

An Interview with Thomas R. Appleton

Illinois Supreme Court Historic Preservation Commission

Thomas R. Appleton practiced law in Springfield, Illinois before becoming a Circuit Judge for the 7th Judicial Circuit in 1992. In 2001, he was assigned to the Appellate Court, 4th District, where he was elected to a full term in 2010.

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Abstract

Thomas R. Appleton

Biographical:

Thomas R. Appleton was born in Chicago, Illinois on February 26, 1949, and grew up in the city of Aledo. He graduated from Augustana College in 1971, earning a Bachelor of Arts degree in history and political science. Appleton also attended the University of Illinois Urbana/Champaign earning a Master's Degree in political science in 1972. In 1976 he received a law degree from ITT Chicago-Kent Law School, and was admitted to the bar. He clerked for Illinois Appellate Court Justice James C. Craven from 1976-1978, served as Research Director for the Fourth District Appellate Court from 1978-79, and as Fourth District Clerk of the Court from 1979-1981. Appleton was engaged in the private practice of law in Springfield, Illinois from 1981-1992. In 1992, Appleton was elected a Circuit Judge for the 7th Judicial Circuit, and was retained in that position in 1998. Appleton was assigned to the Fourth District Appellate Court in 2001, appointed in 2010, and elected to a full term in 2010. Justice Appleton married his wife Helen in 1972, and they have two children, August and Paul.

Topics Covered:

Parents and family background; growing up in Aledo in the 50's and early 60's; early jobs and education; Cuban Missile Crisis, Kennedy assassination and the Cold War; earliest memories of Vietnam; attending Augustana College; attending American University in Washington D.C.; political and social outlook as a young man; conception of his generation; the draft; Vietnam; meeting his wife Helen; attending UIUC; moving to Chicago; work in Chicago; why he studied law; ITT Chicago-Kent School of Law and professors; working for the Law Review; memories of the Fourth District Appellate Court; clerking; private practice; political involvement in local elections in Sangamon county; becoming a judge; politics of judicial elections; memories of being a trial court judge; criminal justice system; fellow judges; administrative role; becoming an Appellate Court Justice; work as an Appellate Court Justice; memorable cases; Illinois Judges Association; Illinois Judicial Conference; Committee of Criminal Law and Probation; capital punishment; cameras in the courtroom; enhancing public awareness of the work of the judiciary; bar associations; role of judge in society; pro bono work and philanthropy; role of ISCHPC in preserving the history of the Illinois judiciary; future of the profession; legacy.

Note:

Readers of this oral history should note that this is a transcript of the spoken word, and that it has been edited for clarity and elaboration. The interviewer, interviewee, and editors attempted to preserve the informal, conversational style that is inherent in such historical sources while also editing for clarity and elaboration. The Illinois Supreme Court Historic Preservation Commission is not responsible for the factual accuracy of the oral history, nor for the views expressed therein.

Justice Thomas R. Appleton: An Oral History, Part 1

LAW: This is an oral history interview with Thomas Appleton. Today's date is June 3rd, 2014.

We're at the conference -- we're in the conference room, of the Fourth District Appellate Court. The interviewer is Justin Law. Justice Appleton I thought we would start with where were you born?

APPLETON: Chicago, Illinois.

LAW: Tell us a little bit about your parents.

APPLETON: They both met -- both went to Augustana where they met. And then of course the war started, so both of them joined the Navy. My mom was a recruiter for the Navy and my dad started out in pilot training and at the last minute he washed out of pilot training and became a navigator. They were married on the fourth of July 1945 and went to San Francisco for their honeymoon where he had to report for duty and joined a ship and was a navigator, an aerial navigator, for the Navy fliers and never made it to Japan before the war was over.

LAW: Now your father, Glenn, right?

APPLETON: Uh huh.

LAW: After the war was over he went to law school I'm assuming?

APPLETON: Law school at Northwestern.¹ My mom worked at Gimbels Department Store until I was born and then of course she didn't go back to Gimbels.

LAW: They were both from Chicago?

APPLETON: No, my dad grew up in Winona, Illinois, and my mom grew up in Moline, Illinois, and they met at college.

LAW: Okay, you said Augustana?

APPLETON: Uh huh.

LAW: Now where is Augustana?

APPLETON: Rock Island.

LAW: Okay, so they met at Augustana and then they went to Chicago during the war, and then after the war dad went to Northwestern Law School. What brought them to Aledo?

APPLETON: As I understand it my mom and I, when I was three months old, four months old, something like that, my dad got in the car and just drove around from small town to small town, county seat small town to county seat small town, looking for a place where he thought he'd like to practice law and he chose Aledo.

LAW: Just completely random.

APPLETON: Well no he went to a lot of other towns.

LAW: It was the best out of the bunch.

¹ Glenn Appleton graduated from Northwestern University Law School in 1949.

APPLETON: Right.

LAW: Okay, now your mother Edith, she went on to be a teacher?

APPLETON: Uh huh. She was a substitute teacher for the public schools, but then taught remedial reading at Roosevelt Military Academy, which no longer exists, but when I was growing up it was a fairly substantial institution.

LAW: Tell me a little bit about Aledo, growing up in Aledo.

APPLETON: Oh it was great. You could go anywhere, ride bikes, walk, whatever; a very close community. One of the things I'm most struck by is that they didn't have a kindergarten as part of public schools, and the sheriff's daughter graduated from college with a degree in early childhood education and started a kindergarten at the Methodist Church, she had a morning session and an afternoon session, and there's a graduation picture from kindergarten and over half of the kids I graduated high school with were in my kindergarten class.

LAW: Very small class then?

APPLETON: Well, eighty-seven.

LAW: Okay.

APPLETON: And over half of them were -- I was in kindergarten with.

LAW: Okay, you went with them the whole way then?

APPLETON: Uh huh.

LAW: And was, with your mom being a teacher and your dad being a lawyer, was that unique to the community?

APPLETON: Uh, I wouldn't say unique. I think, probably, she was the only one, the only lawyer's wife who held an outside job, other lawyer's wives helped in their husband's law office, and a matter of fact my step-mother, who was my dad's partner's wife until he passed away -- and then after my mom passed away, they got married, but when Stanton was alive, Donna's first husband, she did the, most of the tax returns, farmer's state tax returns.

LAW: So now tell me again about, this is, your dad set up a small firm in Aledo?

APPLETON: He joined a firm.

LAW: He joined a firm, okay.

APPLETON: He was actually out on his own for about nine months because they wanted to see how he comported himself before they let him into the firm, but he joined Paul Graham and Stanton Prentiss.

LAW: Okay. So you would -- would you describe Aledo as sort of a small town?

APPLETON: Well, it was around 3,500 people when I grew up there, it's now close to 5,000, so it's grown since I left, but it's a really nice community.

LAW: How did growing up in a small town, with a middle class background, sort of shape your life?

APPLETON: Uh, well, like most small towns you couldn't get away with much because everybody was looking at cha, you know, it didn't matter, it didn't have to be your mom, somebody else's mom would see and get on the phone and say, "this is what your kid was doing," so that was kind of sometimes a pain in the butt, but as an adult looking back on it, saying it was a very safe place to be.

LAW: Served you well. What were some of your extracurricular activities?

APPLETON: In the summer time, swimming, golf when I was a little bit older, little league baseball.

LAW: Did you have any siblings?

APPLETON: One brother and one sister.

LAW: And what are their names?

APPLETON: My brother's name is Mark and he's a lawyer in Aledo, and my sister's name is Alice, and she is the executive director of the British Home in Brookfield, [Illinois].

LAW: Now you went on to graduate from Aledo High School?

APPLETON: Mm hmm, 1967.

LAW: What are your memories of Aledo High School?

APPLETON: Oh it was nothing but good. Most of the teachers were very good, a couple three who weren't. My freshman year I took Spanish and we had a Spanish teacher that was a recent graduate from the University of Iowa and was just teaching to get enough money to get a Masters, he lasted one year, I got A's in Spanish because I didn't throw

anything at him, some of the other kids threw stuff at him. He had no control over the classroom whatsoever. And, he went back to graduate school but then was killed in a robbery attempt of a sporting goods store. Kind of weird. But then the next year, for second year Spanish, we got a real teacher, and my grades went from A's in Spanish to C's in Spanish (chuckles) because I didn't learn much the first year, I just behaved well. I had a couple of great history teachers, particularly Perry Lotz, who taught American History, and he pulled me out one six week period and gave me a project to read every one of the *Federalist Papers* and digest each paper.

LAW: Kind of a unique task for a high-schooler?

APPLETON: Yeah.

LAW: What did you think of the *Federalist Papers*?

APPLETON: Well, they're the foundation of, you know, our government, our politics, it's really important, people should read those.

LAW: Did you have history at home too?

APPLETON: Uh huh.

LAW: Was that different, same, what kind of history, how were you connected to it?

APPLETON: Both my parents were huge readers and they read a lot of history, my dad subscribed to *American Heritage* [magazine] and I still have his collection of *American Heritage* and I would read them as a kid, I loved history.

LAW: So one of your extracurricular activities was reading?

APPLETON: Mm hmm.

LAW: That's kind of a dying art in some ways.

APPLETON: Well, they gave a prize to who -- to the kid, every grade, who read the most books and I won it most every year.

LAW: Now what else were you reading besides history?

APPLETON: Oh, you know, depending on how old I was, you know in first grade, second grade, third grade, you know you read little kids' books, but I read em'.

LAW: Did you have a favorite novel?

APPLETON: No.

LAW: No. Okay, so what was it like to be a teenager in the early sixties?

APPLETON: Well it was fun, especially once you got your driver's license cause then you just drive up and down the main drag on a Friday night, you know, nothing else to do, unless there was a football game or a basketball game on.

LAW: It's kind of *American Graffiti*, kind of?

APPLETON: Mm hmm, exactly.

LAW: How did your life change during this time period as a teenager, did it change in any major way?

APPLETON: No, when I was seventh and eighth, ninth grades I cut grass in the summer time to make some money and once I was sixteen I went to work in the summer time. My first

job was a dishwasher at the Holiday Inn in DeKalb, Illinois, but my aunt and uncle lived in DeKalb, and my cousin Mike who's my age got a job there and so I lived in DeKalb that summer and was a dishwasher.

LAW: Summer away from home; that was probably enjoyable.

APPLETON: Mm hmm.

LAW: Do you have any memories of the Cuban Missile Crisis or the [John F.] Kennedy assassination?

APPLETON: Oh yeah, both. The missile crisis I remember kids being very afraid. And I know Billy Haymon, who's the son of some really good friends of my folks, was in the Navy at the time and they were really freaked out. And I remember I was a freshman in high school when President [John F.] Kennedy was shot and the Principal got on the loud speaker and said the President has been assassinated, everybody go home. And then we had a fairly substantial memorial service the day of the funeral at the [Roosevelt] military academy.

LAW: This is where your mother was teaching?

APPLETON: Mm hmm.

LAW: Okay, so the assassination [John F. Kennedy] definitely affected the community?

APPLETON: Oh sure, it affected the whole country.

LAW: I've heard some people say it was, sort of, America lost its innocence with the killing of President [John F.] Kennedy?

APPLETON: Well, you could say the same thing about President [Abraham] Lincoln or President [James] Garfield.

LAW: What were your thoughts about President [Lyndon B.] Johnson? Were you engaged at all in politics when you were in high school?

APPLETON: Oh yeah.

LAW: Talk to me a little bit about that.

APPLETON: I was engaged in politics from the time I was a real little kid. My dad was elected State's Attorney in 1956 and my mom became active in Republican Women's stuff as a byproduct of him running for office. And, there was a caravan of candidates coming through -- Governor Stratton was in the caravan-- and they had a coffee for him,

[00:15]

the Republican women did, and I got drug along, my brother and sister were with the babysitter and I was happy to be there because they had donuts, and the Governor came in and I announced proudly that it was my birthday today, February 26th, and he looked at me and he says, "that's my birthday too," and he pulled a campaign poster off the wall and autographed it to me and that hangs in my office today.²

LAW: Interesting, interesting. So your dad was definitely involved in politics and Republican politics?

² Governor William Stratton, Republican, was Governor of Illinois from 1952-1960.

APPLETON: Well, four terms as State's Attorney, so.³

LAW: Did he come from a Republican family?

APPLETON: Yeah, my grandfather Appleton idolized Everett Dirksen. And I got his autograph at Mercer County Lincoln Day Dinner and gave it to my grandfather for Christmas.⁴

LAW: So it was almost a family -- would you say you became a Republican because of the family background with it?

APPLETON: Well I don't think I even thought about it, I just was.

LAW: You just were, okay. Was Aledo a fairly Republican community?

APPLETON: Yeah. The towns on the river, Keithsburg and New Boston were Democrat and everybody else was pretty much Republican, but now that has shifted.

LAW: And you've kept up with the politics there. Through your brother I'm assuming?

APPLETON: Well, and just -- having grown up with the same group of people, you are close to them even though you are a hundred miles away. You keep track. I get the *Mercer County Times Record* every week, that's what my brother gives me for Christmas every year, and so I keep track of whose kids are getting married and who passed away and all that sort of thing.

³ Glenn Appleton was State's Attorney of Mercer County from 1956-1972.

⁴ Senator Everett Dirksen, Republican, was U.S. Senator from 1950-1969.

LAW: You've stay in touch. Now you may have been too young to remember, to know about it, but what was your dad's reaction to the [Richard M.] Nixon, [John F.] Kennedy election, of the closeness of it – and of [John F.] Kennedy?

APPLETON: Well, I think he was obviously for [Richard M.] Nixon, and he went to the convention which was in Chicago and I remember he and my mom went for one day to the convention but it was when President [Dwight D.] Eisenhower spoke to the convention and they referred to it like a rock star, his [Dwight D. Eisenhower's] persona just filled the entire amphitheater. I don't think he [dad] cared one way or the other that much about [Richard M.] Nixon other than he was the Republican and [John F.] Kennedy was the Democrat, but [Dwight D.] Eisenhower was a pretty big deal.

LAW: What about in [19]64'?

APPLETON: Well, I don't think anybody really understood, outside of Texas, I don't think people really understood the personality of Lyndon Johnson. And you should read the four volume biography of Lyndon Johnson -- [author] Robert Caro, phenomenal. He [Johnson] was one of the sickest puppies, I mean brilliant, scheming, devious, effective.

LAW: A politician.

APPLETON: Yeah.

LAW: So, any memories of the Cold War during this period? How do you remember the Cold War? What springs to mind when you think of that?

APPLETON: Well I remember the U2 incident when Gary Powers was shot down, obviously Sputnik and then the rockets that we tried to launch and did launch. It didn't really concern me a whole lot.

LAW: So no duck and cover or anything like that?

APPLETON: Well yeah we did, it was kind of goofy, I think I was maybe in fourth grade or something, we had a drill and in the event that we were gonna have a nuclear attack, get under your desk, and even as a little kid I said, "well that's not gonna help," we're all dust anyway if that happens, you know.

LAW: So what are your earliest memories of the Vietnam War?

APPLETON: Well I was aware that we were in it. The older I got the more I saw that we really shouldn't be there, it was a waste of life, and especially now reading back in history... if the U.S. had reached out to North Vietnam and understood where they were coming from we probably wouldn't even have a need for a war because North Vietnam was open to a relationship, yeah they [North Vietnamese] called themselves communists but they were basically nationalists.

LAW: It's interesting, do you think that that view of the War was driven by your age and the draft, or what was it?

APPLETON: Well obviously the draft was a big deal. I had some very, very good friends who went to Vietnam. One of my best friends as a kid was killed in Vietnam. It was just a waste. And at a high school reunion, keep in mind in the smaller communities your class has a reunion but other kids come anyways, that you went to school with, and my

friend Jerry Steinman, we were both probably three sheets to the wind, but I said, “I always felt guilty that I never had to go,” because when they had the draft lottery you are looking at number 365 [Appleton’s draft number], and my friend Jerry went and served spectacularly and I said, “But I always felt guilty that you had to go and I didn’t,” and he [Jerry] said, “you’re my friend, I’m glad you didn’t have to go.”

LAW: What about your dad and mom, what were their views on the war? Did it differ from yours?

APPLETON: In the beginning they differed from me, but towards the end...

LAW: What do mean by towards the end?

APPLETON: Getting towards the end of the war.

LAW: Like what timeframe?

APPLETON: I would have been, I can remember, I was a sophomore in college. And my dad met me for dinner and said, “you know, if you get a draft notice and you wanna go to Canada that’s ok.”

LAW: So it was real, it was personal.

APPLETON: Yeah,

LAW: It’s interesting that you still remember your draft number, it stuck with you.

APPLETON: Well, I was out in D.C. at the time of the draft lottery and I missed the first forty numbers, so your gettin’ down to 350 and you haven’t been called yet and you’re

going, “Oh geez, oh, I’m gonna be in the top forty,” and then to end up at 365 it was a huge relief.

LAW: Now you graduate high school in 1967 and you chose Augustana College. Is that because that’s where your parents went?

APPLETON: My grandmother, my mother, my father, three aunts, two uncles, my brother, my sister, four cousins, and two nephews.

LAW: What was it about the school?

APPLETON: Church based, we’re Lutheran. The President of the college, Dr. Bergendoff, married my parents.

LAW: There was no question, that’s where you were going?

APPLETON: Well I could have gone anywhere I wanted but I never wanted to go anyplace else.

LAW: This is in Rock Island, now how did Rock Island compare to Aledo?

APPLETON: Well Rock Island’s a big city compared to Aledo. I would say we use to do our shopping in Rock Island but we didn’t, we went to Davenport [Iowa] which was even bigger. Davenport was a couple hundred thousand then, Rock Island was like fifty thousand maybe. And I know when I was in eighth grade we played Rock Island in a basketball sectional and beat them by a point.

LAW: You played basketball?

APPLETON: I didn’t play, no, but I was there.

LAW: You were in attendance; it was kind of a big deal beaten' the big city?

APPLETON: Uh huh.

LAW: Now you studied history and political science, would you say you were a dual major?

APPLETON: Double major.

LAW: Now what brought you to history and political science?

APPLETON: It's what I liked, I grew up reading history and I always knew I was gonna be a lawyer.

LAW: Really, talk to me a little bit about that.

APPLETON: In third grade I took one of my dads' -- well Volume 1 of the *Illinois' Revised Statutes*--to third grade and during recess I was reading the Constitution and that just freaked Mrs. Brown out to no end, she didn't know what to make of me, but she was kind of fun to freak out anyway.

LAW: Interesting, so what other memories do you have of college, those four years of college, this is [19]67' to [19]71'.

APPLETON: Well, probably, as much as I love Augustana and still do, but I was, my senior year I was teaching assistant for Stanley Erickson and basically taught the freshman level political science course, but I was accepted into the Washington semester program at American University in [Washington] D.C. which was a life changing experience.

LAW: How so?

APPLETON: Well there were ninety of us from small schools from all over the country, we were divided into three groups and so there was like thirty in a group and we would go and meet with people, I remember going to the Supreme Court and we spent two hours with [Supreme Court Justice] Thurgood Marshall.

LAW: Interesting. What did you take away from that meeting?

APPLETON: He was a hoot, he was an absolute hoot, he was laughing about this case, it was a pornography case, this couple in Cincinnati [Ohio] took naked pictures of themselves and this was back in the time where you had to have film developed so they took it to the Walgreens and the film processing for Walgreen's was in Kentucky, so across state lines made it a federal pornography offense. Justice Marshall said, "it's a silly kind of a case, but the real tragedy is these were two of the ugliest people I've ever seen," but he was just genuine and open, we were able to ask him questions, it was just phenomenal. When we did the White House Pat Buchanan spoke to our group.

LAW: What did you take away from that meeting?

APPLETON: He [Pat Buchanan] was kind of a hard edged fellow, I didn't care much for him. But, the entire group met with Mike Mansfield for an hour or so, who was the Senate Majority Leader.⁵

LAW: Interesting meetings.

APPLETON: Oh, incredible, and then we basically did the equivalent of a master's thesis at the end and I did mine on Sub-Committee Number Five of the House Judiciary

⁵ Senator Mike Mansfield, Democrat, Montana, was Senate Majority Leader from 1961-1977.

Committee which is where all of the anti-crime legislation flowed through, and my congressman Tom Railsback – and my dad was his first campaign manager when he ran for the state legislature and my mom use to babysit him, so we were kind of close, and he basically said, “here’s my office, use it however you like.”⁶

[00:30]

And so I had him do a letter to his fellow committee members saying that I would be calling them for an appointment to talk to them about their views on crime and I spoke to every member of the House Judiciary Sub-Committee Number Five and wrote the equivalent of a master’s thesis, it was about ninety-five pages long, and that was kind of fun because I couldn’t get a hold of Clark McGregor at one point so I just went to the floor and had the usher take him a note and he came right out and spent twenty minutes with me, did an interview.⁷

LAW: What was the substance of your thesis? I guess I should put that better, what was your argument? Tell me a little bit more about it.

APPLETON: I can’t even remember. It was the process by which – crime was big deal back then, they had riots and so on and so forth, so people were really toughening up on crime and, I can’t remember.

LAW: Maybe it was about the process?

APPLETON: I don’t think so.

⁶ Representative Tom Railsback, Republican, was a Congressman from 1967-1983.

⁷ Representative Clark McGregor, Republican, Minnesota, was a Congressman from 1961-1971.

LAW: Let's back up a little bit, let's talk a little bit more about political science. What were some of the political philosophers you were attracted to as an undergrad?

APPLETON: John Locke.

LAW: John Locke's *Treatise on Government*?

APPLETON: Mm hmm.

LAW: Any others?

APPLETON: Locke was primary I think.

LAW: Okay so John Locke, now had, since you were such an avid reader had you encountered him before college?

APPLETON: No I don't think so, I don't think so, no I think it was in college.

LAW: So, no, you hadn't encountered him, you encountered him as an undergrad. Any other political philosophers that kind of turned your head around?

APPLETON: No, not really a whole lot. In later years I read more things. So I still read some political philosophy.

LAW: So you were more [interested in] the Englishmen less so than the Greeks.

APPLETON: Oh yeah.

LAW: Interesting. How would you describe your political and social outlook at this time?

APPLETON: I consider myself to be a liberal Republican.

LAW: What does that mean?

APPLETON: Liberal on social issues, conservative on money.

LAW: That was at that time?

APPLETON: And today.

LAW: And today, so it's been constant. Was that similar to your families' politics?

APPLETON: Oh I would guess my dad was a little bit more socially conservative, my mom wasn't, but my dad was and I think my brother is more socially conservative.

LAW: So why are you more socially liberal?

APPLETON: My personality I guess, I don't know. I'll be the first one to dissent on a criminal case, for instance, on our court. I spent three years as a public defender and to my mind the Constitution is the Constitution and you can't quibble with it, you can't try to get around something to sustain a conviction.

LAW: Did you have a conception of being part of a generation?

APPLETON: You know I really didn't feel that. I knew it was out there cause I mean the news media and *Time Magazine* and *Newsweek* and they always identified the sixties generation and I never really felt a part of that. A lot of it was because I never did drugs, ever.

LAW: But did you see yourself as being part of the "baby-boom generation"?

APPLETON: Oh yeah, it was the “baby-boom generation,” I don’t think they called it that when I was in high school or anything but in college they were calling it that. The only time I ever tried marijuana it didn’t do a thing for me, of course I’d been drinking vodka with tang stirred into it to make a screwdriver, so I said, “well, there’s no sense risking getting arrested for this,” ya know.

LAW: So I’m guessing then that there wasn’t really a generational divide in your family?

APPLETON: No, no, not at all. I was very close to both my parents.

LAW: Okay, I guess often times when you look at some of these histories of the era you see that generational divide being played out in some families; did you ever witness that with any of your friends or anything?

APPLETON: No I don’t think so, when you’re going through it you don’t realize there are generational differences. We have a very close family, I was close to all my grandparents, all my aunts and uncles, my dad’s cousins, my grandfather’s siblings. I consider myself very fortunate that I’ve had this extended family on both sides, we are very close. This past weekend we drove to Des Moines [Iowa] for my cousins’ daughter’s wedding, we do that.

LAW: Now when did you first meet your wife Helen?

APPLETON: I was a senior in college, she was a junior, and I was the assistant editor of the college newspaper and she was the editor of the college yearbook, and the offices were right next to each other, and I was bragging on my cooking and she says, “well invite me over sometime,” and I did and we’ve been together ever since.

LAW: So you were living on your own by that point?

APPLETON: Well I had two roommates.

LAW: Okay, sharing housing. Were you ever a member of a fraternity or anything?

APPLETON: Yep, but at Augustana they're local fraternities, not national.

LAW: What brought you to the newspaper, student newspaper, were you thinking about journalism?

APPLETON: No, I liked to write and my friend Carl Zobrist was the editor and I was the assistant editor and our friend Bill Scogland – Bill and Carl and I were all in Washington [D.C.] a semester together. That's just how it worked out, I wrote an opinion column every week.

LAW: You remember any of them?

APPLETON: Yeah one.

LAW: Tell me about it.

APPLETON: It was on the vice presidents at Augustana, nobody knows what they do or what they think or what they believe in, they're just faceless anonymous people that are in control of our lives. And Tom Treadway who was then Dean of the college and a vice president saw me in the Union and beckoned, I said, "what do you want Tread," and he said, "fuck you," (chuckles) he was pretty upset.

LAW: Really. Sounds like you caught a little flack for that?

APPLETON: Yeah, that's okay.

LAW: In [19]71' you decided to go to graduate school, what lead to that decision?

APPLETON: Well Helen was a year younger, a class younger, and we knew we were gonna get married and she was going to graduate school, so I went to Champaign for a year and got a masters [degree] and supported myself by being the manager of the basement men's store at Carson Pirie Scott.

LAW: In Urbana?

APPLETON: Yeah in Urbana.

LAW: This is early [19]71'?

APPLETON: Well it would be the fall of [19]71' when I started and finished in the spring of [19]72'.

LAW: How did you do it so quickly?

APPLETON: I took a lot of courses.

LAW: Yeah, you must have been extremely busy.

APPLETON: I didn't have my thesis done by then, but I was done with the course work. And so she was going to graduate school so we applied to cities because we were going to get married and needed to be in the same town, so we were both accepted to Chicago and that's where we went.

LAW: Before we move on to Chicago, you also studied history and political science also as a graduate student?

APPLETON: It was a masters' in political science.

LAW: How did graduate school compare to your undergrad, talk a little bit about Champaign.

APPLETON: Well, Champaign is a world unto itself at the University, and I didn't really participate much in it because I was working. The first job I tried to get they were looking for cab drivers and I couldn't find the cab company so I decided I probably ought not be a cab driver, but when I was in high school I worked at JCPenneys on Saturdays and during the holidays and when I was in college I worked for a men's store in Moline, Fitzgibbons, so I knew the "rag trade" so to speak, and I got hired to be in the men's department of the basement at Carson Pirie Scott, and the ladies who were working there didn't really know how to sell men's clothes or display men's clothes, so I just took over the whole men's department and I got to go on buying trips with the manager and stuff like that, so I did well, I paid my way through.

LAW: Any other memories of course work or anything, any extracurricular activities?

APPLETON: Well, between work and school there wasn't any time and every other weekend driving to Rock Island.

LAW: Now were you involved in any campaigns at all while you were in college?

APPLETON: When I was in college, yes, I campaigned heavily for Tom Railsback, I drove a judicial candidate a few times, Conway Spanton, he was crippled so he needed a driver, really good judge though.

LAW: Really just kind of local stuff?

APPLETON: Uh huh, I founded the teenage Republican club in Aledo.

LAW: Really, tell me about the teenage Republican club.

APPLETON: Well, my folks took me to a meet and greet with Chuck Percy when he was running for Senate and he said, “do you have a teenage Republican club,” and I said, “no,” he said, “well why don’t you make one,” so I did.⁸

LAW: So you and Helen were both accepted to university in Chicago?

APPLETON: She was at Loyola and I was at Chicago Kent, I went at night.

LAW: Tell me about it.

APPLETON: Night school was great. I did once take a day class, I took evidence during the day and Professor Convisor would say, “well what about this case,” and he [a student] says, “well I was watching TV last night and I never got around to reading it,” and that would never happen at night school, you were there to get it done, get in and get out, everybody was very on the ball.

LAW: Now why were you going at night?

APPLETON: Well because we didn’t have any money and I had to work.

[00:45]

LAW: Where at?

⁸ Senator Charles Percy, Republican, was a U.S. Senator from 1967-1985.

APPLETON: Pioneer International Title Insurance.

LAW: Tell me a little bit about that.

APPLETON: I started out as a law librarian, and after about a year the regional council -- we had twenty states in our region -- had me starting to do research projects for him. My last year I wrote a manual for title examiners on Illinois law title exams, kind of a quick and dirty this is what an easement is, this is what a right of way is, that kind of thing.

LAW: This was a little bit later but you also wrote something called, "Handbook on Condominium Law and Practice in Illinois"?

APPLETON: Yeah I did the first chapter of the thick old book on condominium law.⁹

LAW: So were you thinking about maybe being a writer at this time?

APPLETON: I think being a lawyer is being a writer, you gotta do both, a lawyer has to write. And as I advanced in age and experience I did stuff like I think I told you before my boss told me, "you need to know how to do a construction escrow," which I had no idea how to do and I did a six million dollar construction escrow for a battery plant in Fort Smith, Arkansas, I authorized payments out of the escrow, I'm not sure I knew what I was doing but we got her done.

LAW: Now how did Chicago compare to where you had lived previously, this is a very large city and interesting time to be in Chicago?

⁹ See, R. Babiarz and T. Appleton, "Illinois Act Construed," in *Handbook on Condominium Law and Practice in Illinois* (Illinois Institute for Continuing Legal Education, 1974).

APPLETON: We lived in Rogers Park, we had an apartment, I had a couple of really good friends in law school, more than a couple, some of whom were characters, but mostly we socialized with Helen's classmates. At Loyola in the psychology program, I think there were fourteen in the class so, they became very, very close, so most of our socialization was done with psychology people and we're still very close today, in every class of graduate level psychology there's one nun and one priest because Loyola has the obligation to educate the religious, so father Jim and sister Jean have been close friends for forty-two years and the psychology people get together at least once a year usually in Florida because one of the class members who did very, very, very well in business with her P.H.D in Psychology has a gorgeous condo (chuckles) in Naples.

LAW: You got interested in -- I guess I'd call it, condominium law?

APPLETON: Well it was a new thing -- I mean the Condominium Property Act was a new thing. Other states had condominiums but Illinois had never had em' and Pioneer Title did the title insurance for the first condominium in the state of Illinois.

LAW: I was gonna ask you why you decided to study law, but we kind of covered that, but I did want to ask what was your families reaction was to your choice to go to law school?

APPLETON: I don't think they expected anything else, I mean I wanted to be a lawyer since I could even think about what I wanted to be when I grew up; there was no question.

LAW: Was your dad, mother and father, were they happy with where you chose to go to school?

APPLETON: Oh yeah, they didn't have an opinion one way or the other just that I was going to law school, the real question would be where I would end up.

LAW: So it wasn't like what it was with Augustana, expectation to go to a particular school or anything?

APPLETON: No.

LAW: Let's talk about law school for a little bit, you are going there in the [19]70's. What was it like to be a night school law student?

APPLETON: Well like I said it there was no horsin' around, you got in and got out, everybody had worked all day, hadn't had supper, went to class and got out about nine o'clock and got home and grab a bite to eat and start over the next day.

LAW: Very, very busy, so how did this affect your view of the law, this experience in law school?

APPLETON: Well time management, you had to be a good time manager and there really was no horsin' around.

LAW: If you could describe the legal philosophy you were encountering how would you describe it?

APPLETON: There was no philosophy, it was "nuts and bolts."

LAW: Talk to me a little bit about that, what are your memories, any particular professors or classes and what do you mean when you say "nuts and bolts"?

APPLETON: Well it's not a whole lot of theory it's just the law, you read the cases and from reading the cases you find out what the law is and you apply it to a certain set of facts, it's not rocket science necessarily, it's not a philosophy necessarily. My favorite

professors were practical, Dean Sodaro was a great teacher, I had him for property, I had him for equity and he became a Circuit Judge in Cook County which is a segue to a funny story – I had filed a case in Macoupin County against an insurance company, I’m not sure, and the other side successfully moved for a change of venue to Cook [County] so they had filed a motion to dismiss my complaint which is probably well taken and I drive up there, this was before cell phones, I get on the pay phone and call the guy at the big law firm that is on the other side and I said, “I’m here,” and he says, “well we got a problem, the judge is sick,” I said, “come on I’ve just driven three and a half hours to get to Chicago, wasted an entire day,” he says, “well let me see if I can get somebody to hear the motion,” so he says, “okay I got somebody,” and it was Dean Sodaro, so I walk in and he says, “Tom, good to see you, oh it’s so good to see you,” and he [Dean Sodaro] turns to Chicago guy and he said, “now who are you?” (chuckles) so it was like he [Chicago guy] was the one getting home courted, not me, I lost the motion, I should have but that’s okay.

Warren Heindl was a good professor too, he had palsy and there was a raised platform at the front of the classroom and he would pace back and forth and he’d get to the edge and he would teeter and you had to stay awake because it looked like he was gonna fall. He ended up, both he and his wife ended up at The British Home where my sister was an administrator and she said, you know she found out that he had taught at Chicago Kent and, my brother went there too, and he said, “yes I remember your brother, he asked me a question I couldn’t answer.” (chuckles) that’s what he told my sister anyway, I don’t remember it but maybe I did.

LAW: Do you remember your Constitutional Law class?

APPLETON: Yeah, I didn't much care for the professor.

LAW: What were some of the big legal issues at the time?

APPLETON: Well, we were gripped by Watergate at that point.

LAW: Talk about that a little bit.

APPLETON: What was kind of fun was that the Impeachment Committee was the House Judiciary Committee and flashing forward from my Washington [D.C.] semester days I knew all of those people, I had talked to them, I had sat in their offices and I'm sure I was pretty obnoxious about it watching it on T.V., "yeah I know that guy, I know that guy," (chuckles) it was kind of fun.

LAW: What were your thoughts on the Watergate scandal?

APPLETON: I thought it was horrible, just horrible, there's just no excuse for it, just none and the President [Nixon] was in it up to his neck, he was a pretty good President too but he was so insecure that it drove him to do bad stuff.

LAW: What's your stance on the pardon for [Richard M.] Nixon by [Gerald] Ford, I guess I should say what was your view at the time and what is it now?

APPLETON: I think it saved a lot of anguish, there would have been a tremendous amount of anguish in the process of an impeachment, without doubt I think he probably would have been impeached, but it saved the country a lot of anguish and you know get on down the road, the past is past, it's all over it's done, he's out of office, he's a pariah, his life effectively is over.

LAW: Have you read any of [Richard M.] Nixon's books?

APPLETON: Oh yeah.

LAW: Thoughts?

APPLETON: Brilliant guy, absolutely brilliant, huge inferiority complex, huge, I think from childhood he had an inferiority complex. He worked his butt off in school to get ahead and was a very, very bright guy, very good lawyer but had a huge inferiority complex.

LAW: Now were you and your family kind of on the same page?

APPLETON: Yeah I think so, I think Jerry [Gerald] Ford did a brilliant job of healing the country, he was so nice and genuine.

LAW: Now you eventually got involved with the Law Review, how did that come about?

APPLETON: Well you had to write something to submit to the editors of the Law Review and then they chose whether you made it or not and you know you had to try out for it and I made it and wrote a case note and my senior year I was co-articles editor for the Law Review.

LAW: Now your article was called "Securities Regulation of Condominium Offerings."¹⁰

[01:00]

APPLETON: Uh huh.

LAW: I was curious, I know it's been forty years, maybe I shouldn't ask, but did condominiums eventually, were they eventually regulated as securities?

¹⁰ See, *DePaul Law Review*, Vol. 51 (1974-1975), pgs. 148-163.

APPLETON: No.

LAW: What ended up happening with all of that, or is it too complicated?

APPLETON: Well I thought they were -- my take was that they could be regulated like securities. When I was interviewing for law clerking jobs I interviewed with Judge Will, a federal district court judge in Chicago, and he had recently written an opinion that was contrary, that was contrary to what my article was, so we had a good time arguing back and forth, I said he was wrong and he said I was wrong and you know we had a very good interview. He said he had to wait until a couple of months later because he was the only federal district court judge in Chicago that Harvard would send its graduates to interview with, so he had to wait for the Harvard people to interview and I said, "well I need a job," so I took the job in Springfield because it was offered.

LAW: Well before we get to that I had a couple more questions about your Law Review days, how did you do that with working and school, how did you find time for it?

APPLETON: Well I didn't sleep a whole lot, you know my job, I could study sometimes on the job, I could do the homework or read the cases in my case books while I was at work, that was fine with my boss he had no problem with that. If I had a project to do I had to get that project done.

LAW: So you kind of in effect were a researcher slash law librarian, I guess that's probably given you a certain appreciation for the work of law librarians?

APPLETON: Oh yeah.

LAW: Do you do a lot of your own research still?

APPLETON: Yep, I remember we had a case, it's gotta be six, seven, eight years ago where the Illinois Central Railroad abandoned its line and they sold the ground and they offered it for sale, the abandoned right of way, but up in Dewitt County we had dueling farmers because one farmer said, "well if the railroads abandoned I get – my property is now to the center of what the rail line was," but somebody had bought it so they were actually out there dueling it out with combines, I mean it was craziness.

And I said, "wait a minute, I researched this when I was at Pioneer Title," and everything I wrote I kept, it's on onion skin, you don't probably know what onion skin is anymore, it's like the copy paper, and I got the memo I did out and so I wrote separately on the case and I said, I called a friend of mine at the Attorney General's office and said, "you know that abandoned right of way is worth millions of dollars and the state owns it, why don't you sell it instead of just letting the railroad sell it for their benefit," and he couldn't get anybody interested in doing anything about it. It was worth millions of dollars and the state just, "never mind too much work," I guess.¹¹

LAW: Now you eventually became lead articles editor?

APPLETON: Co-editor with Judy Munson.

LAW: And what did that involve?

APPLETON: We had to recruit lead articles, or the authors of lead articles, and then edit them and the one I did was with Howard Eglit who was then head of the ACLU in Chicago and he wrote an article and I went over it with him and edited the article.

¹¹ See, *Malone v. Smith* (Illinois Fourth District Appellate Court, 2005), available online at, <http://www.state.il.us/court/Opinions/AppellateCourt/2005/4thDistrict/February/Html/4040156.htm>

LAW: How did the editing compare to doing actual writing?

APPLETON: Boring.

LAW: Didn't enjoy it very much.

APPLETON: Moot court was more fun.

LAW: Any other memories of law school?

APPLETON: Well my moot court partner was Neil Birnbaum and we argued against these two ladies from the University of Chicago and I did the opening argument, we were the appellant, they did the appellee, and then Neil did the rebuttal argument and just tore them apart and both of them were crying, the ladies from the U of C, and I'm thinking, "this is make believe, this isn't a real case, this is just make believe, you don't cry," (chuckles) I thought that was kind of silly.

But Neil was a character, he got caught up in the Graylord thing and lost his license for a while and I think he's got his license back, I'm not sure I haven't talked to him for years, he was a lot older, he was in his mid thirties when we were in school, he had started out at Harvard and left after about six weeks because he said I got tired of being introduced as, "meet my Jewish friend Neil."

So he went down south where his dad had some interest in shrimp boats and worked on the shrimp boats for a while and then got involved in the Civil Rights movement and spent a summer in Fannie Lou Hamer's barn in 1964, then went to Boston to finish college and was head of the anti-war movement in Boston, was indicted for attempted murder of a state cop which caused some ARTC problems at the beginning of

his career, he was just a character, his mother died when he was three so he was basically, he raised himself, he had some aunts that looked in on him but his dad was always workin' and he'd come to our apartment and go straight to the refrigerator and eat all the left-overs.

LAW: Sounds like an interesting character.

APPLETON: He is.

LAW: Now how would you describe the make-up of your law school class, was it mostly men, men and women?

APPLETON: No, it was more than fifty percent male, but there's a sizable number I'd say about twenty-five percent women.

LAW: What about race, ethnicity?

APPLETON: Mostly white, one Hispanic woman I remember.

LAW: So you graduated in [19]76', passed the bar I should say. So this led you, as you said a few moments ago, to look for a job, what lead you to Springfield?

APPLETON: I sent resumes' out to most of the judges on the Appellate Court throughout the state and I got an offer from Jim Craven first and then Ed Eberspacher in the fifth district within in a day or so offered me a job but I had already taken the one in Springfield.

LAW: It's interesting that you looked for a clerkship position, what was the motivation behind that?

APPLETON: Well I like to write and continuing to research and then write is something I enjoyed.

LAW: I remember you talking about how your dad, after he got out, he kind of traveled around -
-looked for.

APPLETON: Uh huh, I could have gone back to Aledo in a heartbeat.

LAW: Yeah but you didn't though.

APPLETON: No, no, I wanted to go my own way.

LAW: And that lead to Justice Craven?

APPLETON: Uh huh.

LAW: Talk about clerking.

APPLETON: Well it was fun, Jim Craven is a wonderful guy, he's still alive, lives in Oregon, I talk to him every other year or so, his son Don is a good friend of mine, he was an incurable liberal (chuckles).

LAW: Incurable?

APPLETON: He was elected when they first had elections for Appellate court. He was a beneficiary of the Johnson landslide so he and Judge Trapp were both elected as Democrats. What was interesting is that when Dick Mills was elected to the Appellate Court in [19]76' the two of them saw the world completely differently, Craven was an out and out [John F.] Kennedy liberal and Dick Mills was as conservative as conservative could be and if they didn't talk about cases they got along famously, but if they were on

the same case together they butted heads all the time and it was more than once I wrote the majority decision and dissent, which is kind of fun to do.

LAW: You've talked a little bit about Justice Craven and Justice Trapp, do you have any memories of Justice Green?

APPLETON: Yeah, he was a wonderful, wonderful man, during oral arguments he would lean back in his chair and stare at the ceiling and ask this meandering question and get lost where he was and so experienced appellate advocates would say, "I'm sorry judge I didn't get that question," and he says, "well I can't remember what it was," you know because he just got lost (chuckles), he was a sweet heart though.

LAW: Now was he an incurable liberal, where did he fall?

APPLETON: Oh no, he was pretty conservative.

LAW: So then was the court sort of even, conservative, liberal?

APPLETON: Oh I would say it was fairly conservative, not wacko conservative, I mean our court is fairly conservative too.

LAW: Any memories of the former clerk?

APPLETON: Bob Conn.

LAW: Yeah, now his dad had been clerk too as well.

APPLETON: I didn't know that.

LAW: I went back and I looked in the Blue Books, his dad was clerk first elected in 1938 and then he [Bob Conn] became clerk, so the Conns were clerks for some forty years, so you were the new guy stepping into the position and a much younger guy.

APPLETON: Yeah, it was time for Bob to retire, he didn't do much and the judges were, you know, it's time to make a change.

LAW: Now what were your duties as clerk, what were you doing?

APPLETON: Well I ran the office and I drafted decisions too, I kept my hand in that as well, and did the motions.

[01:15]

LAW: Yeah I checked, this was probably after this period but I think Justice Mills moved for you to be on the bar of a United State Supreme Court for motions in 1981?

APPLETON: Well he sponsored my admission to the U.S. Supreme Court Bar, I didn't go out there or anything I just filled out an application, he made the motion and my paper and they sent me a certificate, it looks nice on the wall, never argued a case before the [U.S.] Supreme Court.

LAW: You were clerk from [19]76' until [19]78'...

APPLETON: Craven's clerk.

LAW: Craven's clerk.

APPLETON: Then research director.

LAW: Now how did that position open up?

APPLETON: Lee Elberts went to work for a firm in Chicago and I took his place as research director.

LAW: And you weren't doing that for very long because in [19]79' you were appointed Clerk of the Court, it was just kind of a holding pattern. So after clerking for Craven and then going on to clerk for the whole court how did those compare and contrast, was it just more work?

APPLETON: No not really, I kept my hand in still drafting dispositions and running the clerk's office, we put in a docketing system that is in effect today, we started that and saying you've got x amount of time to get your briefs in, we put time schedules on it, before there weren't really time schedules for it.

LAW: Kind of like an ad hoc?

APPLETON: We drew a line in the sand and said "you've gotta have your work done by this date."

LAW: Now you wrote an article with Justice Craven in 1980 in the *Illinois Bar Journal*, it was sort of dealing with these same issues, kind of how the Appellate courts were just overwhelmed with cases and so the court had passed some new rules to sort of expedite things and keep things moving a little bit smoother. I went and I checked the numbers and it appears that the situation has corrected itself.¹²

¹² See, "New Supreme Court Rules for Appeals," *Illinois Bar Journal*, Vol. 68 (1979-1980), pgs. 78-80. Also see, Appellate Court Total Caseload Statistics, available at, http://www.state.il.us/court/AppellateCourt/CaseStats/Caseload_AC.asp

APPLETON: Well, people are following the rules, I mean that's all there was to it and it has run smoothly ever since.

LAW: So it's been your experience then that that rule was successful then?

APPLETON: Oh yeah, very much so. And if there was something really abnormal about a particular case you could get more time but it had to be really justified. I remember there was a Jewish lawyer from Decatur who came over, drove to Springfield, and asked Judge Craven for an extension of time because he was president of a temple and the high holy days were coming up and Judge Craven told him, "you've known for a year when high holy days are gonna be, you should've gotten your work done, motion denied."

LAW: Tell me a little bit about Justice Craven, was he sort of a mentor in some ways?

APPLETON: Yeah, his secretary Irene Throckmorton was like the den mother to the Appellate Court, there's a scrapbook downstairs of pictures from before my time and during my time.

LAW: You should let us scan that.

APPLETON: Ask Carla, she's got it.

LAW: Alright.

APPLETON: Jim Craven -- because he was in Springfield, and the research lawyers and his clerks and I think some other clerks who worked for other judges worked out of Springfield from time to time too so we socialized a lot and he would have people out to his house and he had a tennis court at his house and I would go out there and play tennis

after work once or twice a week, he had a big garden and I planted a garden out there, he had a lot of land and he was just a wonderful, wonderful guy, he still is, he's still alive.

LAW: So how did clerking for the Fourth District Appellate Court influence your life and career as a lawyer and a judge?

APPLETON: Well it brought me to Springfield and we became rooted here, it wasn't so much the court job, but the Sangamon County Bar Association when I was first here they had a reception, some sort of an event, and I met Rick Velde and he was secretary-treasurer and said, "you need to join the Bar Association," and I did, and through that I made so many friends; the Sangamon County Bar is a really good Bar, good people and my dearest friends.

LAW: How did the community compare to the other communities you had lived in, Aledo, Rock Island, Champaign, Chicago?

APPLETON: Well I wasn't part of the Rock Island community; I was on campus, other than a couple bars. Aledo is still home to me in many respects. Chicago, I was never gonna live in Chicago.

LAW: Why is that?

APPLETON: In retrospect I had friends who went into big firms and they're on an airplane flying here for a dep. [deposition], flying there for a dep. [deposition], they're never home, how do you raise kids, how do you, be able to coach your kid in soccer, coach your kid in little league, you know you're never home, in Springfield you can be home.

LAW: Did you have a family when you moved down here?

APPLETON: Not yet, August was born in 1981, he was born after I had gone into private practice.

LAW: And Helen, she became a clinical psychologist?

APPLETON: Yes.

LAW: And has it been what you thought it was going to be, Springfield?

APPLETON: I didn't have any idea what Springfield was going to be when I moved here, but I got to meet people, I got to know people, Ray Terrell kind of put his arms around me, he was State's Attorney at the same time my dad was State's Attorney so he knew my dad and he would send me some business from time to time, when he got appointed Circuit Judge I was his campaign manager, he was a true mentor to me as a lawyer.

LAW: Ray Terrell?

APPLETON: Uh huh.

LAW: How did you meet him?

APPLETON: We had the one hundredth anniversary banquet of the ISBA and my dad bought two tickets, my mom was ill at that time, and he sent me the two tickets and Helen and I were sitting there and Ray and his wife were assigned to the same table and I introduced myself and we introduced each other and he said, "would you be any relation to Glenn Appleton?" and I said, "yeah that's my dad" and he says "Ohh" and from that point on he was kind of like my godfather.

LAW: In your corner. I just wanna make sure I cover all the Justices. I think the only other Justice that we haven't talked about would be Albert Webber III.

APPLETON: Well, and Jack Reardon, you haven't asked about him.

LAW: No, I don't have him [Reardon] here, so any memories of either one?

APPLETON: Both, Judge Reardon was an absolute gentleman, he had a full head of white hair, very imposing, very bright, very nice, just a true gentleman. A.G. Webber was a character, he would get up at five in the morning, read an hour of Greek, and an hour of Latin and then practice the piano and then go to work. And he typed on a manual typewriter where he typed all of his own opinions. And he would have contests where he would promise a case of beer or a fifth of scotch to any of the law clerks who could identify the origin of, he used the phrase "oblomovian pace." And Dan Galmer, who was one of Craven's clerks, had taken a Russian literature course and he remembered this novel about this character Oblomov who was a slow moving person, so he won a case of beer.¹³

LAW: (laughing) So it sounds like there was a certain degree of camaraderie?

APPLETON: It was a lot of fun, we had fun every day.

LAW: So after serving as clerk you decided to go into private practice?

APPLETON: Well actually they let me have a non-litigation practice for about a year and a half while I was still Clerk of the Court, which is kind of unheard of, but they wanted to keep me and Judge Reardon was chief and I met with him and said, "I really think I need

¹³ See, Ivan Goncharov, *Oblomov* (1859).

to go into private practice,” and I knew Paul Presney through Muni Opera and we had talked about me coming to work with him and so Judge Reardon said, “well, go ahead and start as long as you don’t do litigation, you can write wills, write contracts, all that kind of stuff is no problem.”

The funny thing was that one of Helen’s co-workers at the mental health center called me one night and said, “sheriff just left here, I’ve gotta be in court in Lincoln tomorrow morning on a rule to show cause,” I said, “well what’s it about,” he said, “I don’t know, it’s my dad’s estate and it’s rule to show cause why I shouldn’t be held in contempt for not having closed the estate, but Eddie Mills was the lawyer and he told me it’s all done, so I don’t know what this is all about.” So, I was not suppose to appear in court but I did, in front of John McCullough, and I got there and of course as Clerk of the Appellate Court I knew most of the circuit clerks in the district, so I went into Judy Morrow’s office and I said-cause Eddie Mills had passed away- I said, “who got Eddie’s files,” and she said the name of the law firm, I said, “ would you call over there and see if they’ve got this file for the estate,” and they brought it over to the court house and opened it up and there’s the order ready to present to a judge, he had done the order, he died before he got it to the judge, so I went in to Judge McCullough and explained the situation and he said, “Oh no problem, everything’s fine,” he signed the order closing the estate, we were all done. But I wasn’t supposed to be appearing in court, but I did.

LAW: So this was 1981, [19]82’?

APPLETON: Uh huh, [19]81’.

LAW: What was it? Did you just wanna do something new, economic, family?

APPLETON: Well, I wanted to go out and be a lawyer, ya know, I didn't want to work for the state my whole career, I wanted to go out and be a lawyer, and my first year out I made as much as I made as clerk and every year it almost doubled.

LAW: And this was with Paul Presney?

APPLETON: Presney, P-R-E-S-N-E-Y.

LAW: And was it just you two?

APPLETON: No, it was Jim Kelley and Bob Huffman, and I, there were four partners, Presney, Huffman, Kelley and Appleton, and Huffman went away and it was Presney, Kelly and Appleton, and then

[01:30]

Paul's son became a lawyer and joined the firm and about that time I was on my way out, I formed a firm with Frank Giganti and Saul Morse -- Morse, Giganti and Appleton and practiced in that firm until I was elected Circuit Judge in [19]92'.

LAW: So what kind of cases were you trying?

APPLETON: Well, when I was still with Presney's office I was an assistant public defender in Sangamon County and I tried, in thirty months I tried thirty-six jury trials and I won half of them.

LAW: Pretty good numbers.

APPLETON: I thought so, and that really kind of made my reputation in the legal community.

LAW: All kinds of cases?

APPLETON: Mm hmm, I did bankruptcy, I wrote wills, personal injury, a little bit of civil rights, criminal defense, a full general practice.

LAW: Do you feel like your legal education served you well in that?

APPLETON: Mm hmm, sure.

LAW: Is there any education that would have helped you in that pursuit?

APPLETON: No, I did continuing legal education like you are suppose to do and I did a lot of family law, a ton of family law.

LAW: Did that appeal to you or is that just what came up?

APPLETON: That's what walked in the door and I was good at it so I got retained a lot.

LAW: I've heard that's what you focus on, "what comes in the door" as you said. So did your political or social outlook change during this time period at all?

APPLETON: No.

LAW: And you became involved with Ray Terrell as his campaign manager, how did that come about?

APPLETON: 1984 -- well he [Ray Terrell] was appointed Circuit Judge by Chief Justice Underwood to fill the vacancy of Wally Ackerman who had become Federal Judge and so I became Ray's campaign manager and we had a really good time, we had a lot of fun.

LAW: So you got involved in politics when you came to Springfield?

APPLETON: Mm hmm.

LAW: Any particular memories of Springfield politics in the 1980's, what were kind of the big issues?

APPLETON: No issues really, it's just you got a Republican and a Democrat, I'm the Republican, I'm gonna work for the Republican guy, two years later I ran Candy Trees' campaign for circuit clerk.¹⁴

LAW: So what does a campaign manager do?

APPLETON: Make sure that signs get up, make sure that money is raised, make sure the brochures are made up and tell the candidate what to do.

LAW: Did you ever call on your dad for advice?

APPLETON: No, he was a horrible politician, he was horrible (chuckles) my dad was the worst politician in the entire world, he would cross the street to tell somebody what he thought of them, (laughing) my mom was always going behind him saying, "he didn't really mean that, he didn't really mean that," (laughing).

LAW: I guess you also became a father at this time?

APPLETON: Uh huh, 1981.

LAW: Your son August.

APPLETON: Uh huh.

LAW: And you also have a daughter?

¹⁴ Candice Trees was Circuit Clerk of Sangamon County from 1986-1992.

APPLETON: No, a son Paul.

LAW: Paul, that's right, I'm sorry, and he was born?

APPLETON: [19]84'.

LAW: So what was it like being a father and a working lawyer?

APPLETON: It was exhausting. I coached soccer, I coached tee-ball, I did Boy Scouts, more with August than with Paul, August became an Eagle Scout, Paul much preferred competitive soccer than Boy Scouts but I was the coach for his competitive soccer team.

LAW: What was his Eagle [Scout] project?

APPLETON: Out at UIS, the SASA soccer fields, there's a railroad track that runs on the west side of the fields and he planted a tree line to kind of separate the tracks from the playing fields.

LAW: Any memorable Scout trips?

APPLETON: Well I didn't go but he would say Philmont [scout ranch], he loved it.

LAW: Any other memories from the period?

APPLETON: Not really, it was a busy, busy, busy time. I would go back to the office at night -- when I was public defender it was kind of fun because they had the old jail, which is now city hall, and I would go see all my clients, all my P.D. [public defender] clients on Sunday night and they only had two guards at the jail, they had one on the dock and one in the control room and I would show up with a list of people I needed to see and the control room guy would go and get the prisoners and I'd run the control room, I'd answer

the phone, tell people what somebody's bond was, all that kind of stuff, and the cops trusted me and I was a defense lawyer, which I was always kind of proud of.

LAW: You must have had an honest face.

APPLETON: Well I didn't burn em'.

LAW: How was actually practicing law, was it what you thought it was going to be?

APPLETON: Yeah, it was a lot of fun, I really enjoyed practicing law, I loved it. I took a pay cut to become a judge because my kids were getting older and I wanted to have time to help them grow up, so Helen – when the kids were little, was working part time, she wanted to be working full time, which we were able to accomplish, so when I was elected to the trial court I took over the laundry, that's my job, I had time to do that, and when I got into the Appellate Court I took over the cooking too, Helen's working more and I'm working less so I've got time to do that kind of stuff.

[Total Running Time: 01:38:10]

END OF INTERVIEW 1

Justice Thomas R. Appleton: An Oral History, Part 2

LAW: This is an oral history interview with Justice Thomas Appleton, this is interview number two. Today's date is July the 9th, 2014. We are at the 4th District Illinois Appellate Courthouse conference room and this is interview number two. This session is focusing on Justice Appleton's career as a judge. Justice Appleton I thought we would start with how and why did you decide to be a judge?

APPLETON: Well, I think it's probably a back of the mind goal for every lawyer, if you have the opportunity to become a judge, to take it. So I had the opportunity to run, I ran, and I won.

LAW: So let's talk about the process, how did you become a judge, how did that come about?

APPLETON: Well, I was elected in 1992, it was a competitive race; there were two vacancies. Judge Zappa and I ran as Republicans, John Keith and Stewart Shiffmann ran as Democrats, and both Leo and I were successful.

LAW: This was for the Seventh Judicial District?

APPLETON: [Seventh Judicial] Circuit.

LAW: Circuit, I'm sorry. And that includes, let's see, Macoupin...

APPLETON: Sangamon, Macoupin, Morgan, Greene, Scott and Jersey [Counties].

LAW: And did you have to travel around at all?

APPLETON: Oh yeah.

LAW: And what did that involve?

APPLETON: Get in the car, pretty much every day, and go and meet people and campaign.

LAW: Okay, did you have to raise any money or anything?

APPLETON: Oh sure.

LAW: And how did you do that?

APPLETON: It was very difficult (chuckles).

LAW: Very difficult, why is that?

APPLETON: It's difficult because you can't promise anything. If you run for the state legislature or something you can promise things, judges can't promise anything. People are more apt to be involved financially in a campaign where they can get something out of it, either a point of view or a single issue, something like that, judges can't do that. So, in large part we self financed the campaign.

LAW: Okay, are you, so what's the line, how do you say what your beliefs are and what your politics are?

APPLETON: It's really vanilla -- I promise to be fair, I promise to be just, I promise to work hard, that's about all you can say; you can't promise anything other than that.

LAW: Okay, so was there a primary or anything?

APPLETON: No, there was no primary for the circuit judgeship.

LAW: Okay, now this area is primarily Republican?

APPLETON: Yes.

LAW: So, what role does the Republican Party play in all of this?

APPLETON: Well they certainly didn't give us any money, or hardly any money. There's a selection process that the Republican Central Committee will pick the candidates, and both Leo and I were chosen and we became the Republican candidates; and the same on

the other side for the Democrats, they went to their Central Committee and were selected to run.

LAW: Is it – do you fill out an application? Do you have to have a sponsor or anything?

APPLETON: No, you indicate your willingness or desire to run and if there were more people who had the desire than the Central Committee would just pick who they thought was the best one.

LAW: So, how is – Now, like we said this is, primarily, kind of a Republican area and I think Chicago is kind of thought of as a Democratic area...

APPLETON: I would guess so yeah.

LAW: So what do you think the similarities and the differences are in terms of partisanship and the courts?

APPLETON: Once you're installed, once you are sworn in, there is no partisanship involved at all, you just do the job.

LAW: I've read stuff about, in Chicago, where if -- you need a sponsor to get slated.

APPLETON: Well that's a whole different universe up there. Down here it doesn't work that way.

LAW: So would you say that is a function of region?

APPLETON: Oh sure.

LAW: Okay, and history?

APPLETON: And power.

LAW: Okay, let's get into being a trial court judge. What are some of your memories of being a trial court judge?

APPLETON: In my practice I did a lot of family law, and I was not satisfied with the way the family law division was operating. There was no system in place to move cases along, so people who are in the midst of a divorce, you know it's the most horrible thing they are facing, and cases would be allowed to drag on and drag on and drag on with no resolution. So I asked Jeanne Scott, who was the chief judge when I was elected, I asked to be put in the domestic relations division and became the head of that division and we instituted a case management system for family cases that worked fairly well and moved people through the process a lot quicker. And that's a benefit to the public I think.

LAW: About how many circuit judges were there when you came in?

APPLETON: Well in the [Seventh Judicial] Circuit I think there were twelve. Two in Macoupin, one in Morgan, one in Scott, one in Jersey, one in Greene and the rest from Sangamon County.

LAW: Were you primarily in Sangamon County?

APPLETON: Yes, although I did travel from time to time.

LAW: Where did you travel to?

APPLETON: Jersey County, Greene County, Morgan County, Macoupin County, I think I sat in all of the courtrooms at one point or another.

LAW: What were your impressions of the different counties, was -- similarities/differences?

APPLETON: Well I mean Sangamon, being a fairly metropolitan area, you know, the other communities were a lot smaller. I remember I tried a jury case in Greene County and it was kind of fun because they had juries four times a year in Greene County and *the* sheriff was the bailiff and *the* circuit clerk sat in the courtroom, and that never happened in Sangamon.

LAW: Would the area of the circuit affect the types of cases that you would have?

APPLETON: No.

LAW: So there was kind of uniformity in what you were encountering.

APPLETON: You did everything.

LAW: Now you said you were head of the family law division or domestic relations division -- same thing?

APPLETON: Same thing.

LAW: So that would involve divorces?

APPLETON: Divorces, child support.

LAW: Those would be some challenging cases then?

APPLETON: Well, I'd practiced in that area quite a bit, so I pretty much knew what I was doing.

LAW: Now, did you handle any other types of cases?

APPLETON: Oh sure, in Sangamon you're up for jury every other week, so on jury weeks sometimes you had a jury trial and sometimes you didn't depending on the lawyers, they would have something scheduled and they'd settle it.

LAW: Now in the domestic relations did you ever have any juries or anything?

APPLETON: Never a jury in domestic relations.

LAW: So, which did you prefer – juries are just being in charge?

APPLETON: Doesn't matter.

LAW: Didn't matter.

APPLETON: No.

LAW: Was there any difference in – there's gotta be some kind of difference between having a jury and not having one?

APPLETON: Well, if you've got a jury, the jury is the one who makes the ultimate decision. And if you don't have a jury the judge makes the ultimate decision. That's basically the difference.

LAW: Okay. So let's talk about what you've learned from this experience. What can you tell us about the criminal justice system, what are your experiences, how have they informed your understanding?

APPLETON: Well, when I was first in practice I was an assistant public defender, so I came from that side. And really, more judges came from the state's attorney side. When I was

a public defender I tried 36 jury trials in 30 months and learned how to do it by the seat of my pants.

LAW: So would you say you had a certain affinity for the public defenders? Not an impartiality [towards them], but you could understand where they were coming from?

APPLETON: Oh sure, and I certainly understood where the state was coming from too. They've got a job. They are sworn to prosecute cases.

LAW: Let's talk about the larger system though. Does it function properly? Did it function properly? What were some of the flaws?

APPLETON: Oh I think so. I didn't see any flaws. I think the jury system is a gift to the American people.

LAW: So that has a lot to do with how it worked properly, was [because of] juries?

APPLETON: And I am not going to say that every jury makes the correct decision every time, I can't say that, but it's the best we've got.

LAW: Did you ever have that happen where you were a judge and...

APPLETON: Uh huh.

LAW: What do you do?

APPLETON: There was a murder case that I tried as a judge and the jury was hung, which I didn't understand at all, I thought it was clear that the fellow was guilty. So we retried it and low and behold he was acquitted. Matt Maurer defended the fellow and I don't know what he did but he pulled a rabbit out of a hat.

LAW: So it certainly speaks to the importance of the quality of council and having a good defense.

APPLETON: Well, quality of council and you've got to trust the twelve people in the box, that's what our system is based on.

LAW: So you said you had everything, so that means criminal and civil?

APPLETON: And civil, personal injury, administrative review, probate, adoption, everything.

LAW: Now, what if you encountered a case that you hadn't had any prior experience as an attorney, how do you get ready for that case?

APPLETON: The type of case?

LAW: Uh huh, or had you had all of those cases?

APPLETON: I'd pretty much had experience in every facet of the law in terms of – obviously more criminal, more family, then personal injury cases but I still had personal injury cases as a lawyer, so I knew how it worked.

LAW: Let's talk about the relationship with the other judges; would you have any kind of meetings or conferences?

APPLETON: Well, informal [meetings] all the time, just chatting in the hallway and what not. Or if I had a problem of some sort I could go in with somebody and talk it out and have a conference with them and get some ideas on how to handle something. We had a very congenial courthouse.

LAW: Were there any kind of, at the time, were there any judges that had been there for a while, real experienced judges?

APPLETON: Oh sure, Dick Catagan had been there for a long time, Joe Cavanagh had been there for a long time, they retired fairly shortly after I became a judge. Jeanne Scott had been there for a long period of time and she was an invaluable resource, in terms of,

[00:15]

I always considered her to be the gold standard of trial judges, she was wonderful.

LAW: Talk to me a little bit about your administrative role as a judge, what would that involve?

APPLETON: Well, in the family division, when I headed that, I did that for four years. I had two associate judges in the division with me and that's when I instituted that pre-trial order, scheduling order, and made the lawyers – they had thirty days to do their discovery, they had thirty days to do their discovery, that's it. You know, you've got to get your work done. You can't let things drag on.

LAW: Do you feel like that whole change was sort of informed by the reforms you did when you were a clerk?

APPLETON: No, it was informed by my practice where you couldn't get a court date and you had somebody – had a wife with three kids and no child support. You gotta get to court and get it done.

LAW: So it was kind of informed by reality, the reality of practicing.

APPLETON: Yes.

LAW: Was there any other cases like that where your experience from practicing [informed your decisions]?

APPLETON: Uh, not really, the personal injury bar, they move at their own speed. That's an area where you let the lawyers pretty much dictate how fast you're going to move the case. Family law, that was not the case, I wanted it moved quickly, people deserve resolution. The administrator review stuff was, again, an area where you let the lawyers dictate the pace of the case.

LAW: Was the "Baby Richard" case going on when you were a family law judge?

APPLETON: Uh huh.

LAW: Did you have any thoughts on that case?

APPLETON: Not really.

LAW: No. Did you ever have any controversial cases like that or difficult custody cases?

APPLETON: Oh all custody cases are difficult, they all are, it's gut wrenching, it really is. I did the first gay adoption in Sangamon County though, I was kind of proud of that.

LAW: Well talk to me a little bit about that. How did that come about?

APPLETON: Two men who were in a relationship adopted a little baby boy and they both had very good incomes. In the last year I got a letter from one of the dads with a cd of the boy who had become a violinist and he sent me a cd of his performance with the Jacksonville Symphony Orchestra. I thought that was pretty neat.

LAW: Now would that be unusual to have that kind of – would you stay in touch with people?

APPLETON: No not necessarily, adoptions are a pretty emotional thing. I did an adoption where the father, adoptive father, was in the hospital and dying and I went to the hospital and did the adoption and afterwards the mom sent me a picture of the two little boys who were adopted in their Cub Scout uniforms in the hospital room with dad and that was pretty emotional.

LAW: Something that sticks with you.

APPLETON: Oh yeah.

LAW: Now you said you did the family law for about four years?

APPLETON: Uh huh. I did criminal for two or three years and at the time I left the trial court I was doing probate and administrative reviews and things like that. But we're up for jury every other week so you still got criminal, you got everything else.

LAW: And then you were retained in 1998.

APPLETON: Uh huh.

LAW: How is retention different then getting elected?

APPLETON: Well you don't campaign for retention, at least down here [Sangamon County]. You just cross your fingers and hope that people think you've done a good job (chuckles).

LAW: So you don't have to raise any money?

APPLETON: No, no.

LAW: Was it less stressful?

APPLETON: No stress.

LAW: No stress, okay. Earlier you mentioned associate judges, now those are picked by the circuit judges. Did you participate in any of those selections?

APPLETON: Sure.

LAW: How does that work?

APPLETON: Well you usually have like twenty applicants for one spot. The circuit judges would convene and try to come to a resolution on picking the best one.

LAW: What would be the criteria?

APPLETON: Knowledge of the law, work ethic, that's about it.

LAW: Was there any kind of partisan requirement?

APPLETON: No.

LAW: Were most of the judges Republican?

APPLETON: When I started, I wanna say it was a little bit more Republican than Democrat. By the time I left it was a lot more Republican than Democrat.

LAW: Now why do you think that happened?

APPLETON: Well, the Republicans won the elections (chuckles).

LAW: Very cut and dry. Now could you stay involved in politics once you were elected?

APPLETON: No, not in a formal way.

LAW: Not in a formal way, all you could do was vote?

APPLETON: Yep.

LAW: Okay. So then you get retained in [19]98' – I guess before we move on, do you have any other memories as being a trial judge, anything that stuck with you?

APPLETON: Not really, I mean I had a good time. I enjoyed my work at the trial court, I really did. I will say that being a trial judge is hard work, it really is. The Appellate Court is much easier in terms of you can take your time, you can think about things in a more in-depth manner. Trial judges are making decisions right and left, right there, you don't have the luxury of time to think about it.

LAW: Is it a nine-to-five job?

APPLETON: Oh yeah, well nine to four-thirty.

LAW: Nine to four-thirty.

APPLETON: And I would stay late sometimes and finish hearings. You know, if you had out of town litigants and it got to be four-thirty and it's time to go home, but they've had to drive six hundred miles to get to court you stay around and finish.

LAW: Do trial court judges have clerks or anything?

APPLETON: No, they have court-reporters, that's it.

LAW: Court-reporters, you probably built up some good relationships with your court-reporters and bailiffs?

APPLETON: Uh huh. Good people.

LAW: So then in 2001 you are assigned to the Appellate Court, Fourth District. How did that happen?

APPLETON: Well, there's a – at least in the four downstate districts there's at least one assigned judge and Justice Garman picked me for that assignment. I had run for the Appellate Court in 1998 and lost to Judge Myerscough.

LAW: Now did you lose in a primary or in a general [election]?

APPLETON: General. I won my primary. It was a contested primary and I won. But I lost in the general. So I was assigned then in 2001, three years later; and stayed in the assignment until there was a vacancy and I ran for that vacancy unopposed.

LAW: Now in 98', how did you go about getting elected, was it the same as when you were running for trial court or what were the differences?

APPLETON: Well, I had thirty counties instead of six.

LAW: Okay, so more travel.

APPLETON: A lot more travel. I still remember one day I got up and drove to Quincy for a Lincoln Day Dinner, from Quincy to Champaign for a Lincoln Day Dinner, Champaign to Charleston for a Lincoln Day Dinner and then to Bloomington where I spent the night to be ready for a seven o'clock in the morning interview on the radio.

LAW: So what's going on with all of these Lincoln Day Dinners? What is a Lincoln Day Dinner?

APPLETON: Well most Republican county organizations have a Lincoln Day Dinner, every year.

LAW: So it's kind of like similar to the ones that you went to when you were younger?

APPLETON: Sure.

LAW: What was it like to be – the role had flipped in a way. You were the guy coming to speak and not the guy coming to listen.

APPLETON: Well I didn't necessarily speak all of the time, but I would certainly circulate around the room and introduce myself and campaign that way.

LAW: Okay, so it's kind of a personal thing then, alright.

APPLETON: Uh huh.

LAW: Why do you think Justice Garman picked you for the assignment?

APPLETON: Well I had run in [19]98' and she knew me, she knew my work, she saw my work when she was an Appellate Court judge and I'm thankful she did.

LAW: Now was Justice Myerscough still on the court when you were assigned?

APPLETON: Uh huh.

LAW: Were there any kind of...?

APPLETON: Well we didn't see eye to eye on cases necessarily, but we got along perfectly well on a personal basis. Our kids are the same age. We had known each other for thirty years.

LAW: Okay. What was your first impression of the Appellate Court? Do you remember your first day?

APPLETON: Uh huh. The clerk then, of our court, Darryl Pratscher, handed me an emergency appeal on an election case and said, "you use to represent the election commission, you know about election law here, write it up and get it out of here," so I did.

LAW: How had the Fourth District [Appellate] Court changed since you were clerk in that twenty odd years, besides a bunch of new faces?

APPLETON: Well, and this building. This building, we didn't have these kinds of quarters. We were in the [Illinois] Supreme Court building and the Fourth District Appellate courtroom in the Supreme Court building is gorgeous, just beautiful, absolutely non-functional but beautiful.

LAW: It's the one with all the murals?

APPLETON: Uh huh.

LAW: So different building, different people. Had the court changed in any other significant way?

APPLETON: No, I knew most of the judges on the Appellate Court already. I knew Judge Steigmann, Judge Knecht, John Turner, Judge McCullough.

LAW: Did you know them because you had been a trial court judge kind of from the same area?

APPLETON: No, not really that, it's just – you go to bar events and you just know these people; very friendly.

LAW: Then you were on assignment until 2010 when you were appointed?

APPLETON: Right, because I had filed to run for a vacancy and there was no opposition. I had no primary opponent, no general election opponent, so rather than continuing in the assigned seat, Justice Garman appointed me because the election was a foregone conclusion.

[00:30]

LAW: How has been serving on the [Fourth District] Appellate Court been different than being a trial court judge?

APPLETON: You have the luxury of time, that's the really big difference. You can really dissect a case and you don't have to make snap decisions like you do on the trial court. So I think the work product is more substantial and more in-depth. And that's not a slam against trial judges, they're under the gun on a time basis and they don't have the luxury of noodling a case around and we sit in panels of three so we talk to each other and bounce ideas off of each other.

LAW: How did your experience as a trial court judge inform you as an Appellate Court justice and was that experience unique to you?

APPLETON: No I don't think so. I think everybody that has been a trial court judge and goes to the Appellate Court has pretty much the same idea of how things work.

LAW: Were most of your colleagues former trial judges?

APPLETON: All but one, John Turner was not, he was a state representative.

LAW: Do you think that causes you to look at things differently?

APPLETON: No.

LAW: I guess -- in a previous oral history one of the justices said that having been a former assistant state's attorney he could look at a transcript and he could almost get a visual picture of what was going on. So I guess what I'm talking about, your trial court experience, is how did it influence the way you looked at a case?

APPLETON: Well I don't that -- as a trial judge you listen carefully to the testimony, especially in a bench trial you make your decision based on what you've heard from the witness stand. Jury trial of course the jury makes the ultimate decision, but you've got to stay on top of listening to the testimony because there are objections and you don't want to be caught flat-footed on making the wrong ruling on an objection.

LAW: So the testimony would be something that you would look to?

APPLETON: Sure.

LAW: Okay. So would you say your experience as a trial court judge was an advantage or a disadvantage?

APPLETON: An advantage, I think so. If you've been a trial court judge, going to the Appellate Court, you have a great deal of sympathy for the job that the trial judges are doing. If they make a little mistake here and there, that happens and we are probably a

little bit more forgiving having had that experience knowing how those small mistakes can be made.

LAW: Yeah. That's what I was wondering. So we don't want to talk about any particular cases, but have there been any issues that you've dealt with that are memorable?

APPLETON: Well we've had a run of cases out of McLean County on asbestos litigation that I have written on and the [Illinois] Supreme Court has affirmed me.

LAW: Is that area known as sort of an origin of a lot of class action lawsuits?

APPLETON: No these are individual plaintiffs who developed asbestosis and brought lawsuits. They turn out to be enormous cases, a week, two week, three week long trials, huge jury verdicts and millions of dollars and we've had a run of those.

LAW: Any others?

APPLETON: Well you get high profile murder cases, those are pretty dicey sometimes.

LAW: Murder cases, would these be potential capital punishment cases?

APPLETON: Not anymore.

LAW: Not anymore, but at the beginning?

APPLETON: Uh, yep, I think so.

LAW: How do you feel about that, that you don't have to deal with capital punishment anymore?

APPLETON: Oh I think that's a great move that we did away with capital punishment. You just pick up a newspaper once a week and you'll see somebody who's been exonerated.

LAW: I want to get into that a little bit more, but before we do I just have a few more questions. Are there any judgments or opinions, that you have given, that you struggle with today?

APPLETON: No.

LAW: Now, you've also been in the Illinois Judges Association. So what kind of work have you been engaged with, with them?

APPLETON: Not much. I paid my dues every year. At one point I was co-chair of the Legislative Committee.

LAW: What does the Legislative Committee do?

APPLETON: I have no idea. Uh, we had a lobbyist and we had a telephone conference call and he reported on what was going on in the general assembly and that was the end of it.

LAW: Did you ever have to go to the general assembly or anything?

APPLETON: No.

LAW: How does that work, does the [Illinois] Supreme Court handle all of that for the Appellate Courts?

APPLETON: Well for the entire judicial system.

LAW: Now, you have also been engaged in some work with the Illinois Judicial Conference?

APPLETON: I've been – this is my third term on the Judicial Conference and I am assigned to the Criminal Law and Probation Committee.

LAW: And what is going on lately with that?

APPLETON: Well, right now we're discussing Rule 402 conferences and whether or not the rules ought to be changed about that. 402 conferences are where the defense lawyer and the assistant state's attorney will come to the judge and say, "let's have a conference and see if we can come to an agreement," and there are some people who think that the defendant should be present during those. I am not one of those people because if the defendant is present you are not going to have a free interchange of ideas because the defense lawyer is gonna be pretty hamstrung by it and he can't – usually the defense lawyer is like, "okay, we know he's guilty, but they're asking too much, why don't we – if I can plead him guilty for x amount of years, let's be done with it and get on down the road," you can't say that when the defendant is present, usually.

LAW: That'd kind of be an example of trying to find the best outcome.

APPLETON: Right.

LAW: So, has this given you a chance to meet justices from other parts of the state?

APPLETON: Oh all of the committees of the conference are populated by judges from throughout the state of Illinois. North to south to east to west, the [Illinois] Supreme Court does a very good job of populating the committees with a wide range of geographies and opinions and backgrounds.

LAW: So in a way it's like how you said earlier about having the three judges on the panel, they have different views and backgrounds and experiences.

APPLETON: Uh huh.

LAW: Does your district have any kind of reputation or anything when you come into these?

APPLETON: You mean when we show up at our meeting? No, not really, you are an individual at that point.

LAW: Okay, I understand. Have you been involved in any other committees or anything?

APPLETON: Well, Tim Eaton and I were co-chairmen of the Special Committee on Rule 23 and that was really at the front-end of my service on the Appellate Court. I was appointed co-chair of that committee and we had three meetings. There was like thirty people on the committee, it was a big group, and we made a report to the [Illinois] Supreme Court and basically they put it in a drawer and never acted on it (chuckles). The real issue was whether or not you could cite a Rule 23 Order as, not precedent but not persuasive authority. Both Tim and I were of the opinion, and I would suggest most of the judges on the committee were of the opinion, that you should be able to cite a Rule 23 Order as persuasive authority. But, a substantial number of the judges from Cook County were opposed to that and I think it's because a lot of their -- I don't want to say a lot-- some of the Rule 23s coming out of the first district may not have been crafted with the same detail then the down state districts.

LAW: Hmm. So, serving on these committees and such, is that kind of one of the required things of being a justice?

APPLETON: No, you can say no, you don't have to serve.

LAW: Does anyone ever say no?

APPLETON: I would guess so but only because of some personal situation, you know, "I can't do it at this time, I've got this going on in my family or whatever," I think most judges are happy to serve.

LAW: Willing. Yeah.

(break in interview)

LAW: So, this is our death penalty section, as I was alluding to earlier. So what was your reaction to the moratorium?

APPLETON: Relief.

LAW: Relief, why so?

APPLETON: Well, I've never had a death penalty case and I never wanted one. I think the recent history has shown that there are too many errors made, perfectly human errors, all in good faith, but errors none the less, and people who are convicted turn out to be exonerated somewhere down the road. I think the innocence projects that are put together are absolutely necessary. Our entire court system is fraught with human frailty. Judges, lawyers, jurors, they are human beings and they don't always make the right decision and there should be an opportunity for a second chance to look at it and say, "was a mistake made?"

LAW: Do you remember anything about the special committee that the [Illinois] Supreme Court put together and the commission that Governor Ryan put together?

APPLETON: No, I wasn't really involved, I just read the newspaper.

LAW: Okay. Well one of the things, I guess, was the creation of the Capital Crimes Trial Bar, trying to get more effective council.

APPLETON: More effective council...

LAW: Standards...

APPLETON: ...and money.

LAW: Right, that's right.

APPLETON: To allow the defense to be able to put on a defense it cost money for experts and things like that.

[00:45]

LAW: Now, eventually, this led to the blanket clemency. What were your thoughts on the blanket clemency?

APPLETON: You mean for taking people off death row?

LAW: Uh huh.

APPLETON: I thought it was perfectly appropriate. Even today, people who are on death row turn out to be exonerated.

LAW: Did you ever have any cases on the Appellate Court, in between the moratorium and abolition, dealing with the death penalty?

APPLETON: No, because death penalty went straight to the [Illinois] Supreme Court.

LAW: Okay. So I gather then that prior to abolition you were for abolishing the death penalty?

APPLETON: Uh huh.

LAW: Do you think it should remain abolished?

APPLETON: Yes.

LAW: Now why is that?

APPLETON: From what I just said, it is fraught with human frailty.

LAW: Okay, I understand. There is some discussion of bringing it back for certain people; any thoughts?

APPLETON: Well, I don't think it's a good idea. I mean really, being locked away at Tamms [Correctional Center], where you're in your cell for twenty-three hours a day, that's pretty significant punishment as it is.

LAW: Alright let's talk about some other issues. What are your thoughts on cameras in the courtroom and how should the judiciary relate to the media?

APPLETON: Well, I don't think the judiciary should relate to the media at all. The media can certainly report on the judiciary, but I don't think the judges have a duty to relate to

the media and give press conferences or something like that. We make our decisions in open court and the media's free to report on that, fine, no problem.

LAW: Cameras [in the courtroom]?

APPLETON: Um, it's coming, it's here. I'm not that comfortable with it, personally.

LAW: Why is that?

APPLETON: Well, look at – Florida is a great example, where it becomes national entertainment rather than a truth seeking process.

LAW: So then, as a judge, what are the best means to enhance the public's awareness of the work that the judiciary does?

APPLETON: Well, we go out a couple of times a year, we always have oral arguments at the University of Illinois Law School and every year we go to a different college or university and have oral arguments; it's kind of an educational outreach.

LAW: Anything else, [besides] work with the law schools, educational outreach?

APPLETON: Um, you know our courtroom's open. We have had one lady who for two, three, or four years, came to every oral argument just because she was interested; very nice lady.

LAW: Now as a lawyer and a judge you have been a member of various bar associations. What role do the bar associations play in relation to the judiciary?

APPLETON: Well, they have a screening committee when you wanna run for judge. They do the bar poll when you wanna run for judge.

LAW: So they're almost like a filter?

APPLETON: Well they think so, I mean they'll rate you but I'm not certain that a lot of people pay attention to the ratings, so, you know, they go through the effort to make a rating.

LAW: Do you think that's a function of – is that just human nature or is that the bar associations aren't doing enough, good enough jobs of getting it out there?

APPLETON: No, I think that's human nature. I'm a member of the Illinois State Bar Association and always have been, since I was a lawyer, and the Sangamon County Bar.

LAW: Are those two bar Associations pretty influential in this area?

APPLETON: I don't think it's a question of influence, I think it's more a question of delivering services. The ISBA does a great job of offering continuing legal education. Judges have their own continuing education through the Judicial Education Committee.

LAW: This is kind of a broad question, but, what do you think the role of a judge is in society?

APPLETON: An arbiter. Somebody's got to decide one way or the other. If you didn't have the judiciary you would have duals, wars; you've got to have some kind of peaceful way of settling controversies.

LAW: Is the judiciary capable of doing that?

APPLETON: Yes, yes.

LAW: Is it independent, do you think?

APPLETON: Yes.

LAW: What can help maintain that independence? What's encroaching on it, if anything?

APPLETON: I don't think anything is encroaching on it. At least, in my experience, people who are appointed or elected judges do the best they can to render good judgments consistent with the law.

LAW: What are the benefits of doing pro-bono work?

APPLETON: Well, it benefits society and it benefits the court system because pro-se litigants, by and large, have no idea what they are doing and they get themselves into more trouble than they already were in because they don't know what they're doing, and I think it's incumbent upon all lawyers to volunteer, for the sake of the system, to help pro-bono people.

LAW: I guess you can't get involved in that because you are a justice, but I'm assuming you've been engaged in some philanthropic work?

APPLETON: Oh yeah.

LAW: What kind of philanthropic work have you been involved in?

APPLETON: Well, I was chairman of the program cabinet for Lutheran Child and Family Services for about six years. I was the founding president of the Hoagland Center for the Arts; I've been on that board for over ten years. I was president of the Springfield Area Soccer Association for six or seven years. I've been on the board of Muni Opera for the past fifteen years or so. I've been a trustee of the Muni Opera, which is a lifetime appointment.

LAW: So you get to see a lot of shows?

APPLETON: Yeah, well, you pay your money to see them, but yeah.

LAW: Yeah. You've been involved with Goodwill too right?

APPLETON: Yeah, I've been on the Goodwill board for thirty-three years.

LAW: So, you've still found a way to stay extremely busy?

APPLETON: Uh huh.

LAW: That new Goodwill store out in Chatham is pretty nice. I get books there sometimes. So obviously, I guess then, we could say philanthropic work is probably an important thing for a judge or justice to be involved in?

APPLETON: Well, it depends on the person, some people are bent that way and some people aren't.

LAW: Uh huh. You have also worked with us, our Commission, to get the public engaged with judicial history, with the Mary Surratt trial.

APPLETON: Uh huh.

LAW: This is kind of a self-serving question, but I'm going to ask it anyway (chuckles). What role do you think our [Supreme Court Historic Preservation] Commission can play in preserving the history of the courts in Illinois and how can the courts and the commission work together to preserve records, collect oral histories and develop memorials; do you have any advice for us?

APPLETON: Well I think the oral history project is an interesting thing. I don't know how many people are going to dial up and say, "I wanna hear somebody's oral history," but it's good to preserve it anyway, it's a preservation of the kind of history that usually just disappears from view. So, in that respect I think it's a good idea. I had some fun with the Mary Surratt thing, because I'd had theater experience.

LAW: You were the judge in the retrial weren't you?

APPLETON: Yeah, but because I had theater experience I basically was in the role of a director as well, in picking cast people, because the other folks didn't really know how to go about it.

LAW: Do you think that projects like that are good way to engage the public in stuff?

APPLETON: Uh huh. I kind of missed the Joseph Smith trial in Hancock County. I kind of wanted to get to that but I didn't make it.

LAW: So what does the future of the [justice] profession hold; any advice to young lawyers or attorneys?

APPLETON: No not really, I've got a young attorney, my son is a young attorney – do the best you can, work your butt off, and do the best you can for your client. That's always been the job of a lawyer.

LAW: So I guess in a way your son's sort of, would you call it, the family tradition?

APPLETON: Yeah, he came to it in a very circular pattern, but yeah (chuckles).

LAW: Now, if you had to do it all over again would you do anything different?

APPLETON: No.

LAW: Nothing at all?

APPLETON: No.

LAW: And what do you want to be remembered for? What is your legacy?

APPLETON: Well, I hope people think that I worked at being fair, worked at being knowledgeable of the law, and that I never put myself up on a pedestal to be worshipped in some way; I always tried to be a regular fellow. I love lawyers and I love being with lawyers and associating with them. They are my best friends.

LAW: And what are your plans for the future?

APPLETON: Stay here until I drop.

LAW: On the court?

APPLETON: Yep.

LAW: Okay. Well that concludes my questions; unless you have anything else you'd like to add?

APPLETON: Nope, I appreciate the opportunity.

LAW: Justice Appleton, thank you sir.

[Total Running Time: 00:59:50]

END OF INTERVIEW 2