when I couldn't make it home for dinner. And the kids would end up going to bed before I could get there, yeah that hurt. And I'd do what I could, you know, but that was just fundamental to my practice.

(00:45:02)

Interviewer 3: Yeah, do you think that your being in law influenced, you said one of your sons is a lawyer, do you think that really made an impression on him to like that he wanted to practice?

(00:46:05)

Interviewee: I don't know if it did or not. It is interesting, I had an opportunity to get on the bench and I thought all my financial responsibilities were taken care of, my kids had gone through college. All three of them were set and I could afford to work for less money at a job that I knew I would love. And I was on the bench for about a year when my son said, "You know dad, I think I'd like to go to law school." I anticipated that he might be going for a master's degree sometime, but I didn't anticipate that, so that's what he did, he went on to law school.

(00:45:48)

Interviewer 3: So how long did you practice as an attorney before you...

(00:45:50)

Interviewee: Twenty-six and a half years.

(00:45:52)

Interviewer 3: Okay, before you were a judge?

(00:45:54)

Interviewee: Right. And I was on the bench for twenty-two years.

(00:45:59)

Interviewer 1: And how, how much of that time was spent in your private practice, in your, in your own firm that you started?

(00:46:04)

Interviewee: Almost all of it, really the largest portion of it. A couple years, as I said, in the Corporation Council's Office, but after that, for the most part, I was really pretty much on my own.

(00:46:24)

Interviewer 3: What led you to the decision you wanted to become a judge? Was there anything in particular that...?

(00:46:28)

Interviewee: Well as a guy who spent a lot of time in court...I mean there's some people who graduate from law school and they never go to court, never see the inside of a court room, they do other transactional work or whatever. But I spent a lot of time in court and I thought why that's the ultimate, you know, that really is something I would aspire to. But I wasn't in a position, I didn't think, to even attempt to make that move at that point in time. Educating three kids and all that kind of stuff, you know, it's not cheap and it's gotten worse as you know.
[Laughter]

(00:47:04)

Interviewer 3: You were an associate judge first and that's...

(00:47:05)

Interviewee: Yes.

(00:47:06)

Interviewer 3: And that's where you're appointed or selected by the circuit judges correct?

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Interviewee: Correct.

(00:47:10)

Interviewer 3: And was that a difficult process to be selected by them? Like, did you have to go through like applications or exactly...?

(00:47:18)

Interviewee: Yes, you you make application for the position. And then at that time there was only the Chicago Bar Association that was interviewing candidates. Now they have an alliance, so that in addition to the Chicago Bar Association, other bar associations working collaboratively interview and evaluate candidates and make recommendations. If you look at the papers recently you'll see because some of the judges are up for retention, some are seeking positions as associate judges. The alliance had been working to evaluate them and make public their recommendations. So I interviewed with the Chicago Bar Association and they evaluated me and they gave me good grades and... When Richard J. Daley was the mayor, and he pretty much had control over the system...if you didn't pass the Bar Association's recommendations to be qualified or highly qualified, he would not consider you for a position. And he controlled all of the ward committeemen who then would tell everybody who they wanted. You know what I mean? It was a terrible system and it's still a terrible system. There's a lot more freedom then there was, but it's a bad system. And I had appeared before so many of the sitting circuit court judges that they knew me in both the criminal and civil courts. And as an applicant for an associate judge you go around to every judge you can see and remind 'em, 'Remember me, I'm Ed Burr and I'm, I wanna get on the bench blah, blah, blah.' The first time...oh here's what happens, the chief judge has a committee that interviews all the applicants for associate judge. And then, and that committee is usually consists of the chief judge and the presiding judges of the various divisions. And I don't know if you know anything about how we're structured. If you need to know I can tell 'ya. But, they would reduce the number of applicants to two for every vacancy. So if there's five vacancies there's ten finalists. And those ten people would run around to all the judges to try to get their votes, the circuit judges. I made the cut off the first time, but I didn't get on the bench. I made it the second time and I did get on the bench. And I came on as an associate judge August 4th, 1984... Four years later I ran for circuit judge and I was not slated. Do you know what slating is? That's where the political powers say you will be our Democratic or our Republican candidate. And I ran against the slated candidate. And the whole election, if you run as a Democrat in Cook County, is the primary election because whoever prevails as a, the Democratic candidate is going to win that election. Because this is a Democratic community, Cook County is. You go to some of the suburbs and it's a Republican, same thing. So I won the primary election, there were over five hundred thousand votes cast in that primary election and I won by fifteen hundred votes, but that included, you know, the outlying areas, the townships in Cook County too. And I lost inside the city where the ward committeemen had an awful lot of power, but I won handily out in the suburbs. I don't know how. I do know how. I can tell you how. And Dick Elrod was the one who put me on the path. Now, I don't mean to offend anybody's viewpoints, but there was also in addition to the slated candidate, two other candidates besides myself running for the position for the nominee for that seat on the bench, including one by the name of Leroy Walter Lemke. And he was a state legislat-legislator in the southwest

corridor and I knew he was gonna pull off a lot of votes of Democrats for him away from the slated candidate, and that was gonna be helpful for me. But then I went to an organization called NOW. I don't know if you know what that is?

(00:52:36)

Interviewer 1: National Organization of Women

(00:52:37)

Interviewee: That's right. And Leroy Walter Lemke was a strident pro-life person throughout his life in the legislature, very strongly so. And those women were for choice, and I went to them and they had never before endorsed a candidate. Ever. And I said to them, 'You can if you want vote for him, or vote for the slated candidate, but if you vote for the slated candidate with me pulling votes away from him, Lemke is going to win. So you have to make a choice if you're inclined to get involved in this race as to whether or not you want to support me.' They didn't know if I was a pro-choice or a pro-life, but I let them think that, you know, I was probably pro-choice. And they met and they caucused and they decided, they were the umbrella organization for other groups of women. And they decided that they would support me. And I had printed up a bunch of friend-to-friend cards, little postcards, in which they said who their preferences were. They would sign their names and address them to the members that they knew, and I would take them back and I would mail them. And I think that was what made the difference. That's how I got to be the nominee for the Democratic Party for the seat that I ultimately was elected to.

(00:54:12)

Interviewer 1: Why did you decide to run against the slated candidate? Or what, I mean, that, that was a thing, that was a challenge in those days...the Democratic Party had so much control? The committee...

(00:54:22)

Interviewee: 'Cause I thought I had a chance to win if I selected the right contest to go in to. I probably would not have won if I'd have selected a different contest. And I didn't want to get involved in something that was going to take up my time and my resources if I didn't even have a chance. I saw an opportunity. Secondly, after all those years in practice and getting on as an associate judge where the tension just dropped like that and I started having time to be with my family. But the one thing as associate judge in those days that I couldn't get was the preferential assignments on the bench. I wanted to have an opportunity to hear more advanced kinda cases. They would send us to marriage court and things like, you know, I didn't feel as challenged as I wanted to be. There was a preference for circuit judges in getting assignments. There is still that preference to some extent, but not as much as it was. If they see a talent that they think would fit they try to utilize them. It doesn't always work out that way, but more so now than in those days. That's why I decided, a combination of opportunity and wanting to be able to have better assignments. See the Circuit Court of Cook County is the largest

judicial system in the world. We service the largest population in the world. There's about roughly nine hundred trial judges. I shouldn't say trial judges, I don't know that that's true either, but roughly nine hundred judges in the state of Illinois and about half of 'em are in Cook County. So in order to be able to handle the work, administer it, long before I was involved, they divided the work into departments. They had a criminal court built, court department, probate court, county court that would take care of commitments of mental patients, and adoptions, and oversee election problems, things of that sort. Municipal departments, there's six municipal districts geographically located and they handled, they handled for the most part, the smaller cases. And the one where I did most of my practice and where I wanted to be was the Law Division, and I could never get in there. If I was...I was in the First Municipal District, I was a motion judge and a trial judge there as well as doing other things, but the bigger cases, the more difficult cases, were in the Law Division. And after I became elected, that's where I was assigned, and I sat there for most of my judicial career then.

(00:57:31)

Interviewer 1: So I know you, you talked a little bit about the difference between being an associate judge and then a circuit judge, circuit court judge, is that the right term?

(00:57:48)

Interviewee: Yes.

(00:57:51)

Interviewer1: Is there anything else that you wanted to mention about that differences. More responsib- is there more responsibility in one position or another or is there tension because one is elected and one isn't?

(00:58:00)

Interviewee: The Supreme Court rules give all judges at the trial level, associate as well as circuits, general jurisdiction. So, that the only thing that an associate judge cannot hear are felony criminal cases, unless, the Supreme Court appoints them with that jurisdictional authority. And I did have felony jurisdiction by appointment from the Supreme Court and I did hear some criminal cases, but I was still an associate judge. And associate judges would also, you know, sit in bond court and people who had been arrested would come before them to set bond. They would be assigned for a week at a time to night court, things of that sort. So you get a good broad experience, but, but it stops there, you know, kind of pretty much. But any one of those associate judges can be assigned to sit in any of the other divisions of the court.

(00:59:11)

Interviewer1: Did you have any memorable cases as an associate judge?

(00:59:22)

Interviewee: Umm... They were not as complex as the cases I ended up hearing in the Law Division. I did for a time sit as the motion judge and that was good because, you know, you get a lot of law. You're constantly doing it. I have to tell you something about that CV that I gave you, that resume. I, maybe I did mention, my printer jammed, because I have always been busy going to judicial seminars that was one of the advantages of being a judge. They would pay you to get educated. And any judge who doesn't take advantage of it is nuts because it's, you don't al-you don't have to go. Some people don't bother. It's ridiculous. They, they more recently they did mandates, the Supreme Court did mandate, that judges get, I think, fifteen hours of continuing judicial legal education every two years. So now they're forcing you to go to some of 'em. I would get as much as I could. I just loved it. And you get a flavor from that CV of the kind of things that we would have offered to us. After I get my printer going, if you want me to mail to you the other stuff, you really don't need it, but if you want it, I'll get it for you. I, I think, I ju- I thought that a, the fact that they would even offer to associate judges this opportunity for continuing education was wonderful. And I took advantage of it every chance I could get.

(01:01:09)

Interviewer 1: So what kind of cases did you hear in the Law Division?

(01:01:14)

Interviewee: Initially, and they're all really complex matters, civil matters. Initially we had both commercial cases and tort cases, but because it got so busy they broke it down further and were assigned to a judge in only commercial cases and he would have, he or she would have their own calendar. And they would have to administer it and your case is comin' up and your case is comin' up and you came in for a motion, I'd have to take care of it, you know, pretrial, that kind of thing. So we lost the opportunity to hear commercial cases, which I felt badly about.

(01:01:58)

Interviewer 1: And-

(01:01:59)

Interviewee: But I ended up hearing mostly complex legal cases com- civil cases could be involving legal malpractice, medical-learned a lot of medicine from presiding over medical malpractice cases, but it could be anything.

(01:02:19)

Interviewer1: And excuse my ignorance of the law but what is, exactly, are commercial cases? What would that entail?

(01:02:25)

Interviewee: Okay, if 'ya had...well they even broke that away. I was gonna say, a banking foreclosure case, 'cause you didn't pay your mortgage, but they even have a separate division for that now. That's part of the Chancery Division and they just hear foreclosure cases. But commercial transactions, breach of contracts for

example... A lot of, a lot of cases involving mergers and acquisitions, that's all of a commercial nature, banking cases, that's the kind of thing that a commercial calendar would consist of.

(01:03:11)

Interviewer 1: So you said you heard a lot of medical malpractice cases?

(01:03:14)

Interviewee: Yeah.

(01:03:14)

Interviewer1: Were there any in particular that stood out 'cause that's become a pretty big issue, medical malpractice these days with rising rates, and a lot of contention over the role the legal systems playing in that. So were there...

(01:03:26)

Interviewee: I have my own views on that, which I now am at liberty to be able to disclose because I'm not a sitting judge anymore. [Laughter] The public is being fed a lot of crap. Why do, why do they want to feed 'em crap? Who makes up juries?

(01:03:43)

Interviewer 1: Public. [Laughter]

(01:03:44)

Interviewee: That's right. So you wanna taint their thinking before they even get on the bench. The amount of premiums that doctors pay for their liability coverage is due in a large measure to two things. One, the overhead is enormous. What they pay their executives to operate an insurance company and the kind of benefits that they get and their overhead is strangling and until recently they didn't have to even account for it. And if they wanted to raise rates, that's all they did, they just raise rates. And the other reason, I think, is to make a point. If we show the doctors are overpaying or paying too much for their insurance and that some will flee from practicing in certain areas blah blah blah we can change the way people think about medical malpractice cases. Let me just give you an example. I am now serving by appointment in a particular case as a Guardian ad Litem. This is a case involving one boy who was a twin, whose brother was born vaginally, but he didn't descend and there was a placenta abruption and the baby wasn't getting oxygen. The mother and the father are Hispanic and speak very little English. They did not take the baby by c-section in time. This baby is so catastrophically damaged. He is now eleven years old, he can't speak, chew, walk, talk. He has a feeding tube in him. His head keeps dropping 'cause he has no motor control. I mean I can't even begin to describe adequately how badly this child has been damaged, and there is no question in my mind but that it happened as a consequence of medical negligence. No question. The public is paying for this kid's care that care at least that the mother can't provide. Let me ask you a question, now who do you think should pay for this? The people who caused this condition or the public? With public assistance, that's where the money is going

your tax dollars and mine. Okay? This was a totally preventable occurrence. The brother is as normal as can be. I can only tell you that our system of justice has always been that we are responsible for what we do, good or bad. And if I'm driving my car and smash it into yours and injure you, there's never been a question about who should pay. I'm the responsible negligent person, I pay. I can buy insurance for it, and that'll indemnify me and I pay a premium for that, don't I? Matter of fact, in this state you cannot operate a motor vehicle unless you have insurance. Unfortunately, they haven't raised the limits of that mandatory insurance since they enacted that law. It's still only ten thousand dollars. It's not enough. You can't fix your car for ten thousand dollars anymore. But that's up to the politicians and, of course, they get money from insurance companies not- to leave it alone. In any event, I think it's a consistent and reasonable approach to our American jurisprudence that if a person because of his or her negligence causes or creates a problem, damages, injury, death, that that's the party that should be held liable. The problem of course is that when you're dealing with a lawyer and they do something stupid and negligent you're not going to lose your life or your health over it. But when a doctor does, the damages can be, as in this case, catastrophic. And again, I ask you, is that reasonable to ask them to pay? If I injure you there's no cap on the amount of damages to which you would be entitled. And we're not supposed to have preferences in this country. Because you're a woman you should be treated better than I am because I'm a man? And the women fought because they felt that that's what was happening in an adverse way. I don't get caps, they get caps now, come on! Please! The case that I'm talking to you about is worth fifteen to twenty million dollars easily to take care of this kid for life. Caps! There's a lot of problems, but the worst problem is that in a country where the first amendment gives us freedom of speech they have a right to misrepresent and that's what's happening and the public thinks that there's something wrong with suing a doctor. Now, on the other hand, let me just tell you this. Eighty percent of the cases that go to trial, that, medical malpractice cases, are resolved in favor of the doctors. That doesn't mean that there's frivolous lawsuits because there's a whole process of evaluating the case before it gets before a jury and a lot of these cases are knocked out before that happens. We have what's called summary judgment, there's no genuine issue, that, of try-able fact. You can have differences of opinion and those are the cases that go to trial. Eighty percent of those cases end up favoring the defendant physicians. My statistics and I kept records, parallel what everybody else was having by way of their experiences too. But, as long as you brought it up, I would just tell you, that as long as I have breath I will always fight for the right of anybody to bring his or her case into a court of law and have an impartial trier of fact determine whether or not there are merits to the claims being made. And I just think that the public is being tragically misinformed. There are, however, doctors who are suffering as a consequence of all of this. No question about it. In some communities, where they keep the premiums unreasonably high, they can't earn enough money to justify their staying there and they have to go to other communities or change their specialties or whatever.

You're all three young women, two of you I see have wedding bands on...that's not a wedding band?

(01:11:40)

Interviewer 1: [Laughter] No.

(01:11:41)

Interviewee: Okay, well whatever. There's a large percentage of females who hope one day to be able to have babies. And some women opt not to but and some can't, but a lot of women want to have babies. And when you go to a doctor, you pretty much rely on what the doctors doing for you and your baby. And you want good care and you wanna trust that person. And, you know, they like everybody else, they being doctors, learn new things all the time that help them, but if they screw you up what, what's your reaction going to be? Give you a baby like this one I'm talking about? I know how you'll react. God forbid that were ever to be your fate. Off the track, so you wanna talk about something else? Did I lecture too much?

(01:12:37)

Interviewer 1: No, No. One of the things that you just mentioned was that it's very important for everyone to get a chance to get their case tried in court. Are there other kinds of principles that guided you as a judge? Sort of like that, that you feel really strongly about?

(01:12:59)

Interviewee: ... Well I, I love and care about the law, and, I did my very best to try to follow the law as I understand it. I think the law is designed to give people a fair chance to be heard, in an impartial way. I think key in that regard is what we call voir dire, or jury selection process. It's the most boring part of a trial, but it's probably one of the more important parts of a trial. Voir dire comes from the French, it means to speak the truth. And the purpose of talking to prospective jurors and getting their answers under oath to these questions is to see whether they have predisposition such as in a medical malpractice case, where they would never vote to enter a to to assign a verdict against a doctor or conversely, "I had a bad experience with a doctor and I don't trust them," you know, either way you wanna try to ferret that out in the early stages right now. Judge Rebecca Pallmeyer was the presiding Federal judge in the George Ryan trial and you probably read or heard about what happened in her case where these people misrepresented to the lawyers and to the judge, criminal backgrounds. And that's going to be a major issue on appeal of the conviction of George Ryan in that case. So I think that's a very significant part of what a judge has to do, oversee the voir dire and see that its conducted in a way that brings out information that people need to know to determine if their gonna get a fair trial. And of course there's a lot of stuff that goes on before the case ever gets into the courtroom that the public doesn't know anything about. The discovery process and the motion practice and all that kinda stuff. But once that's been cleared up and you're ready for trial, and the judge is

presiding, has that responsibility to do the best he or she can to get a fair and impartial trial of facts. If there were people, for example, sitting on a jury who, in this environment today, felt that they could never give a fair trial to a Muslim, don't you think that would be important to know? And under our system wouldn't a person who adheres to the Islamic faith be entitled to the same benefits and rights that you or I would be entitled to? So those are the important things to know. It's interesting too, when you get that jury summons a lot of people say, "Oh, why me?" and, "You're interfering with my life," and all that kinda stuff. And by the way, whenever I got a student and I would never keep them, I would always let them go. I didn't want them to miss class. I think most of the judges would do that with the, "We can get 'em back later on." [Laughter] But, you know, when when you get somebody who has a hardship, you don't want them to suffer. But even when you come in to the system as a potential juror, I mean if it's interfering with work or family, I mean sometimes you get people who care for their elderly parents and they're the only care taker, you gotta let them go, right? But when you're finally there and you take that oath, I think most people are good, decent people and they wanna do the right thing. I really believe it and the system is amazing! What juries decide is almost always fair and reasonable and just. In all of my experience, I had very very few cases where I could look at that verdict and say that is absurd. I had two cases in all those years where we had a hung jury, where the jury cou-just couldn't agree. There may have been one or two holdouts you know. But the system was just remarkable, it works. Always needs improvement, everything does. And I've seen changes in all the years that I've been licensed to practice law and sat as a judge, all for the better I think. Not all of it, but most of it. But this system is just incredible, unless you've been exposed to it, you can't really appreciate it.

(01:18:00)

Interviewer 1: Were there any particular cases that stand out as significant in your career or in shaping your philosophy?

(01:18:06)

Interviewee: One of the first things you have to learn as a judge is there are no unimportant cases. They all stand out. Some are more exciting than others. Sometimes, for example, when I'd get into a medical malpractice case, I would be enthralled by the medicine and learn about things that I had not been exposed to before, but even the simplest of cases is important. Why I say important? It's not only important to the people involved in the case, it's important to the system. If your not doing what's just, fair, reasonable as juries, as I said do, then the system can't continue to exist. The system is there for a purpose. Imperfect sure, but there's never been a better system devised, by man, anywhere in this world. That I can tell 'ya.

(01:19:02)

Interviewer 1: Did your skills as a litigator help you with when you became a judge?

(01:19:05)

Interviewee: Absolutely, Absolutely! I don't think I had as much to learn. Although, I will say that some of the lawyers that you see in court today would put me to shame. Because things do continue to evolve and techniques are enhanced and there are electronic devices, for example today, that are utilized in a trial of of a case that we didn't have available to us. Just to give you an idea, about twenty-two years ago when I went on the bench, most of the law offices were starting to get fax machines. Now, I have one in my home. I was one of the first people in the practice of law to have a computer in my office. And the only things that computers did in those days was word processing, nothing else, an amber screen, no color. And Word Perfect was what I learned. And the only way that my secretary was willing to allow me to have a computer in my office is if I would go and take the classes with her. So I took off for a week with her, we went to this building where they gave us classes on how to, how to do that. And I had a case that was, a brief that was due on appeal, so when we came back to the office I said, 'Alright Gloria, here are my notes start...', "No I can't do that again, I want to use my typewriter." She's the same woman who fought me when I bought an electric typewriter too, [Laughter] because she thought it'd be too fast. And she was a wiz, great secretary, wonderful woman. But that's how things have changed. And in the courtrooms today, you know, you would project things on the walls. And you can now, for example, you're a witness and you're testifying inconsistently with what you testified at trial, at deposition, excuse me. And before they used to have to go to the transcript of things and find it, "Do you remember having your deposition taken? You were under oath weren't you? And were you asked this question and did you give this answer?" And then they would show the inconsistency. Now they can press a button electronically and show her on the wall [Laughter] testifying inconsistently with what she's saying in court. What kind of an impact is that going to make on a jury? So, that's why I say, today, these lawyers, taking these trial technique courses, using these electronic devices, are more skilled than I was, and I've learned from them. And everyday going to work was a wonderful experience because, 'cause as I said before, they're paying me to learn.

(01:21:55)

Interviewer 1: So, what was the average day like as judge, what were some of your daily...?

(01:21:57)

Interviewee: Well, I used to volunteer to do work be- other than presiding over jury trials. I did, at, on a voluntary basis, what we would call pre-trial settlement conferences, which is just another form of mediation; which is what I am doing now, since I've stepped off the bench. I would take a case at eight, eight-thirty and nine, nine-thirty I was on the bench. I'd take another pre-trial at noon. And, I would help the lawyers to settle their clients' cases and that would save a lot of judicial resources. It costs a lot to present your case in court, particularly where you have to pay an expert to come in and testify. And money is a commodity, it has value. If you're entitled to a recovery, better you get your money now and start earning interest on

it then ten years from now, you know. An exaggeration, but you see my point. So, helping people to get rid of their cases on a voluntary basis, bringing them together, resolving these disputes, I felt was very good. Judge Elrod is another one of those guys that does that. We have another Judge, Judge Locallo is doing that, but those are the only three judges that I know of that are doing it on a voluntary basis and there's thirty judges in the Law Division trying cases and why they won't do it, I don't know. I got a lot of pleasure out of being able to help somebody. It was very satisfying. And now, since I've stepped down, I'm affiliated with a company called ADR Systems of America. ADR stands for Al-Alternate Dispute-Alternative Dispute Resolution. And there are a lot of different ways you can do it. Arbitration is what I do and mediation is what I do. And that practice is growing, I'm getting busier doing it, and it makes a lot of sense, it gives me a lot of pleasure.

(01:24:05)

Interviewer 1: It's funny, it seems like your philosophy now is kinda been influenced by the the Mr. Lane, who you mentioned earlier. That when he was in favor of kind of talking things out and not, you know, butting heads.

(01:24:19)

Interviewee: He was ahead of his time, but he was also a very capable trial lawyer. Not every case can settle... And maybe not every case should settle. Sometimes you got really close questions and you need an impartial trier of fact to resolve it. Many times though, if you're an experienced lawyer and you're experienced, you can see the good parts of your cases and the weaknesses. So in talking to each other, you can settle your case. That, that's negotiation, but the problem with negotiation is that you're still an advocate, and you're still taking your client's side. So you need a neutral to look at it and say, "Yeah, but what about this and what about that?" And I can talk to you privately, outside of her presence and then you outside of her presence, and, and make you see some of the things that maybe as a... less than impartial person you might not have wanted to, to face the reality of. So that's a good way to help people. And more and more cases are going through that process today.

(01:25:36)

Interviewer 1: In addition to medical malpractice, what were some of the other specific areas of law that you, that you...?

(01:25:41)

Interviewee: Construction cases, you know... or a simple automobile accident case can be, find its way into the courts. Legal malpractice cases as I said. Such a myriad of different cases, libel, slander... intentional infliction of emotional distress. Did you read about that woman recently? She happens to have had the same name as this Mayor Daley's Corporation Counsel, Maria George is her name. She and her husband got divorced and then she starts sending out letters at some point after the divorce. Could be a long period of time, I don't even know. Slandering

her husband, and really injured his business as a consequence. And he sued her for libel and slander. And he got an enormous judgment against her, enormous. I'm sure she's never going to be able to pay it, but it it shut her up. Why people do the things they do and, sometimes there's no accounting for it. The only way to resolve it is go to court.

(01:27:08)

Interviewer 1: It's funny, we just read a book about libel and slander and its' potential in oral history. [Laughter] So...

(01:27:14)

Interviewee: Really?

(01:27:15)

Interviewer 1: Yeah, we're all very...it's actually an expanding area.

(01:27:17)

Interviewee: Well, you have to be careful, if you're recording history, you want to do it accurately.

(01:27:26)

Interviewer 1: Definitely scary, a couple [Laughter]...because the interviewer is just as responsible as the interviewee for whatever gets said in an interview so...

(01:27:35)

Interviewee: That's true, and then, you probably, if you're going to utilize the material you gathered in a publication, for whatever reason, even if it's just educational use, you should verify the information you're receiving in order to determine accuracy.

(01:27:57)

Interviewer 1: You mentioned volunteering in regards to settling cases before they came to trial.

(01:28:03)

Interviewee: Yes.

(01:28:04)

Interviewer 1: What were, did you, were you involved with any other volunteer activities or organizations while you were a judge?

(01:28:09)

Interviewee: Well, of course, being a judge there are a lot of restrictions on what a person can and cannot do. You certainly can't keep, be active politically and things of that sort. Excuse me. One of the things from which I've derived the greatest satisfaction was teaching. I loved it. I was an adjunct professor at two law schools. And yeah, it was a lot of work. I would teach a three-hour course where normally you would go Monday, Wednesday and Friday say for an hour. I would teach three hours, from six to nine on Monday nights, 'cause I couldn't do it every

night, just wouldn't be right. And so that, you can imagine the preparation and what goes into that. But I loved it, it was wonderful. And sometimes I say, 'Why am I doing this?' and then I'd go to class and walk away feeling great. And you'd just see these younger people developing, they were curious, they wanted to ask questions and learn. And I did this for so many years and these students, former students, would come by and say, "Hi Judge" and, you know, they'd tell me what they were doing. Can you imagine how satisfying that is? It's just wonderful. Another thing I did that I'm very proud of, we don't have the resources to hire law clerks. We, we do have law clerks in our Chancery Division. They are lawyers, who passed the bar, and are actually doing research and writing for the judges, but in the Law Division, we didn't have any. And I started, many years ago, a judicial extern program whereby these students in law school could come and work for a judge doing substantially what a law clerk does, for credit hours. They were not our employees, so we had no liability to them for example and it didn't cost us anything. And they would still have to pay tuition, they were taking a course from which they would get, you know, for which they would get credit toward graduation. And that system has been just wonderful. If you were interested in law, can you imagine being able to work for a judge and learning what goes on in the courtroom? It was a wonderful exposure for them. I'm very proud of having started that program. I talked to the dean of the school where I was teaching and the chief judge of our circuit court, they agreed that it was a good idea and we put it together, and it has worked terrifically and anyone of our judges can ask for an extern and get one. And they, most of them do.

(01:31:10)

Interviewer 1: Did any of your students ever end up coming before you in your court?

(01:31:14)

Interviewee: Yes.

(01:31:15)

Interviewer 1: Or joining you on the bench?

(01:31:16)

Interviewee: Yes. And of course I would always have to expose that and reveal that to all of the attorneys present. And assure them that it wouldn't make any difference in my rulings and it doesn't. But, yeah, it happened.

(01:31:41)

Interviewer 1: I, I had just wanted to take a step back, I have, I have a question going way back to when you first became a circuit judge. Did your decision to run against the slated candidate ever have any repercussions for you?

(01:31:54)

Interviewee: I really don't want to go on the record with this. I'll tell you privately, but turn that off. [Tape recorder turned off] Never had any political repercussions, no.

(01:32:05)

Interviewer 1: Are there any, I know you stated that, that all cases are important, but are there any that you found particularly interesting that you might want to discuss. Or, or cases whose, who had repercussions within, you know, the ruling had repercussions within the particular part of the law. Whether it was malpractice or construction or...?

(01:32:25)

Interviewee: I can think of one, and when you ask me that question, because I was reversed. I held that this woman was appropriately committed to a mental institution. And, on review, it was overturned. And, my ruling was reversed. Certain things that were supposed to have taken place apparently in their view did not take place. And it stands out because it really made me a little more cautious about how I would handle those situations. One case I remember, I, there's so many I mean [Laughter] I, I, it's very hard to separate them. One I can remember where, an employee charged the employer with wrongful discharge. And it was very interesting to hear how this employer, it was a pretty substantial size company, treated their employees. They went to special ends to have manuals of what's expected of the employee blah, blah, blah, blah and then ostensibly violated their own rules and discharged this employee. And that was important to me because... I think I set the tenor, at certainly for that company, and conceivably for others who might be made aware of what is and what is not acceptable criteria for determining how you handle discipline in a company and when you can discharge and so on and so forth. That, that was an important case. And that case went up on appeal and I was affirmed. But I, it it had significance or had the potential for significance, let me put it that way, because it set appropriate standards.

(01:34:34)

Interviewer 1: So why did you decide to retire in 2006?

(01:34:37)

Interviewee: If you did the math, I'm now seventy-five years old, as of July 14. And we have a law, which I, unfortunately, has never been tested. That requires that when a person is a sitting judge and attains the age of seventy-five during their term, our terms are for six years, they are not eligible to run for retention. And there's a difference between a retention election and an election. When I ran for election the first time, it was against competitors. A retention election is shall this judge be retained, yes or no. Those are the only two choices. And you have to get sixty percent yes to be retained. I would not be eligible to run for retention election again. I had several times during my tenure, but no longer because I reached the age of seventy-five. We get a cost of living adjustment as of July the first and it wasn't significant, it was a three point two percent, but that goes on my pension and my retention is, and my pension is for life. And if something happens to my while, my wife gets a portion of that pension. So I wanted to

maximize it. So I was certainly was gonna stay beyond July first. My term would have ended the first Monday in December. If I'm gonna get started doing something else, I might as well get started right away and that's why I elected to step down, when I did. I had no desire to run in a contested election for a, for a seat. I wouldn't do that. My own view is that that statute is unconstitutional because its age discrimination, and for other reasons. And I think were it to be tested, but that could take years and a lot of money and that's why nobody does.

(01:36:54)

Interviewer 1: Do you feel that there should be term limits? For the, for judges or...

(01:36:57)

Interviewee: No. I think if a person either through physical or mental reasons is no longer capable of doing the job there oughta be methods to have that person step down. And... but I know, Walter Kowalski died when he was eighty-two and he was still a sitting judge. And he was one of those people, by the way, who volunteered to do all these pretrial settlement conference; he got rid of more cases than anybody who ever sat. And he still had all his marbles, he was physically fit. He fell off a ladder about two years before he died and broke a kneecap and he was off of work for a week and he came back with a cast. He that, he was that kinda guy. One of the, one of the reasons why I think that that statute's unconstitutional... I'm, I just reached my seventy-fifth birthday. So I couldn't go for a retention election. I have a friend whose term will be up in December, in two years. And he will be three weeks away from his seventy-fifth birthday, and he can run for retention. That means he gets another six years. He'll be three weeks away from being eighty-one when he has to retire. Does that make sense? So by saying seventy-five, it isn't because of fitness, mental acuity, or physical ability, it's just arbitrary, as well as discriminatory.

(01:38:50)

Interviewer 3: What are you planning to do in retirement now?

(01:38:53)

Interviewee: Well, I've said, I've affiliated with ADR Systems. And I'm doing mediation and arbitration. Lawyers call up that organization and they say we want to mediate this case and the opposing lawyers have to agree on who the mediator is gonna be. In other words, if the plaintiff says yes but the defendant says no, or vice a versa, that person isn't chosen. So there's a number of people and you can go into the computer, if you're interested, and do ADR Systems dot com and you'll see who is available through that system. And as experienced lawyers then you can come together and say, "Yeah, I think Burr is ok, lets try him for this or not." And the difference, of course, between arbitration and mediation is that if during mediation we come to an agreement that's fine, it's voluntary. Arbitration, I'm sitting like a judge, you present your evidence, I make a decision. I'm writing an opinion right now on an arbitration that I just completed the day before yesterday. And I enjoy it. And they even pay me for it. [Laughter]

(01:40:09)

Interviewer 1: Here's kind of a big question. [Laughter] So you've been involved with the law for almost fifty years now, or more than fifty years maybe.

(01:40:17)

Interviewee: No, it'll be, I graduated in, in a '58, got it sworn in in February of '58.

(01:40:25)

Interviewer 1: oh, forty - close to. How do you think that the judiciary in Cook County at least has changed? What are some of the biggest changes you've seen in that time?

(01:40:34)

Interviewee: I think that we've had peaks and valleys. We've had times when the bar associations could get their message out to the public and influenced voting to some degree, but not enough. Where we've had selection of judges who turn out to be really accomplished, capable people and then we've had some people who get on the bench, who really have never lived up to expectation. One of the things that was a big setback was when we went into sub district-sub circuit elections. The thing that precipitated that was Republicans living in Cook County couldn't get elected and African Americans were having a hard time getting elected. And the legislature came to an absolute standstill when there was a coalition between the Black caucus and the Republican caucus. They would not allow any legislation to be considered until they got sub circuiting. That means that you could elect from these smaller local districts. And I think it's a disaster because it gives more power to fewer politicians. A sub sid-circuit could be maybe three wards in the city. And that means that those three wards, ward committeemen, could designate who they want to to be on the bench and who they don't want to be on the bench... When I started teaching law school, when I went to law school, I think we had four or five women in my class. We had one Asian American, and I can remember one, although there may have been two, African Americans. The classes that I was teaching in law school were about fifty percent female, a lot more African Americans, some Asian Americans, some Spanish Americans. Today we have Asian American bar associations and all the, you know, Cook County Bar Association, which is per-per-predominately African American. And if you have good educational institutions and these students take their learning experiences seriously they can com- prepare themselves to be good practitioners and a lot of them will eventually become good judges. But you don't pick somebody because their Black or White or female or male or Asian or whatever. You have to look at the qualifications of that person to serve. And the politicians frankly don't do that. They don't care about that. If you've been a precinct captain and you've been loyal to me, I, I'm gonna reward you. And the fact that you don't know stuff from shinola, doesn't make any difference.

(01:43:52)

Interviewer 1: When you were first talking about, as a kid when you stood up to the the bullies from the Catholic school you mentioned that you learned then that you kind of had to stand up for what you believed in, or you know stand up to people who were...

(01:44:03)

Interviewee: Yes.

(01:44:04)

Interviewer 1: Did that philosophy carry through to when you were a judge or a lawyer?

(01:44:08)

Interviewee: I, I have always been active, for example in the bar association. And I have written a constitutional amendment which the Chicago Bar Association adopted, as did the Illinois State Bar Association, getting rid of election of judges. And here I am talking about people who look to a system that we have to enable them to get on the bench, and I'm fighting. I don't think it's ever deterred me, and I've always tried to operate within the limitations imposed upon people who are judges to act ethically and properly. I have no apologies to make for asserting my firm beliefs, and I do that as you probably learned now [Laughter] without any limitation. Just the way I am.

(01:45:00)

Interviewer 2: You mentioned that there are reforms that you see that still need to be carried out what, what would you like to see, to reform?

(01:45:09)

Interviewee: Oh, reforms I didn't get the word. Elimination of the election of judges. There's no perfect system, let me tell you this. I don't, I don't delude myself to thinking that if we have an appointive system that it's going to therefore become perfect, that's not possible. But the system we have has proven itself to be politically influenced and that, it's wrong. I still think that though, even with that system when judges get where they want to go, and put the robes on, they try to do the right thing. It's the getting there and then, of course, you have to worry about whose gonna appear in front of 'em. Whether that will influence them or not, I'd like to believe that it doesn't, but you never know. An appointive system would be a better system. The way we created it...I was the chairman of the development of the law committee and then the next year the constitutional law committee. And we got the two committees together, I served as chair of both of them, and we got 'em together and and wrote this. And the people who aspire to those positions would have to be screened by a body of people who would be selected by the constitutional officers of the... of the state, alternating parties, so that we had a mix of Republican and Democratic people, number one. And would have to reflect the composition of the constituents of that community: women, African Americans, Asian Americans, and so on. Those people, with the right background, and there'd be- there's criteria for it, would then interview these

people, they would have subpoena power. So if you're an applicant and I find out that you got this terrible criminal history you know, that you were lying to me about, that would come out, we could investigate, that group could investigate. And then, depending on how many slots there were in those areas, recommend two people for every position. Okay? Then, the governor would have the right to select only from the people approved by the commission. And select that person who would then have to go before the Senate for consent, advice and consent. And if the Senate doesn't select the governor was left with the other person, or the process would have to start over again. I think that would do a lot to eliminate political control over what should be an independent judiciary. And, unfortunately, it is never going to come to pass. Why? Because at the...this time, if you read our constitution, state constitution, there's only one way that you can have a referendum to change the constitution, that has to do with the legislative body. All other changes have to emanate in the legislature. And they're never gonna change it 'cause they're politicians. They would have to vote to put it on the ballot. You can't demand that it goes on the ballot. What you can do, of course, is ask your legislators, "Are you in favor of this or not," and then vote for them or against them, they but you know, that isn't gonna happen. The only way it would happen, by the way, is if the newspapers, who have always claimed that they're...they call it merit selection. If they wanted it, they would have to spend a lot of money and publicize it. Bar groups would have to spend money and publicize it and get the public alerted to it and say these are the legislators who say, legislators who say they will vote for it, and the ones who say the won't. Here's what we think you should do. Publicize it, very expensive. The other way is every twenty years...I ran for, unsuccessfully, to be a delegate to the constitutional convention of 1959, but they came out with a constitution, state constitution that says you have to have a state constitution every twenty years. Or, or put it on the ballot rather as to whether the public wants or doesn't want another constitutional convention... Are we about done? I don't mean to cut you short. Do you have more?

(01:50:06)

Interviewer 1: I just have a couple short...

(01:50:08)

Interviewee: Sure, I have time, I have time.

(01:50:11)

Interviewer 1: Okay. How do you think, I just did some research on some of the judges who got, became implicated in different corruption issues...

(01:50:21)

Interviewee: Greylord?

(01:50:23)

Interviewer 1: Yeah, Greylord, and and a few others.

(01:50:25)

Interviewee: Let me tell you, [Laughter] before you even get on there. That was when the spaghetti was hitting the c- the fan as I was coming on the bench. And I had practiced for a lot of years... so I knew a lot of lawyers. I was afraid to shake their hands and say, 'Hi, how are 'ya.' [Laughter] Yeah, but what was your question?

(01:50:47)

Interviewer 1: Just that, how do you think that that affected, either how you practiced as a judge...?

(01:50:51)

Interviewee: It was one of the best things that ever happened. I think we had something like nineteen, fifteen to nineteen judges that went to jail. Court clerks, lawyers as well. And it changed the way people did business. What we were talking about before, you have to be responsible for what we, what we do, there has to be a consequence. There never was a consequence before then. And now there was a consequence. And it helped to clean up a very soiled judicial system... It, it's incredible to me to think that this went on. I didn't really know about it, I didn't participate in it, nobody ever talked to me about it. And it was shocking to me because I'm a person who loves the law and what it stands for, and what it's designed to provide to us as citizens. And to think that somebody's rights and benefits can be determinate- determined by passing out money is just sickening. And I think it scared a lot of people who might otherwise have been inclined to do the wrong thing, made 'em think about it. And I was surprised by the names of some of the people that I had known and appeared before, who were implicated in that. Judge by the name of Rosen, a Judge by the name of Olsen, I, I, so many of these people that I had known, who ended up going to jail. And this guy, Mahoney, who tried a capital case and for ten thousand dollars let a killer off. Please, how is this possible? So I think it was a wonderful thing. Do you know how it happened?

(01:53:04)

Interviewer 1: I know that they bugged a judge's chamber and they also had two a a judge and a lawyer who, Brockton Lockwood, and another a lawyer who pretended to take bribes in order to implicate them.

(01:53:19)

Interviewee: It was all of that but a, the way it really got started, the downstate circuits, it's all one system in the state of Illinois, there's different circuits. The downstate circuits would send their judges up for a week at a time to sit in traffic court. And one particular judge started hearing about this and he wore a mic in his shoe. And he is the guy who started it. It cost him dearly for a while. He was off the bench, a lot of things happened to him, but that was the start of it. And it was the best thing, in my view, that ever happened to the judiciary, and to the people of not only Cook County but the state of Illinois.

(01:54:14)

Interviewer 1: I guess my last question is just what, what advice would you offer to someone who was, you know, about to become a judge or you know what what should they keep in my mind, what are the most salient issues? Do you think?

(01:54:26)

Interviewee: Well, you have to assume that they have good ethical standards to begin with and that they they want to do the job, and do it right, and serve. You know, you put on those robes you've got a lot of power. It's not about us, it's about serving. That's the first and most important thing, I think, that a potential judge needs to focus on. Service within the established boundaries of what is and what is not acceptable conduct, and what is and what is not the law. I remember my first assignment was traffic court, where I spent my first ten months as an associate judge. And I was asking myself when you got a a police officer testifying this way and you got a a driver testifying this way, 'How ya supposed to know?' Well let me ask you a question, how are you supposed to know, what do you think? I'm gonna ask each one of you a question. And there's a reason for this, so indulge me a moment. How do you think you would know?

(01:55:41)

Interviewer 2: I don't know if you can.

(01:55:42)

Interviewee: What about you?

(01:55:45)

Interviewer 3: I don't know, I mean, I'm not sure.

(01:55:48)

Interviewee: What do you think?

(01:55:49)

Interviewer 1: Look at the evidence and come to the best decision that you can based on the facts you have before you.

(01:55:55)

Interviewee: Exactly, except for one thing. You've got conflicting stories by seemingly two credible people, conflicting evidence. So what do you do with that?

(01:56:10)

Interviewer 1: Try to look for another source of evidence from a witness. [Laughter]

(01:56:11)

Interviewee: You can't. You are not a lawyer, practicing. You have to decide based on what is presented to you by the lawyers.

(01:56:19)

Interviewer 1: Based on...

(01:56:20)

Interviewee: And the answer is simple. What does the law say? The law says what is more probably true than not true? It's called a burden of proof. In a criminal case, it's proof beyond a reasonable doubt. In a civil case, it is what is more probably true than not true. So I would say to that person, coming on the bench, are you convinced? Who has the burden of proof? The people, who brought the charge, wrote the ticket, the city, they have the proof. They have the burden. And that's a, what we call a quasi-criminal case, a ticket, traffic ticket. So the burden of proof is the civil standard. What is more probably true than not true? And if you've got any sense of propriety, common sense...you know when you were little kids, and if you had a sibling, you'd say, "I didn't do it, she did it!" Alright, right? And your parents would look at you and say, "C'mon." Common sense, they could tell what was more probably true than not true. And you were amazed when they were almost always right, weren't you? [Laughter] It's not as easy as I've made it sound, but it is the standard. And if you try to apply it, you can make intelligent decisions. Will you always be right? No, unfortunately because there's no such thing as perfection, except maybe in my case, but aside from that. [Laughter] You know, but it's gonna be your guide, and it's going to help you as a new judge to handle the situation. So I guess those are the two things that I would urge on a new judge.

(01:58:15)

Interviewer 1: Thank you.

(01:58:16)

Interviewer 2 and Interviewer 3: Thank you very much.

(01:58:17)

Interviewee: Certainly been a pleasure, thank you ladies.