

**An Interview with Max B. Stewart**  
**Illinois Supreme Court Historic Preservation Commission**

Max B. Stewart practiced law in Hancock County before becoming State's Attorney for that county in 1956. He served in that position until his election to the Circuit Court in 1974. He served as the resident Circuit Judge of Hancock County until his retirement in 1988.

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## **Abstract**

### **Max B. Stewart**

#### **Biographical:**

Max B. Stewart was born in Keokuk, Iowa on August 31, 1921, and grew up in the city of Hamilton, Illinois. He graduated from Carthage College in 1943. In 1948 he received a law degree from Case Western Reserve University, in Cleveland, Ohio and was admitted to the bar in Illinois that following year. Stewart was engaged in the private practice of law in Hamilton and Carthage, Illinois from 1949-56. In 1956, Stewart was elected the State's Attorney of Hancock County, and served in that position until 1974. In 1974 he was elected a Circuit Judge for the 9<sup>th</sup> Judicial Circuit, and was the resident Judge of Hancock County. He served in that position until his retirement in 1988. Judge Stewart was widowed twice, and has one son, James B. Stewart.

#### **Topics Covered:**

Parents and family background; growing up in Hamilton in the 20's and 30's; the Depression; early jobs and education; attending Carthage College; home front during World War II; Navy service during World War II; memories of the end of the war; thoughts on the dropping of the atomic bomb; time in the service after the War ended; law school at Western Reserve University in Cleveland, Ohio; early years of practicing law in Hancock County; election and time as State's Attorney; Judges of the 9<sup>th</sup> Circuit; Hancock County Courthouse; election and time as a Circuit Judge; the judiciary and society, relating to the public and media; cameras in the courtroom; capital punishment; pro-bono work; bar associations; legacy and future of the profession.

#### **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.

## Judge Max B. Stewart: An Oral History

LAW: [This is an oral history interview with Judge Max B. Stewart. The interviewer is Justin Law.] Today's date is April the 23<sup>rd</sup>, 2015, we're in his home here in Galesburg, [Illinois], this is our first interview and we're gonna talk about his background. Judge Stewart I thought we would start with where and when were you born?

STEWART: Well I was born on August the 31<sup>st</sup>, 1921 in Keokuk, Iowa. My folks lived in Hamilton, Illinois, which was right across the Mississippi River from Keokuk, Iowa, and I had an older sister that was six years older than I was, so there were just the two of us in the family. This was in the height of the Depression and it was tough. My folks never owned a house, they never owned really a serviceable automobile. My dad had partial work, he did painting and paper hanging and tuned pianos and those things, but back in those days people didn't decorate much, you know, so it was a tough way to make a living. I remember we lived with my grandfather for a while in Hamilton and he was a day watchman in a factory there on Sundays. Oh, he got three dollars a week I think and we pretty much lived on that and whatever funds the family could accumulate, which was not very much; so it was a tough time back in those days.

LAW: Now was your dad, Robert, was he from that area?

STEWART: Well he was from out in the country, his family were farmers. The original Stewart came over from Scotland, William Stewart, back in the 1800s. He went to Paisley, Scotland, and he met Elizabeth Taylor and I've never cared much about family history but that kind of interested me. They had a child and they came to this country and

I think they settled in Ohio for a while and then they moved to Hancock County, [Illinois] and he farmed and over the years they had nine children and I think he gave each one of them a farm. I think my grandfather got involved in threshing machines and he lost it all, the farm and the shootin' works. So it was a difficult time for anybody in that era.

LAW: Now what about your mother, Mildred, was she from that area?

STEWART: Yes she was, she was from Keokuk, Iowa, and she – well I'm not sure what year they were married, but she lived to be ninety-four, well I'm ninety-three now so I know what she was going through. I can't think of anything else in particular about them, but she never worked.

LAW: Tell me about growing up in Hamilton in the [19] '20s.

STEWART: Well, as I said, it was difficult but of course everybody was in the same boat in those days, my friends and their folks were about like mine. It was difficult to make a living and to get by and so we all, none of us realized we were dirt poor. But that's kind of the way it was with everybody, our entertainment consisted mostly of going to each other's houses and playing cards of some kind, with the whole family. Everybody made their own entertainment in those days, of course there was no television or even radio. I think my folks, it was several years before they got a little portable radio. And of course back in those days the only entertainment was on radio, was Amos 'n' Andy and Lum and Abner and a few of those old shows.

LAW: Do you have any memories of going to school there in Hamilton?

STEWART: Oh sure, I remember the first year I went, when I went to the first grade and it's kind of interesting but my mother walked me to school on the first day, we lived about

six or eight blocks from the school and at recess I went home and she wanted to know why I was there and I said, “Well they let us out, so I came home,” and she had to walk me back to school, which was kind of (chuckles) and I can just barely remember that and the teachers wondered what happened to me when I didn’t show up.

LAW: Any special teachers or mentors?

STEWART: You know I really can’t remember any that were special to me or anything. I was probably just an average to a poor student. I don’t think I even knew how to study, so that made a big difference in grades and those things.

LAW: What about early jobs?

STEWART: Well, of course when I was in, until I got into college there really wasn’t any jobs. I cut grass and did things like that like all kids did in those little towns. Some of them are able to get a job on a farm in the summer and do some work but I never accomplished that, but it was tough to find anything to do as a kid.

LAW: So, you talked a little bit about the Great Depression but maybe we can talk about it a little bit more. When you think back on what the Depression was, what memories come to mind?

STEWART: Well I can just recall it was pretty tough. My folks rented a house and they had a cook stove in the kitchen that burned coal or wood sometimes and a pot-bellied stove in the living room and we had no heat in the rest of the house and the bedrooms were all on one floor but there was no heat in them. I can remember my mother used to put flat-irons on the stove and heat them up and put them in bed with you and wrap them in a towel so that when you went to bed it was ice cold in those bedrooms, but you could put your feet

down on that warm iron, it was comfortable. But it was, as I said, of course repeating myself, but everybody was in the same boat, you didn't feel like you were neglected in any way because about everybody else was just about the same way. We never had a telephone, for instance, in our house, and anybody that called would call the neighbors and they'd run over and get my mother or my dad to run over and come and answer the phone. My sister, she was six years older and she travelled some and she was a singer but never made a lot of money, she married and lived in Cleveland, Ohio, and I can recall one time, it was always funny to us, back in those days you would call the operator and find out where the fire was in town and those kind of things. And I remember my sister called my mother at the neighbor's house and the operator came on and says, "Is this Elizabeth?" And she said, "Yes," and she said, "I saw your mother get on the bus to go to Keokuk, so you better call back in the afternoon." (chuckles) But that's just the way it was, it was difficult.

LAW: Now you went to high school there in Hamilton, [Illinois]?

STEWART: Yeah I went to grade school and high school in Hamilton. We had about thirty-nine kids in my class in high school and I graduated there in 1939 and then of course I went to college after that. Do you want to get into that?

LAW: Well here in a minute. I just want to ask about high school. Did you play any sports?

STEWART: No I didn't, I think I weighed about one hundred and ten pounds so I wasn't big enough to do anything in sports.

LAW: Okay, any kind of extracurricular activities?

STEWART: Well not that I can recall in high school anyhow.

LAW: Okay, any memories of [U.S. President] Franklin [Delano] Roosevelt?

STEWART: Oh certainly, yes. Well, of course, I knew all about him during WWII and everything like that and of course I don't think I ever voted for him because I don't think I was old enough but I'm not sure anymore.

LAW: Well, college, you decided to go to college?

STEWART: There was a college that was twelve miles away in Carthage, Illinois, from Hamilton. It was a Lutheran school, a small school, that started out, I think, originally in Springfield, [Illinois] and they moved over to Carthage. They built several buildings and that was the only college that was closer except the universities which were impossible for me to go. My dad went out and he worked out a deal with the manager of the college, that he would paint some of the dorm rooms and wallpaper them and do things like that to help pay my tuition and that's the only way I was able to go was because he did that and I worked with him in the summer, the first summer. After that, well of course we had no money to pay tuition and as I recall the school later let me sign notes which were worthless, and to continue school because everybody in college was about in the same boat, all of them had a difficult time financially. I worked in a little restaurant on the campus there and during the school year I also helped out the laundry lady that did all the laundry work for the athletic department and I used to hang up the towels and sheets. I think we got paid eighteen cents an hour, or something like that, which didn't go very far.

LAW: What were you studying there at Carthage College?

STEWART: Well I studied history and social sciences because I wanted to go into law school if I was ever able. And of course I remember very vividly when WWII started there, it

was on a Sunday in 1941 and we all sat around the dorm and we were listenin' to the radio and they were talking about the Japanese bombing Pearl Harbor, [Oahu, Hawaii], and there wasn't anybody there that ever heard of Pearl Harbor, or ever even had any inkling of where it was or what it was and I think a bunch of us went down and signed up about two weeks after Pearl Harbor and I signed up for the Navy and two or three other guys did the same thing. Now the school at that time was only about three hundred and twenty or thirty students I think altogether, so it was a small college.

LAW: Now you graduated in 1943.

STEWART: Yes.

LAW: Do you have any memories of the home front during WWII before you went into the service?

STEWART: Yes, because everything was rationed back in those days and if you had a car there was no way you could hardly drive it because you had to have a ration card to get gasoline. And I remember I had a roommate in the college there that was a farm boy and Lord he was able to get gasoline from the family farm and I remember one time he went so far as to move a barrel of gasoline up in our closet so he'd have it available, which was crazy. Of course everybody hitchhiked. I used to hitchhike back and forth a lot to Hamilton which was only twelve miles away. And we had a young man that was in school with us by the name of Burgess, they eventually named the football field after him but he hitchhiked back and forth from Elvaston, Illinois, which was six miles away and that's how he got to school was just by hitchhiking because he didn't stay on the campus.

LAW: Now you said Carthage College was a Lutheran college.



STEWART: Yes.

LAW: Were you from a Lutheran family?

STEWART: No I wasn't but it was the only school that was available. You know they had students that were

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Catholic as well as Lutheran and various denominations.

LAW: I see, okay. Now what about in college, what were your extracurricular activities in college?

STEWART: Well I didn't particularly have anything. I went to sporting events and those things because everybody went and that's about the size of it.

LAW: You're mostly just working and going to school?

STEWART: Pardon?

LAW: You're just working and going to school?

STEWART: Yes.

LAW: Okay. Now when you graduated in 1943, that's when you went into the service?

STEWART: Well I went in the service back in [19] '41 when I signed up for the Navy and ironically back in those days a lot of the students went into a V-12 [Navy College Training] Program and they allowed them to finish college to go to Officers Candidate School and I was in a V-7 [Navy College Training] Program and allowed to finish college before I went into service. I got a broken leg in my senior year. I think we were

playing softball in gymnastics or something and a kid slid into me and broke my leg, so I couldn't get into the Navy until I got that healed. I used to go and spend the summers with my sister in Cleveland, [Ohio], and she'd get me a job. I worked at an A&P store stocking shelves at one time. And I drove a laundry truck one summer and various jobs like that. So then when my leg finally healed and when I was ready to get in I had to wait until the next class was available; I was going to [University of] Notre Dame to Midshipman School. I was looking for a job and I got a job working on the railroad, and it was the New York Central System out of Cleveland and I rode in the engine, I was a brakeman on the front of the train so if the train's pulled off on the siding I had to get out and open the switch until the train got by and then the conductor would close the switch so that the tractor opened. But that was one of the most fascinating jobs I ever had, that lasted two or three months, but it was in the winter time and it was freezing and I would sit in back of the fireman who kept the coal in the engine for heat and all I had behind me was a curtain and it blew up in the air and the snow was coming in and I got as close to that fireman as I could get to keep from freezing.

LAW: So let's talk about your military experience.

STEWART: Okay.

LAW: Tell me about life in the Navy.

STEWART: Well, I graduated from Notre Dame Midshipman's School in – I'm trying to think when it was. Well I graduated from college in [19] '43, I think it was, and then about another year later before I actually got into the Navy because of that trouble with my leg and after Notre Dame I got a commission and then I think the first place they sent

us was down to Florida to get on small boats. I roomed with who later became the athletic director at Carthage College by the name of Art Keller and he got in that small boat crew during the War. They would haul troops from troop ships to the battle grounds. There were too many of us so they sent us up to Solomons, Maryland, and we trained on a landing craft up there called an LCT [Landing Craft, Tank], it was a small flat bottom boat and it was used to haul troops and trucks and things from ships to shore. And it was about a hundred and thirty-five foot long and about thirty foot wide and flat bottom, you couldn't steer them, they went about where they wanted to go. The only compass we had was a magnetic compass so you couldn't steer them by compass. They put 'em on top of larger landing craft like an LST [Landing Ship, Tank] which is three hundred and some foot long and when they got to the invasion area they would tilt that LST and slide the LCT into the ocean or into the harbor. So we made it to Pearl Harbor on there and my boat was in three sections and the crew put 'em in the water and we had to bolt them together back in the greasy, oily area of Pearl Harbor. We trained there for a while and then we went to the island of Kauai, [Hawaii] and we had gunnery practice up there every Saturday and I remember a plane would pull a sleeve. We had .20 millimeter cannons, just two of them were the only protection we had and we'd shoot at the sleeve. After a certain length of time they began to realize that they didn't have a way to take our boats out into the Pacific [Ocean] because there were no other ships big enough to haul them that were left. We had thirty-six LCT's in a flotilla, there were twelve in a group. They decided that because of the invasion of Japan that they needed us out there. I remember the officers met, I had one other officer and seventeen other men on the boat with me, we met with an old Navy captain that was going to be in charge of this flotilla of thirty-six

boats and I remember that he told that we were going to go on our own across the ocean. Well the things were just made to be in a harbor, they were never meant to be on the ocean and we all thought, "It was going to be a catastrophe," you know, so we started out from Pearl Harbor in this flotilla and we hopped from one island to the next and we'd be at sea maybe two weeks at a time and the thing was just up and down and sideways and everything else. At nights we would follow a wake light on the boat ahead of you and there'd be twelve of us in a row and we had a bigger ship that could navigate so that the LCT's could follow him and then everybody followed the other LCT. Most of the time we got into storms and the guy in the middle would lose the site of that other one and he'd take off to the open ocean and everybody followed him. I remember we had some destroyer escorts, I think two of them that were our protection, there'd be one in front and one in back and they'd spend the next morning rounding everybody up and getting them back in line again so you could keep on going. But we went eventually to the Philippines, we were in Guam, we were in Ulithi, [Island] which was a big, immense harbor where a whole fleet could anchor and then we eventually ended up in Okinawa, [Japan], after the War was over but they had wanted us out there in case we invaded Japan. It was quite an experience, we went about six thousand miles across the Pacific and it was just amazing you know. And a lot of times you stood about four hours on and four hours off on watch because there was only one other man that was a quartermaster that was on the boat with me that could, not navigate, but could direct the crew on how to steer it and where to go and how fast the engines ought to go.

LAW: Do you recall where you were when you first heard that the War [World War II] was over?

STEWART: Well, I'm not sure, I think it might have been in Ulithi or someplace like that, it was out in the middle of the Pacific some place. But I remember it distinctly because we had been someplace, at an officer's club or something, on small boats on one of the islands and we're on our way back and all of the sudden the whole fleet erupted with shooting stuff up in the air and ready pistols and lights and everything else and we went along side one of them to find out and they said, "Well the War is over." It was about three or four days before the War was actually over. It was a false report that the War was over and then in several days it was actually the truth and that was it.

LAW: So you were one of those that was on the way preparing for the invasion of Japan?

STEWART: I think so, because that was the only reason for us to get out there. On our way over there and every harbor we stopped in, maybe for a week or so or ten days in order to get provisions to make the next leg of the trip and of course we worked with the fleet up there in hauling stuff around. I was tied up to the Battleship [USS] Iowa one time and hauled shells for that battleship. They were immense, I don't know whether you realize it, they were about six foot tall and just immense shells and we hauled all kinds of ammunition to the fleet ships.

LAW: What were your thoughts at the time about the dropping of the atomic bomb (on Japan)?

STEWART: Well we were happy as the dickens because it meant the War was over. We'd have been in that invasion in Japan and of course everything we had heard was that the Japanese would not surrender, they were gonna fight door to door in Japan and I don't think there's any question that they would have, you know. But of course dropping those two bombs soon settled the whole thing. I know [U.S. President] Harry [S.] Truman was

blamed by a lot of people after the War ended that he shouldn't have done it but that's the only way that we would have handled that War I think is by doing it.

LAW: Now about how long were you still out in the Pacific before your service ended?

STEWART: Let's see, I was there for, well we made it to Okinawa and I didn't have enough points. Back in those days if you were married and had a family you got extra points to get out early and I was not married so I couldn't. But I got off of the landing craft that I was on and they transferred me to Guam and I thought, "I'm on my way back," you know, and I remember we rode on a small carrier to Guam and I got there, land, and they sent me to Shanghai, China, to get an LST as executive officer to bring it back to the [United] States. I'm not sure of the time but then we went to Shanghai and we were there for a week or ten days getting provisions and ready to come back. It's hard to describe these landing craft but an LST is about three hundred and some foot long and they have a tank deck on the bottom of them where they could put maybe thirty or forty tanks and trucks and those things on there. They would land them onto the beach and then open the front doors and then lower a ramp and run them off. But in any event we had a thousand Japanese soldiers on there to take them back to Japan, they were trying some way to get them back. I remember they were all put on that bottom deck, they slept head to toe all the way across, it was just amazing; of course it was a steel, rusty thing. I was executive officer, which was second in command, of that LST, and of course I was in charge of talking to the Japanese officer and it was amazing, he could write English but he couldn't speak it very good and I was embarrassed because my hand writing was rotten and he had a perfect hand on communicating back and forth. He had two Japanese soldiers on the

top deck that would stop the prisoners when they had to go to the bathroom and come up out and he made them all stand and salute the Ensign

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and sometimes it was hard to do because that ship would throw 'em from one side to the other but it was kind of interesting. And then we left Shanghai and we took them to Sasebo, Japan, which was a beautiful deep harbor in Japan and as I recall it was amazing because it was a big harbor and there were big cliffs that hung out over there and they could hide submarines and everything under those so the planes couldn't see them flying over, but it was a beautiful harbor. I remember I got a whale of a cold and I couldn't do anything but the commanding officer of the LST wanted me to go with him to go over to Nagasaki, [Japan] and see all the (atomic bomb) damage and I felt so bad I never did make it, so, I would have loved to been able to have seen what it looked like. I'm sure you've seen pictures now where it's a modern beautiful city you know. And then after we left there we headed back to the States and we stopped back in Guam and there were two LST's together and on our way across the ocean there I remember we'd stop out in the middle of the ocean and we'd exchange movies with the other boat, which was fascinating. We only had about two movies between the two of us and I think I saw the movie *My Sister Eileen*<sup>1</sup> about ten times because everybody would line up on the deck and sit and watch it over again.

LAW: So what were your impressions of these Japanese soldiers finally seeing them face to face? How did they compare to what you had seen before of them?

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<sup>1</sup> Columbia Pictures, 1942.

STEWART: Well, I don't know, you really couldn't tell. I've seen the prisoners before they – I don't think that these were actual soldiers, kind of a CB [Construction Battalion] Crew where they did construction work, and we didn't see them under any dangerous conditions or anything like that because they were pretty well behaved and pretty well-mannered.

LAW: Now when you got home how had the country changed since you had left?

STEWART: Well of course I think the rationing was over and it had changed quite a bit you know. Well on our way back to the States we landed at – let's see what river did we pull into, well we landed in the state of Washington. I can't remember the city now, it doesn't make any difference.

LAW: Portland?

STEWART: No, it wasn't Portland it was, uh, oh, Astoria, Oregon. That's the mouth of the big river, isn't it the Oregon River?

LAW: Columbia?

STEWART: Columbia, it's the mouth of the Columbia [River]. I remember the Captain, when we got there he just brought the ship on in. We were supposed to get a pilot to bring the ship in because it was dangerous currents and everything else and he just went full speed ahead and we brought it on in, but we didn't have any trouble with it. And I got off of there when we got there, I was waiting to go to law school in [19] '46 I think it was, and they had a whole Navy program that we could stay in the Navy if we wanted to for extra time. So I applied to go to New Orleans, [Louisiana] and I was sent down there and worked in a supply department and I remember they didn't need us at all and the



commander in charge of the base said, “Well I don’t know what I’m going to do with you.” And he said, “What are you going to do when you get out?” And I said, “Well, I’m going to law school.” So he said, “Alright I’ll make you legal officer of the purchasing department,” which was nothing but a place to go every day. So then I got out a little early and went back and planned on going on to law school.

LAW: Now, why law school, you’d kind of had that in mind for a while?

STEWART: Well I did have it in mind for a long time and I had applied to Western Reserve University and I got accepted in there while I was still in the Navy I think it was. Do you want to get into the law school thing now?

LAW: Well, first I’d just like to ask you why, why did you want to go to law school, why to be a lawyer?

STEWART: Well I had a friend who was a lawyer and he used to be State’s Attorney in the county there and I eventually, when I got through law school, I went back and he hired me I think for six months, seven months or something like that. His name was Bill Angel and he hired me at fifty dollars a week to go to work after I passed the bar [exam] and I was with him for a while and then I eventually went on my own. And I went to Cleveland, Ohio, because my sister lived out there and I had a place to stay and it was a good school, it was a well-known law school, and so that’s why, and I got in there; most of the reason why is because they accepted me.

LAW: Were you on the G.I. Bill [Servicemen’s Readjustment Act of 1944]?

STEWART: Yes, we got about ninety dollars a month or something like that. In [19] '46 I got married and my wife got a job as a secretary for an architectural firm and of course through her efforts and the ninety dollars a month we were able to survive.

LAW: So you got married relatively quick when you got out of the service?

STEWART: Oh as quick as I could, I was sick of living alone, you know, most of my friends were all married.

LAW: How did living in Cleveland, [Ohio], compare to Hamilton and Carthage?

STEWART: Oh well it's a big city, Cleveland is an immense city and I remember I used to ride the street car back and forth to law school. My sister, she and her husband owned a large house in Cleveland Heights, Ohio, and it had servants quarters on the top floor and through her help she managed to get it fixed up so we could have a little apartment up there, we had about three rooms on the third floor. I remember when we first got married, I had been used to being in the Navy and having money and having a good time, and we'd go downtown on a Saturday night to a movie and eat and it wasn't long before we were going to the neighborhood theater and eating in the house because it was too expensive out there.

LAW: So I take it your sister and her husband had done well with living in that large house?

STEWART: Well, he was a stock broker and I don't know how well he did, I don't think he was ever a really wealthy man. But she had three children and she got cancer, now this was when I was still in law school there and in [19] '46 she died with three little kids and these children never remembered her because they were just tiny when she passed away.

So we stayed there with my brother-in-law and still lived in that little apartment until I got through law school and then we came back to Illinois.

LAW: I wanted to ask you a few questions about law school. Was there, well, first off let's talk about the law school. Was there a legal philosophy associated with the law school?

STEWART: Not that I know of, I don't know, it was just a general law school I think, that you'd get in any law school. See they tried to take in all the [WWII] veterans they could and it was not a large school, it was probably under a hundred enrolled I suppose or maybe more than that, I'm not sure. But there were about three hundred and fifty of us that got in those first classes after the War. We met in the hallways and all over the building and there were about three hundred and fifty of us in the freshman class and ironically we had one girl in there compared to today and I think today there are probably more girls in law school than men. But in any event she, well I'm trying to think – they had all types of students there of course and of course they knew that a lot of them would just flunk out or just quit but they took all three hundred and fifty of us and they managed some way to get us in there. But Cleveland, Ohio, has one of the great medical schools in the country and they wouldn't take on any extra in the medical school, as I remember like seventy-five a year and that was as far as they would go. But in the law school they took on probably three times the number they would normally take to accommodate the veterans.

LAW: Now you said there was just one lady, so it was mostly men. What about race and ethnicity?

STEWART: Well there were some black students and in fact there were four of us or five of us that studied together all the time and one of them was a black student and the other one was a lady. Her name was Blanche [Ethel] Krupansky and of course she was Polish and she had a brother that was in law school at the same time in a higher class than we were. But, in any event, I remember Blanche used to study with us and we had picnics together and we had a good time. She never changed her name, she married a fellow but she kept the name of Krupansky and she ended up on the Supreme Court of Ohio because she ran for – and her name Blanche Krupansky which was a big Polish area in Cleveland and of course she did quite well because she was on there for years.<sup>2</sup>

LAW: Do you recall any of the important or influential professors that you had?

STEWART: I really don't, I don't recall them anymore. We had some visiting professors, we had one of them I think came from Illinois but I can't recall his name and he taught constitutional law, I think, he was tough but he was very good.

LAW: Do you recall what the big constitutional issues were at that time?

STEWART: No I don't, I think it was just general, going through the [U.S.] Constitution.

LAW: What would have been some of your favorite classes?

STEWART: Oh, I think I liked the criminal law. You know the names of the classes have even changed. They use to call it bill and notes and now its finance. I can't recall the names of them anymore.

LAW: So you decided to come back to Illinois?

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<sup>2</sup> For more on Krupansky, see, <http://www.supremecourt.ohio.gov/SCO/formerjustices/bios/krupansky.asp>

STEWART: Yeah because this fellow offered me a job and I inquired in Cleveland, I looked around, and good Lord I think the most you could earn was like a hundred bucks a month or something like that, one hundred and fifty, unless you had some connections there was no way to get into a big law firm.

LAW: And you might have said already, but how did you know Bill Angel?

STEWART: Well I knew him when I was a kid, he was a lawyer and he was State's Attorney of the county for about four years and that's about the extent of it; he was a lot older than I was.

LAW: So you had known some lawyers earlier in life?

STEWART: Pardon?

LAW: You had known some lawyers earlier in life?

STEWART: Oh yes, well not a lot of them, no, but of course I knew him and I knew his, he got a partner that I knew also and of course they were from Hamilton and in that area; there wasn't many lawyers there.

LAW: Now these are also the early years of the Cold War.

STEWART: Yeah.

LAW: What are your first memories of the Cold War?

[00:45]

STEWART: Well I don't think I've really got any outside of following what the government was doing and what the Russians were doing – of course wasn't [U.S. President Ronald] Reagan President at that time?

LAW: No this is the [19] '40s, so this is Truman, this is Harry [S.] Truman, when he was [U.S.] President.

STEWART: Oh yeah, well of course he followed Roosevelt didn't he, yeah, well I remember they had Lend-Lease [Act] and programs like that that were fantastic. And of course Harry was a hero with most of us because of dropping the [atomic] bombs [on Japan], you know.

LAW: Well that leads me to ask, what were your political and social views were at that time?

STEWART: Well I don't know as I had any particular social views but I was a republican principally because the Republican Party was predominant in Hancock County, [Illinois] there where I ran and of course my family had all been republican so you just kind of gravitate to whatever your family has.

LAW: So you return to Hamilton or Carthage?

STEWART: Hamilton, well you went to Carthage because it was the county seat, you know, the courthouse was out there and I went out there about every day when I was practicing.

LAW: Where are we on time Ben?

BEN: Forty-five minutes.

LAW: Okay, so when you started practicing law you went into private practice?

STEWART: Yeah.

LAW: So you were a general practice attorney?

STEWART: Yeah, there was an older lawyer that practiced in Hamilton, he was the only lawyer there and of course he did mostly real estate and those things and of course he got so he couldn't practice any more or I think maybe he died and the family – I bought his library, it was about all that was for sale, you know, because he didn't do any trial work at all it was just strictly real estate and handling estates and those kind of things and that's what I went into to start with.

LAW: Do you recall your first trial?

STEWART: Not really. I recall my first client came in and it was kind of funny.

LAW: Okay.

STEWART: But he handed me a cigar, and I remember lighting it up, in those days you smoked in the offices. And he got up to leave and he took the cigar with him and he went puffin' out as he left the office; that's the only funny thing I can remember.

LAW: Okay, so there were relatively few lawyers in your town at that time?

STEWART: Well there was only myself in that little town, yeah, there was one in Warsaw, Illinois, about six miles away and he'd been there and his father oh for about forty, fifty years I think.

LAW: Ok, so you were taking whatever came in the door?

STEWART: Whatever came in the door, right, and I represented the bank in town too so I gave opinions on mortgages and those things so it was just real estate and I'd never

gotten involved in divorces or anything of those things when I was State's Attorney because I didn't think that was proper.

LAW: Yes, eventually you decided to run for state's attorney. How did that come about?

STEWART: In 1952 I was in private practice and the office of State's Attorney came up for an election, at that time you campaigned like you did for anything. And the sheriff of the county was a World War II veteran and he and I were pretty good friends and he called me over to the jail one time and he hated the State's attorney, they didn't get along at all, and he said I want you to run for State's Attorney and I said, "Bob I don't have any money, there's no way in the world, I don't know anybody, I haven't been practicing long enough to get acquainted and I lived on the west side of the county," and of course I didn't know anybody on the south side where there's three or four cities down there. So he said, "I'll guarantee that." And he was from there and of course he was very popular and so he got me to get my name on the ballot and I'll be darn before the election he dropped dead of a heart attack and I had no help at all in the south part of the county. And I still had to run of course but I think I got beat by about two hundred votes out of a thousand or fifteen hundred, I don't remember what the vote was anymore.<sup>3</sup>

LAW: Was this against Preston Kimball?

STEWART: Yeah, it was against Preston Kimball, he had been in there quite a few years.<sup>4</sup>

LAW: But you decided to try again?

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<sup>3</sup> Sheriff Robert R. Burton.

<sup>4</sup> Preston Kimball was State's Attorney, 1949-1957.



STEWART: Well I did, yeah, because I thought it would be a good job for me and I don't think he ran, or something like that, I can't remember.

LAW: So how did the practice of law change once you became State's Attorney?

STEWART: Well you had to limit, you couldn't do anything of course that might interfere with the State's Attorney's job. Every day I had to go to Carthage because I had an office out there. But see the trouble was they didn't pay anything as State's Attorney, you were lucky to make twelve hundred dollars a year so all State's Attorneys, except in big counties, had a private practice, that's the only way they could handle it. And I stayed in there for about eighteen years because nobody, well, after the first time or two I didn't have anybody that ran, nobody was interested, most of the lawyers were doing pretty well on their own.

LAW: Did you have a lot of criminal cases as State's Attorney?

STEWART: Yeah we did, sure we did, because back in those days your court system was a lot different. We had, when I was first practicing we had, three circuit judges and they circulated among the six counties, there were six counties in the ninth judicial circuit and they circulated and handled felony cases, they could handle anything else but they didn't want to do it usually. As State's Attorney you had the county court that had cases, they had justices of the peace and police magistrates all over the county and of course you're responsible to try any criminal cases that appeared in any of them, you know. And of course you remember at the time the justice of the peace and the police magistrate, none of them had any legal training at all they were just civilians that had the job so we tried all kinds of driving cases and everything else before them.

LAW: Do you recall any judges from that time?

STEWART: Oh yeah, but you never knew what they were gonna do or what they were gonna say, you know.

LAW: What about a fella by the name of Burton A., I think it's, Roeth?

STEWART: Roeth.

LAW: Roeth.

STEWART: Well he was a full circuit judge at that time, it was a Keith Scott and Roeth and a guy by the name of Gale Mathers from Galesburg, [Illinois] here that were the three circuit judges.

LAW: They moved around.

STEWART: They would each take two counties a year and then change off and of course they would only come to your county maybe once or twice a week, so you never really were for sure when they were coming.

LAW: Was there any big prominent cases that come to mind?

STEWART: Well I had some murder cases but I can't remember anything in particular about them.

LAW: As State's Attorney?

STEWART: Yeah. I remember one of them that a girl had put her two babies in a plastic bag and smothered them to death, and of course they found her not guilty by reason of insanity.

LAW: Hmm, that must have been an unusual case for the time.

STEWART: Well it was an unusual case and of course the problem was when she was put in a state institution. They let her go off on weekends with her husband and those kind of things. I remember going over to the hospital to try and urge them to see if she couldn't do something so she wouldn't have any more children. Her mother-in-law was scared to death that she would and she had two more babies. Finally the mother in law just insisted that we take them away from her and so we finally did I think.

LAW: Any memories of the Hancock County Courthouse?

STEWART: Oh yeah, I spent thirty-two years in there. Beautiful building, I don't know, it's one of the nicest one's in the circuit it's just a beautiful building. It's all tile, I think there's eighteen private restrooms in there.

LAW: Some really nice glass work.

STEWART: Oh beautiful glass work in there, yes, and I think it was built for less than what the bond issue was, back in those days we were really careful with our money. In fact they just celebrated a one hundredth anniversary not too long ago.

LAW: That's right, yes. So as State's Attorney did you participate in the local politics?

STEWART: Oh sure because you had to run if you're gonna be reelected. I ran on the republican ticket in the primaries, I was elected five times, I think, all together.

LAW: How did people raise money back in those days?

STEWART: Mostly your own money. I can recall one time when I first ran a fella gave me fifteen dollars (chuckles) which was strange but that's about the way it worked out.

LAW: Did anyone ever come in from out of the area to do some politicking?

STEWART: Oh sure everybody did, back in those days, good Lord, [U.S. Senator] Everett [McKinley] Dirksen was one of the great politicians at that time and he was there every election; congressman.

LAW: Any memories of Dirksen?

STEWART: Oh yeah Lord I had a lot of memories of Dirksen because he was a great politician. I remember in Hamilton, [Illinois] he came to Hamilton one time and the Republican Party was on one side of the street and the Democratic [Party] was on the other and after he visited everybody on the republican side he went over to the democratic side and shook hands; you know he was a great politician.

LAW: How did you balance having the private practice with being State's Attorney, was there ever any conflicts?

STEWART: I don't think so, no, because I never handled divorces where there had been physical abuse or anything like that but it's the way it had to be because they didn't pay enough money, you know larger counties they did pay good money, like Cook County they couldn't possibly have anybody there as State's Attorney in private practice.

LAW: Now you were State's Attorney from 1956 to [19] '74, how did the cases change at all, was there any change in the types of cases that you had?

STEWART: Well they were pretty much the same, you know, back in those days when people were sent to the mental institution you had hearings and it was a difficult thing because you had the family there testifying about the patient; it was a difficult type of

case to handle. And of course that was something that went on for years like that, they were all committed to the institution.

LAW: Then at some point you decided that you wanted to become a judge.

STEWART: Well there'd become a vacancy

[01:00]

and I'd been used to going to the county courthouse every day as State's Attorney, I did my private practice in Hamilton, and I'd come back from being out there all day and dictate stuff, you know, maybe contracts or whatever it was I was working on and I remember my wife said, "Why don't you run for that? You can't keep this up." Because I was working weekends and everything else, so I ran for it and, let's see, I don't think I had any competition the first time, maybe I did, yeah, and I won that, I'm not sure.

LAW: I had some other judges I wanted to ask you about. Any memories of Edwin Becker?

STEWART: Not much, he was in Macomb, [Illinois] I think he was. I think he was a county judge out there.

LAW: What about Ezra Clark?

STEWART: Who?

LAW: Ezra Clark?

STEWART: Ezra Clark, Oh yeah Lord I knew him real well.

LAW: Any memories of him or interacting with him in the courtroom or anything?

STEWART: Oh yeah, yes, he had a great sense of humor and of course it was a pleasure to be with him, you know, work with him.

LAW: What about Daniel Roberts?

STEWART: Yeah, he was from Galesburg, [Illinois]. Excuse me a minute, I've got to go to the bathroom.

LAW: Well, Judge Stewart I was asking you about Daniel J. Roberts.

STEWART: Yeah he was from Galesburg, Illinois.

LAW: What about John Gorby?

STEWART: Yeah he was from Hancock County. He was a county judge and I took over and you know they had, I think, a constitutional amendment about that time where they made the county judges all associate circuit judges and he was associate circuit judge and then that's when I took over when he retired, I think it was.

LAW: What about Scott Klukos?

STEWART: Yeah he was from Monmouth, Illinois.

LAW: Any memories of him or interactions with him?

STEWART: Oh yeah, I can remember him, he and I, well we were in the same length of time in there I think.

LAW: What about Frances Murphy?

STEWART: Yeah he was from Lewiston. Of course I knew all of them but then I didn't know much about their activities.

LAW: Ok, so you never practiced in front of any of these judges except for maybe Gorby?

STEWART: Well I did as State's Attorney but I don't remember any specific things about it.

LAW: Ok. Earl Kloster?

STEWART: Well I think he was from Henderson County but I'm not positive. How do you happen to have all of those names?

LAW: From the Blue Books.

STEWART: Oh, (chuckles) okay.

LAW: Well according to our records those judges were associate judges in the [19] '60's.

STEWART: Yeah I think they were.

LAW: And then Carthage, [Illinois] got their first resident judge around 1971.

STEWART: That would have been Gorby I think.

LAW: Around 1971.

STEWART: Yeah.

LAW: And it appears he was the resident judge until you became the resident judge.

STEWART: Yeah.

LAW: So you were based, as a judge you were based, there in Carthage.

STEWART: Yeah, all the time.

LAW: Except for, I think for, a little while weren't you up in Hamilton?

STEWART: Well just in private practice, see the county seat is Carthage so that's where everybody had to be.

LAW: But as a judge?

STEWART: As a judge you had to be there or some other county because we rotated around, you know, once they made them associate judges instead of county judges and I think they could hold court in any county in the circuit and of course they would assign you, the chief judge would assign you, to various courtrooms in order to make sure there was a judge available.

LAW: Well I've got it down here that you were the resident judge in Hancock County from [19] '77 to [19] '82.

STEWART: Well no wait a minute, I thought I was elected in [19] '74?

LAW: Oh yes.

STEWART: What a minute, wasn't it [19] '74?

LAW: That's right, yes sir, that's right.

STEWART: So I would have been a judge there from [19] '74 until I retired in [19] '88.

LAW: Well some of the Blue Books listed you as a resident judge in Hamilton in the late 1980's.

STEWART: Well it shouldn't be Hamilton.

LAW: Ok.

STEWART: In the late 1880's?



LAW: 1980's.

STEWART: Oh gosh no, I don't think, well yeah, I think I retired in [19] '88, 1988.

LAW: Well I thought it was unusual because before you and after you there had not been a judge residing just in Hamilton.

STEWART: There never was. Outside of your JP's [Justices of the Peace] and those people. Every township had a Justice of the Peace you know because they had other duties besides holding court.

LAW: So you talked a little bit about why you became a judge, your wife said that she wanted you to.

STEWART: Well she said that, "You can't keep up that pace." And I couldn't, 'cause I was worn a lot of the time, it was a lot of running back and forth.

LAW: Was being a judge what you thought it would be?

STEWART: Oh I think so, yeah, because I'd had enough experience working with judges.

LAW: I guess at one point you became the chief circuit judge?

STEWART: Yeah I did, I was chief circuit judge for four years.

LAW: Now what were your additional duties?

STEWART: Well you had to assign, you had to make sure there was somebody in every courtroom every day, you know, and of course you assigned other judges to hold court here and there, principally, and of course the [Illinois] Supreme Court would send stuff to you to advise the other judges about and of course they had, about once a month you

went to Chicago and met with the Supreme Court, or not the whole court but met with the court administrator and of course they passed out all the literature that the [Illinois] Supreme Court wanted the circuits to do.

LAW: And you were retained.

STEWART: Yeah.

LAW: Was running for retention any different than running for election?

STEWART: Well it is because you're running on your record, and of course how do you campaign, there's no way to campaign for something like that, so you just hope that people like you well enough to put you back in again.

LAW: Any memorable cases that you had while judge?

STEWART: No I really can't think of anything. Some bad divorces where, and those things which you remember as being pretty sad.

LAW: Any capital cases?

STEWART: I don't recall any, isn't that funny. You know a lot of capital cases plead guilty and of course I don't have any idea about those anymore.

LAW: Ok, I just want to ask you some general questions about the judiciary. The first one is, what is the role of a judge in society?

STEWART: Well, I think it's to be impartial and be fair to everybody in a trial, if it is a trial, and I think that that's the main thing a judge has to do.

LAW: In your opinion what's the best way of raising the public's awareness of what the judiciary does?

STEWART: Well I think, principally, to not do anything that's going to be bad for the court system. I don't know how else to express it.

LAW: Okay, how does the judiciary relate to the media?

STEWART: Well, I don't know how to answer that. A lot of judges have trouble with the media because you've got to make sure that the clients have a fair trial and of course if the media tries to indicate their opinion whether their guilty or not guilty and so forth it hurts the clients and I think that's a bad situation. And of course the judge has to be careful that he doesn't give any indication to the media how a case should be decided.

LAW: What do you think about cameras in the courtroom?

STEWART: Well I don't think they hurt anything, I used to feel they shouldn't have them because I thought, "If that happens, all lawyers are gonna become actors." And I don't think a trial ought to be held that way, I think it ought to be held just based on the evidence and those things. But I think now that they've tried it out and it works pretty satisfactorily. It does give the public a better perception of what a trial is like, you know, they get a view of television which is all staged and of course they get a different idea if they actually see a trial.

LAW: What were, and are, your thoughts on the death penalty?

STEWART: Well, I used to think if it was a death penalty but of course we haven't executed anybody here for so long that I think that – I think they've gotten rid of it as I understand

it and I think it's probably alright because there's gonna be appeals forever if there is any kind of a death penalty in a case and there hasn't been an execution here for years and years, so.

LAW: What are your thoughts on pro bono work?

STEWART: Well I think it's alright because it gives people a chance to get into court but the biggest problem, of course, being a judge you find yourself trying to protect everybody in the trial instead of just being impartial because people get into a courtroom and unless they really have any experience they really don't know what to do. But I think in some cases you've got to give them a chance to come in especially if they can't afford a lawyer. You meant pro bono, that's where a lawyers representing someone for nothing, right?

LAW: I think you thought I said pro se.

STEWART: Ok, yeah.

LAW: Pro bono, what do you think about pro bono work?

STEWART: Well I think it's wonderful, it's good experience for young lawyers to do a lot of pro bono work. When I first started to practice law you were appointed there was no pro bono to it (chuckles), the judge, somebody needed a lawyer they appointed you and of course you had to take the case.

LAW: What was the nature of the relationship between the bar associations and the judiciary?

STEWART: And what?

LAW: The bar associations and the judiciary, the relationship between them?

STEWART: Well I think they're good because usually your judges are part of a bar association, they're usually members of one and I don't see any conflict there.

LAW: Okay, were you a member of any bar associations?

STEWART: Yeah, I was a member of the Hancock County [Bar Association] and the Illinois Bar [Association].

LAW: Do you have any advice for our commission on how we can preserve the history of the judiciary?

STEWART: I really don't, I don't know how you do that. This is pretty involved and pretty lengthy you know.

LAW: Final questions, as a judge and a lawyer what do you want to be remembered for?

STEWART: Well of being fair, I think, more than anything else and not prejudiced one way or the other. I think it's important for judges to give both sides a fair chance.

[01:15]

LAW: What is your legacy?

STEWART: Well I don't know as I got one. That would be for somebody else, probably, to judge. I hope it would be that I was fair and not opinionated and not insult people in court and those things.

LAW: What does the future of the profession hold?

STEWART: I really don't know, I think that there's always gotta be lawyers and there's gotta be courts and there's gotta be a place where disputes can be settled and I think it's absolutely necessary that we have impartial courts.

LAW: Well Judge Stewart that's all I have for you unless there's anything else you'd want to add. We covered a lot of ground.

STEWART: Oh (chuckles) Lord we did. Let me think a minute.

LAW: Okay.

STEWART: Well I really can't think of anything else, we covered a lot ground, if you find I've made some mistakes why let me know.

LAW: Well the only question I'd have for you, well hold on now, the only question I would have for you is, you know you started practicing law in the 1940's and you practiced law for a good long while.

STEWART: Pardon?

LAW: You practiced law for a good long while as a lawyer and as a judge.

STEWART: Yeah.

LAW: If you had to sort of sum it up how would you sum up the changes that you've seen over time?

STEWART: Well of course there's a lot of difference, as a lawyer my practice was principally drawing up contracts to sell real estate or maybe an estate, civil matters, that didn't amount to much, well I mean they amounted to a lot to the people but I'm saying that's what I principally did in a private practice, of course my State's Attorney's

experience was entirely different because it was all criminal and it was some civil because we represented the county board in civil matters in taxing and so forth and so on. We were the legal advisor to the county board, legal advisor to the various office holders, so it's more than just practicing criminal law, you know. I don't know of anything else, I think we've covered a lot of territory. I've been happy with my life. I have just one son and he's become a lawyer and he's now the chief judge of the circuit here. I enjoy talking to him about things that they're doing now, it's all become entirely different anymore, court reporters used to be absolutely essential and they still are but now they can do recording stuff the same day they can print out a record and those things. It's just amazing to me the changes that's come about by reason of all the scientific stuff that we've got today, you know, but it's just amazing to me what's going on and I enjoy talking to him about the new developments. You know they use tape recorders and those kind of things now for a lot of cases that used to require a court reporter to sit there and then type it up and it saved a lot of money and saved a lot of time, and those things. And it's a great improvement, I think, from what we used to do. And of course they got rid of the JP's [Justices of the Peace] back years ago and of course those were a miscarriage of justice a lot of times, you know, cause they would, a lot of the decisions would be just prejudice one way or the other, you know, they did the best they could and it was all we had.

LAW: I was told that they operated on fees.

STEWART: Yeah, they operated on a fee. I remember one of them used to say, yeah, he used to say that, "The fine may be waved but the fee must be paid," because (chuckling) he got five dollars. You go before a JP to have a traffic case and immediately you know you're

going to get stuck five dollars to pay him but if he found you not guilty he doesn't get anything so it was a little prejudicial.

LAW: I see, so in some ways the judicial article improved things.

STEWART: Oh I think so, there's no question that it did, it had to you know. Well I can't think of anything else. I appreciate you coming clear over here to do this.

LAW: We appreciate you having us.

STEWART: Because I would have never been able to make it any place.

LAW: Well Judge Stewart thank you.

STEWART: Well you're welcome. And if you have any questions, call me if you can't figure out what I'm talking about.

[Total Running Time: 01:21:10]

**End of Interview**