

Interview with Mary Lee Leahy

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Interviewer: Mark R. DePue

DePue: Good afternoon. My name is Mark DePue. I'm the Director of Oral History at the Abraham Lincoln Presidential Library. Today is Tuesday, February 16, 2010. I'm back for a fourth session with Mary Lee Leahy. Good afternoon, Mary Lee.

Leahy: Good afternoon, Mark.

DePue: We should probably start this by explaining something. Our last interview was quite some time ago, probably well over a year ago. We talked about a variety of things in those three sessions: the Constitutional Convention back in 1970 and your role on that; some landmark Supreme Court legislation you were involved with, one of those being the Rutan decision, the other one Pickering.

Leahy: That's right.

DePue: And your role on some other legislation, specifically your role in the Walker administration and your affiliation with Dan Walker. But we got up to a point-in-time and we ended the interview, I think on a high note certainly. But we didn't talk about the last two gubernatorial administrations, those being George Ryan and Rod Blagojevich. There are a variety of reasons why we didn't talk about it at the time, but this seems to be the appropriate time to pick that up and talk about the significant role you had in the beginning of the Blagojevich administration. So why don't you tell just very briefly what that was and then we'll get to the questions.

Leahy: Well, after Rod Blagojevich was elected governor, he put together a transition team which dealt with a variety of issues. There were subcommittees, ethics, personnel, revenue, a broad variety of issues. Then I believe it was the Saturday before the inauguration that I received a phone call—it was an aide of the governor-to-be—asking me to serve for three months advising the administration on personnel issues. So I talked to my daughters and then on Sunday I called back and said that I would do it. I believe the inauguration was Tuesday and then I started my work for three months. It turned out to be longer, but I began.

DePue: As those things sometimes happen to do.

Leahy: Yes.

DePue: Why you in personnel issues?

Leahy: Well, I had sued the state so many times, that I really thought I knew how the personnel system worked. I found in this transition team that when I would be

talking about the personnel system in Illinois, it was extremely complicated; I think the transition team learned from me and realized that I might have some insight into how it was working after the governor took office.

DePue: Okay. We're going to spend a little bit of time in just a few minutes having you explain some of the intricacies of that personnel system, hopefully in a way that even a layman like myself can understand it, if that's possible. You were serving on the advisory board and not the transition team itself?

Leahy: That's right.

DePue: Now what was the difference between the two?

Leahy: Because the advisory team got recommendations from these committees on certain issues and reviewed them and that type of thing. It was tremendously active. I mean, we had meetings and there were lots of people involved—Dawn Clark Netsch, Ab Mikva—I mean he really put together a really outstanding transition team and advisory board. The problem was that once the inauguration took place, it seemed to me all of that disappeared.

DePue: Who else served on the advisory board with you? Who chaired the board?

Leahy: Well the board was co-chaired; I believe that Governor Thompson was one of the co-chairs. He conducted several of the general meetings, and they were held in Chicago.

DePue: So here you have a brand new Democrat, the first one in how many years?—twenty years perhaps, something like twenty-two years, maybe—and he chooses as chair of his advisory board, the former Republican governor of the state.

Leahy: That's right, and I think that was a tone of reaching out to both sides of the aisle, which I believe also fast disappeared.

DePue: Well, a couple of others that I had written down here, Roland Burris.

Leahy: Yes.

DePue: Whose name was in the news here recently?

Luis Gutiérrez

Leahy: Yes.

DePue: And Margaret Blackshere?

Leahy: Yes. Margaret Blackshere was the first—I hope I got that right—the first woman to head the AFL-CIO in Illinois. She had been head of the Illinois Federation of Teachers, which is part of the AFL-CIO, and then moved into the presidency.

DePue: I have you down as the vice-chair with this advisory board.

Leahy: Uh huh, yes.

DePue: Okay. Was that more than just a figurehead position?

Leahy: Well, it just meant attendance at the meetings and contributing what I could. No, I don't think it had any particular duties. It was more or less the title.

DePue: Tell us a little bit about the transition team itself, then.

Leahy: Well, as I said, we were discussing all sorts of issues, a tremendous variety of issues, hoping, then to turn it into legislation or executive orders so that the new administration, the Blagojevich administration, would appear to be moving, changing things and reforming things.

DePue: Uh huh.

Leahy: I know ethics was a big topic, as you can imagine.

DePue: And who did he have working on the ethics piece?

Leahy: Well, I specifically remember Ab Mikva and Dawn Clark Netsch contributing a lot. And then the subcommittees had a staff member or two to assist them in drafting different proposals, making changes, circulating the proposals for comments, that type of thing.

DePue: Now I know that the transition team itself was headed by David Wilhelm. What can you tell us about David?

Leahy: He was very active in the campaign. He had a long history of being active in campaigns.

DePue: He even had a national prominence, did he not?

Leahy: Yes. That's correct.

DePue: Okay. Any other names that stick with you that were involved with the transition team?

Leahy: There were several lawyers from prominent law firms in Chicago, including Winston and Strawn, Governor Thompson's law firm. Many of those lawyers had had experience on personnel issues, so we had a lot of give and take on that.

DePue: Okay. What were the specifics terms of your agreement with the Blagojevich administration. First of all, did you have a contract?

Leahy: Well, that was one of the issues. I kept asking for my contract and finally in mid-February I stopped working and went up to Chicago and met with Susan

Lichtenstein who was the governor's chief legal counsel. I said, "Look, under the laws of the State of Illinois, I've got to have a contract." I think there was a bit of difficulty with the chief legal counsel and the other counsel, in that they came out of corporate America, corporate Illinois, and so, you know, you just sort of snapped your fingers and things happened. The personnel code and the procurement code and all these various codes that governed Illinois [state] business were difficult because, I think, some of them viewed it as hampering being able to do things. But I said, "Look, I've just got to have a contract." So then when I got the contract, it did not retain me as an attorney. In fact, that was explicitly crossed out as legal consultant; the word legal was crossed out and initialed. I was retained as an attorney on personnel matters.

Now, this was a standard contract. It was one of my recommendations, that if you are going to hire individuals, this contract be re-done, because the contract read as if I were General Motors. I had to agree to abide by OSHA. I had to agree to abide by the Clean Air Act. I had to agree to abide by all sorts of things as though I were a giant corporation. So, I said, "Look, let's revise these contracts for individuals."

DePue: What specifically, though, were you supposed to be doing as a part of the transition team, as the advisory board? And was this something that was peculiar or unique to this particular transition, or is it something that all governors would do?

Leahy: Well, no, I think it depends. I do remember that the transition from Governor Ogilvie to Governor Walker was outstanding. I think the potential future department heads and the current department heads really cooperated. I did not sense that there was like a one-on-one with the Blagojevich and Ryan administration, like the future head of say IDOT cooperating with the current head of IDOT so there would be a smooth transition. I can even remember when I went into EPA, Bill Blazer who was Director of EPA had a black notebook with different parts and in there were all the current issues he thought EPA was facing, including proposed legislation, budget. He had alternative questions worked out for me and we met for a great deal of time. But I did not sense that there was that one-on-one between the Blagojevich administration and the Ryan administration on who was going to head up the departments.

DePue: But essentially your position—tell me if I'm getting this wrong, I'm trying to understand myself—your position is to kind of oversee and advise the new administration as George Ryan's people move out of government and Rod Blagojevich's team moves into government. Would that be correct?

Leahy: That's correct, and it was a very broad charge to advise on personnel matters, but certain things had happened in the fall which I was specifically told to look into. For example, the statute, the personnel code, allowed for a four-year term appointment; a four-year term appointment could be filled politically, but once you got the four-year term appointment, you were protected by the personnel code for four years, meaning you could only be fired for cause. Now my view was that if

you can be hired politically, you ought to be able to be fired politically. You should serve at the will of the governor. But this, this hybrid was created. Well, what we learned, we had heard rumors, and then what I learned when I actually began work in January, was that people who had been appointed by Governor Ryan to a four-year term appointment, may have had a year left on it. They left their four-year term in late 2002. They were off the payroll for two or three days, came on with a new four-year term appointment so that they were protected almost to the end of Governor Blagojevich's first term. So that was something—I mean, was that legal for them to do that? Another thing, and this was during the campaign, Governor Ryan sent over an emergency rule to the Joint Committee on Administrative Rules, which is made up equal parts of Democrats and Republicans and they all serve in the legislature; the emergency rule allowed for persons to be certified, under the code, after having served a one-month probationary period. Originally, everybody had to serve six months, and I think if it were a promotion to a new position, you'd serve four months probation. If you passed the probationary period successfully, you were then certified and could only be fired for cause. The emergency rule changed that and allowed people who were exempt from Rutan under the Ryan administration to take a position under the personnel code and if they served thirty days in that position, they were certified. They couldn't meet the six-month qualification because it's now like September, and so one month.

DePue: Okay. You've gotten into really the meat of our discussion today and we'll go back and pick up some of that here a little bit later, but I want you to kind of take a step back. If you would, let's take a step back, and see if you can lay out the intricacies of the Illinois Personnel Code and personnel system and how it really functions so that we have a better understanding of the implications of some of these things that happened at the end of the Ryan administration.

Leahy: Well, the personnel code is a statute. Its purpose is to have employees under the jurisdiction of the governor be chosen on fitness and merit.

DePue: Under the jurisdiction of the governor. Does that include the Secretary of State and the other constitutional officers?

Leahy: No. They have their own personnel code.

DePue: Okay.

Leahy: So we're talking anywhere from fifty-five to sixty-five thousand employees. Most of them are under the personnel code, meaning they are hired, they serve a probationary period, they're certified and they have all the protections of the code, including certain benefits, health insurance, retirement, ability to bid on promotions. Then, you have the statute [which] allows the Civil Service Commission to exempt certain employees from the personnel code; the Civil Service Commission seems to take the employee's reporting relationship to the director as the standard. For example, the departments have public information officers. The head, the chief public information officer reports directly to the director. Therefore, that person is

exempt from the personnel code. You can go through head of the budget, so on. So the statute exempts certain people from the personnel code. For example, wardens, deputy directors, so they serve essentially at the will of the governor. But then you also have positions that can be exempted by the Civil Service Commission, and their standard really is one of reporting: how close are you to the head of the department?

DePue: The theory there being that the new administration needs to be able to bring in people who have a similar philosophy and an approach to governance?

Leahy: Absolutely. But the problem was—I read Civil Service Commission minutes during my contractual period; I think I went back two years, may even have gone back to the beginning of the Ryan administration—I saw departments presenting to the Civil Service Commission the outline of positions they wanted exempt from the personnel code, meaning that person served at the will of the governor or the director of the department. Then, after Ryan decided he was not going to run again, those very same departments were presenting new organizational plans to the Civil Service Commission and putting positions that had been exempt from the personnel code now making them protected by the code. So we had all sorts of things going on in the year 2002 to, in a sense, freeze in people who had been exempt, but now would be protected by the personnel code and, therefore, the new administration would not be able to appoint people to those positions.

DePue: Who were the members of the Civil Service Commission and how do you get to be a member?

Leahy: Oh, my goodness, I don't remember. It's an appointment by the governor, confirmed by the senate.

DePue: And are they paid positions in the state?

Leahy: Yes, but its not full time, they meet on a certain basis. In my view, the primary task [of] the Civil Service Commission is to deal with what positions are exempt or protected by the personnel code and to deal with disciplinary action, so that if a person is fired, there's a hearing officer: here's the case, make the recommendations to the Civil Service Commission, and they adopt it or reject it.

DePue: Is there some attempt in the appointment process to make this a bi-partisan board?

Leahy: Yes.

DePue: Okay. Okay. You haven't mentioned the word Rutan. How does Rutan factor into this?

Leahy: You see, that's my basic problem. I think that if you are exempt under Rutan, meaning that the position can be filled politically, I believe you ought to serve at the will of the governor, and I believe that the Rutan exempt positions ought to be exempt from the personnel code. You have two different standards. To be exempt

under Rutan means that the job is such that politics could be taken into account when you fill the position. [The] personnel code is how close is that person to the director. So you have positions that are Rutan exempt but are protected by the personnel code. That makes no sense. I think an administration needs to put in its people to make sure that its policies are implemented.

DePue: But, is it true to say, though, that if a position is not Rutan exempt, well, let me put it this way. The personnel code, if it's not personnel exempt, is covered by Rutan.

Leahy: No. You can have a position that is protected by the code that is Rutan exempt and I have never understood that.

DePue: Okay. Well, this is almost Byzantine in trying to understand how it all works.

Leahy: Well, to me, if the position is such that it can be filled politically, that position ought to serve at the will of the governor, and if a new governor comes in, the new governor has the right to put his person in that position. But, through an organizational chart, the Rutan exempt position may end up with personnel code protection because the Civil Service Commission says, "Hey, you're not close enough to the director of the department. You're deserving of protection." So that they're very different standards and they just don't make sense to me.

DePue: Okay. Maybe this is even more confusing. What does it mean to be double exempt in the State of Illinois personnel system?

Leahy: That you are exempt from Rutan and exempt from the personnel code, meaning that you truly serve at the will of the governor.

DePue: Okay. And how are those positions determined? By the Civil Service Commission? By a statute?

Leahy: No. No. (both laugh)

DePue: Okay, now I'm really confused.

Leahy: If the Civil Service Commission says the position is exempt from the personnel code, you have one part of the double exemption. If you look at the job—this has always been really Central Management Services and the governor's office—if you look at the job and you say politics is the prerequisite for that position, then its double exempt. It's exempt under Rutan. It's exempt under the code.

DePue: It sounds then, that those decisions, those positions that are double exempt, those are emanating from the governor's office.

Leahy: That is correct. After Rutan came down, Governor Edgar selected a consulting firm to do two things: to create a manual to train the state's employees on how to fill positions based on merit, and secondly, to determine the positions that were Rutan exempt. And those positions in like '92, '93, when we settled Rutan, there were

about three thousand exempt positions. I had a notebook that the governor's office gave me, and when they updated it I would get a new version, listing every Rutan exempt position by department and by location. I had no problem with those positions also being exempt from the personnel code, but it didn't work out that way.

DePue: Any idea why it didn't work out that way?

Leahy: I don't think anyone's raised the question. I mean, this was one of the things, one of the recommendations I made at the end of my contract.

DePue: If it was to be fixed, if it was to be realigned, how would that go about? Would it be some kind of legislation that would be required?

Leahy: Yes, I thought so: a revision of the personnel code.

DePue: Okay.

Leahy: So there are lots of issues that I gave advice on that I thought should be looked at.

DePue: Okay. Now, this isn't a question I anticipated asking—and it's a delicate one—but would it be in the interest of most chief executives, most governors coming in, to keep it a little bit murky so they have more control over the hiring process of those people who are important to them?

Leahy: Only if they wanted to freeze in their people when they were leaving.

DePue: Okay. (Leahy laughs) Well, that takes us full circle, doesn't it?

Leahy: Yes.

DePue: It probably is good at this point in the discussion to talk about the end of the George Ryan administration and the atmosphere, the position he found himself in those few months of his administration. What was he going through?

Leahy: Well there was certainly word of indictment. And, you know, that had dominated the news for a long time and people were saying that as soon as he left office he's going to be facing a federal indictment.

DePue: And his chief advisor was already going through the trial process?

Leahy: That's right.

DePue: Okay. And that's Filan?

Leahy: No, no. Filan's company pled, but he didn't. John Filan did not plead.

DePue: Okay. So that's hanging over everybody's head at the end of his administration.

Leahy: That's why this transition team became so important, because the thrust was reform, ethics, that kind of thing, and it didn't turn out that way.

DePue: Now most people would look back at the George Ryan administration—obviously he's in jail today for the abuses of his administration—and going back to the time he was Secretary of State in many cases, as well, but how would you characterize the personnel abuses of the George Ryan administration in those last few months then?

Leahy: Well, there was the taking people out of their four-year term appointments that had like a year to go, having them take new four-year term appointments so they would be around. Remember, in the fall we didn't know who was going to be governor, but it certainly wasn't going to be Governor Ryan. So those people are now going into new four-year term appointments; they're going to be around until almost the end of the incoming governor's administration. We had people who had been in exempt positions now going into a position under the personnel code and being able to be certified within thirty days. We also had people, particularly at IDOT, who were taking demotions, going from like a Technical Manager VIII down to a Technical Manager IV; the Manager VIII is exempt from Rutan, the IV is protected by Rutan, and keeping their salaries. Under the personnel code, if you're demoted, your salary can change after one year, but under this technical manager system, which is only at IDOT, you could be demoted and keep your salary. Suppose you're making \$85,000, you go to a position that should be at \$45,000; you keep your \$85,000, even though you've gone down to a \$45,000 position. So all these things were happening in the fall. I got a phone call from a union rep and he said, "I've heard this rumor that people are going to get certified in thirty days. That can't be." Well, I tracked it down and found out it was this proposed rule to JCAR to certify people within thirty days and not the usual six months. So, if I remember correctly, I notified both gubernatorial candidates and both took a position against that rule.

DePue: Okay. Let's back up a little bit and have you explain JCAR, what its role is, what it is.

Leahy: Well, JCAR was the Joint Committee on Administrative Rules made up of equal numbers of Democrats and Republicans.

DePue: In the legislature.

Leahy: Yes. They're all members of the legislature and they sit as a committee. They review all the rules proposed by departments, and once those rules are approved, they go into effect and become part of the Illinois Administrative Code, and that has the status of law. So here comes this administrative rule to change certification to thirty days. JCAR met and, if I remember, one or two members could not show up for that meeting and there were not the votes to block an emergency rule, so the rule went into effect.

DePue: Any views of yourself or other people in the new administration about why those people didn't show up to block?

Leahy: No.

DePue: Okay.

Leahy: That remained a mystery, but you have to vote to block an emergency rule, not vote to approve it.

DePue: So the onus is on the legislature to act against it?

Leahy: That's correct.

DePue: Okay. Giving more power to whoever is proposing this, in this case the Ryan administration?

Leahy: Yes.

DePue: Okay. Well, all of these things that you talk about sounds like an elaborate way for George Ryan, at the end of his term, that's under this huge cloud of doubt and suspicion because of all of the allegations that are swirling around, of protecting his people for as long as he possibly can.

Leahy: Absolutely.

DePue: Of taking care of his people.

Leahy. Absolutely. And there were the three different ways: the reorganization so people who were exempt from the personnel code are now protected by the code, the thirty days; the four-year term; and then this demotion thing at DOT. Nobody else seems to be doing quite that.

DePue: Why was DOT different?

Leahy: Well DOT is the only department that has this strange technical manager personnel system, which the courts have held doesn't protect anyone, that they really do all serve at the will of the head of IDOT, but IDOT internally has always handled it as though it were a personnel code.

DePue: So if the courts aren't backing it, how do they have the force of law to move somebody from one position to a lower position and still let that person draw his former pay?

Leahy: Who can challenge it? That's the interesting issue.

DePue: Okay.

Leahy: If you look at that, if you look at the technical manager series, which I did, and looked at those people who did these demotions, under that system, there is nothing that prevented that from happening. That was another recommendation that I made: you ought to abolish the technical manager system at IDOT and just have everybody under the personnel code, either exempt under the code or protected under the code, but don't have this other sort of crazy personnel system out at IDOT.

DePue: Okay. You've kind of gotten there, anyway; why don't you talk about the specific recommendations you made, or maybe, let's back up for a minute, the process, the discovery process, if you will, and how all these things were working with the administration. Did you have a hard time digging all of this information out?

Leahy: No. A lot of it was public record. I did review transactions at IDOT. I made the recommendation that in terms of IDOT, I didn't like what had happened, but under the technical manager system, there was nothing illegal about going from an \$80,000 position to a \$40,000 position and keeping the \$80,000 salary, and if you then remove those people because they were in a sense Ryan's political appointments, you'd be violating Rutan, because you would then be firing these people on the basis of their political affiliation. It was quite a box. It was quite a box. I often wondered when they started staying up at night thinking up all aspects of the scheme to keep their people in positions. So my first recommendation was to get Rutan and the personnel code aligned.

DePue: Okay.

Leahy: The next one was to abolish that technical manager system out at IDOT. I then suggested there be a committee to look into pay equity, because I thought that historically women had been slotted into positions of lesser pay. For example, you can be an Administrative Assistant I, II or III, you can be an Executive I, II or III; I thought they were basically doing much of the same work, but women seemed to be slotted into one category where the pay was less, men into the other where the pay was more, so I thought that would be a real plus to have the governor look into the way salaries were set.

I also recommended... The state was so stupid; if you went to work for the state, they were giving you an automatic ten percent raise over what you'd been making in the private sector. I said, "Why? I think there might be people who would want to go to the state for less than they were making in the private sector because they had such great retirement and health insurance coverage." So I suggested that there not be an automatic ten percent increase for people who want to work for the state.

DePue: Did you find in looking at all these things that the Ryan administration did at the end of their administration, that there was willful wrongdoing or just that you were philosophically opposed to some of the mechanisms that he was going through?

Leahy: I was philosophically opposed. I thought the incoming governor ought to have the right to have exempt positions. And you see, by taking somebody who is exempt, putting them in a position and then certifying them after thirty days, your headcount hasn't changed. So the incoming governor would not have the number of vacant positions to fill because he's constrained by headcount. He can only have so many headcount given his appropriation, and so if they were suddenly made protected under the personnel code and new four-year term appointment, that limited financially the ability of the new governor to hire people. So it was two-fold. It was protecting people politically and using the system to do it. But it was also because these people were still on the payroll; it had financial implications in terms of the governor's inability to hire.

DePue: A lot of these people we're talking about were, for example, the positions where, at the end of the administration, they took a couple or a few days, they stepped out of the position for a few days, came back in and now they're guaranteed for another four years. Those people were allowed to stay in their positions for another four years?

Leahy: Yes. That was litigated.

DePue: And they were allowed to stay?

Leahy: There were some that were removed, yes. What I really meant that, seriously, I don't believe in four-year term appointments. I think it was a crazy idea. If you're exempt from Rutan, you're exempt from Rutan and you should serve at the will of the governor. When they first conceived of the idea, I think it was to be four years matching the term of the governor; but somehow when the legislation got passed it was twenty-five percent per year. So, the incoming governor was going to be stuck with a lot of people who had been put in positions politically, but he couldn't get rid of them until the end of their four-year term, and they were staggered.

DePue: Did you put all of this in writing, in a written report, then, to the new administration?

Leahy: I did a lot of it orally and then when I called in May, because as I told you, I had stopped working, and I called in May and asked where I should send my written report, I was told not to put anything in writing. So, no written report ever went.

DePue: Why would the new administration not want you to put this in writing?

Leahy: Well, my suspicion would be that later on, somebody would get a hold of this report and say, "Hey, Mary Lee Leahy recommended you look at salary and equity. You know, she said get some people, high-powered people to look at this problem which faces women working for the state and you didn't do it." Or, you ought to get rid of the technical manager personnel system at IDOT, but you didn't do it. And that's what my theory was.

DePue: Okay. But they explicitly said, “We don’t want a report.” Is that what you’re saying?

Leahy: That is correct. Do not put anything in writing.

DePue: Okay.

Leahy: Now the interesting thing is that one of the things I was doing during January to the end of May, was also advising some key people on Rutan and this double exempt so they would understand it. What I have found out in one of my lawsuits recently, is that at the very time I was doing that, they were creating in a sense a patronage tracking system in room 107 of the Stratton Building, because I’d gotten a computer spreadsheet, 160,000 entries, listing people who are making recommendations, the people being recommended, the type of job and whether or not they got it, and if they got it, when. And there was no distinction made between Rutan protected positions and Rutan exempt positions. Now I think—I’ve not gotten any figures after the end of 2005—but the spreadsheets seem to stop before the end of 2005. I believe that may have been the beginning of when the feds started looking into hiring practices in the Blagojevich administration.

DePue: We’ve talked about all of the, I guess you’d call them abuses, at the end of the Ryan administration. Would that be a fair term to use?

Leahy: Well I believe they were abuses. I couldn’t call them illegal, but I think there was a real use of the system to protect “my” people.

DePue: And part of what your frustration—at least I’m feeling—is that you turned this information over to Blagojevich’s team and yet nothing much happened about it. Did you have any other allies in the press or Better Government Association or groups like that who were kind of championing this cause as well?

Leahy: No. In my view, I was to give a report to the administration on various problem areas in personnel. I alerted them to what I believe was, possible lawsuits in the next year or two in personnel matters; it was really for them I was just opening up the issue. I was making a recommendation, but I had no power to implement it, and I think what has bothered me is that while I’m training people on the meaning of Rutan, this spreadsheet system is being created at the same time. So how ironic, right?

DePue: In total violation, at least, of the philosophy of Rutan, in the first place?

Leahy: Because I would not have any problem with a spreadsheet for the three to five thousand exempt positions, but when you get into people shoveling coal in the power plant...

DePue: A hundred and sixty thousand might be a little bit excessive?

Leahy: It was a pretty, pretty extensive entry system.

DePue: How well did you personally know Rod Blagojevich?

Leahy: Not at all. I mean, I did not support him in the primary. I supported Vallas.

DePue: Paul Vallas.

Leahy: Yes. But when I heard about this thirty-day certification emergency rule, I was really very angry. I then contacted both campaigns, the Democrat and the Republican, to alert them to this. And as I said before, they both opposed the emergency rule. Now, Mr. Blagojevich at that time, in the fall after that emergency rule broke, he had me attend a press conference with him to explain what the rule meant and that was the first time I met him.

DePue: Did you have many dealings with him after that?

Leahy: Saw him during the transition team meetings, was with him when he announced my appointment, I think it was the day after the inauguration. If not, it was the next day. And then had no contact whatsoever. My contact was to be with the legal counsel's office.

DePue: So it was working with them and not directly with Blagojevich at all?

Leahy: No. I did not have any direct dealings.

DePue: Let's talk a little bit more about the relationship you had with people within his administration, because you've kind of painted a picture that it wasn't all that pleasant for you, that they were sometimes difficult to work with.

Leahy: Well, I think the first difficulty was that I did not have a contract. I can't explain it, it's sort of an attitude: Well, why does that bother you? Well, it bothered me because I knew by law I was required to have a contract. And when I would give my oral suggestions, like, how about putting together a really blue star committee to look into pay equity, I didn't get the feeling that it was being taken very seriously.

DePue: Do you even know if that information was getting up to the governor himself?

Leahy: I have no idea. I have no idea whether my appointment to go in and look at personnel issues was show or for real; in the last few months since I've seen this spreadsheet, I'm beginning to think it was a lot more for show than for real.

DePue: Did you ever make an attempt to go directly to the governor himself and express some of your concerns and the recommendations you had to him directly?

Leahy: No.

DePue: Didn't think that was appropriate to do?

Leahy: No, because I had been told where the chain of command is. (DePue laughs) And I mean, under Walker, Bill Goldberg, Walker's chief legal counsel, nobody could have been closer to him than he was; I mean they talked maybe on an hourly basis during the workday. Bill played tennis with Dan in the early morning. So, my thinking is, chief legal counsel is like the governor's right hand, so, you know, I was hopeful back then; that's a long time ago. The transition process had led me to be very hopeful and I assumed that by telling the chief legal counsel or the deputy chief legal counsel these things, that it was okay.

DePue: What was your initial impression when you were first asked to be an advisor of Rod Blagojevich, the man and politician?

Leahy: Well the transition experience had been such a good one, that I was very eager to do this. But, I'll just give you one example. I was at my aunt's funeral. I was in the car going from the cemetery to the luncheon; I think we had WBBM on, and it came on that the governor had fired so many people. I think they were four-year terms. I didn't know about that, and so I thought that perhaps I should have known about that. (both laugh) So, anyway, we're going from a real, I don't want to say high, but a very high opinion of the new administration and what it wanted to do during the transition period, and then by mid-February, you know, they're not thinking it even important enough that I have a contract.

DePue: Was that the thing, then, that really started to turn your attitude that perhaps they weren't as sincere about all this, or was that later?

Leahy: Well, I had tried, I mean, I went to Chicago for a special meeting with the chief legal counsel because my faxes and my messages weren't getting anywhere. You know, I need a contract, when am I going to get my contract, that kind of stuff.

DePue: Was there any definite end of your relationship with the Blagojevich administration then? A terminus of this job?

Leahy: Oh, yes. It was supposed to be for three months. I was paid for three months. I stopped in mid-February. After I got my contract, I completed my work and was ready to give my final ideas that I had already relayed orally, ready to do that in May, so yes, it ended in May.

DePue: Did you actually—I know you said that they weren't interested in a written report—had you prepared anything in writing for them?

Leahy: Yes.

DePue: Where is that now?

Leahy: In my office. (both laugh)

DePue: Well, that's interesting.

Leahy: You know, I got through about three or four of the areas of recommendations and then called and then just stopped. Some of those recommendations are still alive and well and still needed. So we'll see what happens next January.

DePue: Would you be willing to serve on the future administration in some capacity or offer up the suggestions that you had before?

Leahy: Of course.

DePue: At the end of this time period, May?

Leahy: Yes. May of 2003.

DePue: What was your opinion of Rod Blagojevich the politician then?

Leahy: Not bad. I didn't see as much movement on some of the suggestions of the transition team, but then, you know, a lot of things needed legislation, and the legislature was not quite as friendly.

DePue: This has nothing to do with your official capacity, but how would you rate Governor Blagojevich today? There's an awful lot of water under the bridge now.

Leahy: The administration thought that they could do things without legislation and without funding. I mean, I would have thought that impeachment grounds were available for trying to do things with programs that the legislature had rejected and the legislature had not funded. For example, he tried to expand a family care program. The legislature rejected the expansion. It violated the federal act, there were no funds for it and he went ahead and did it anyway. And that seemed to be the attitude that we can do whatever we want to do and not be bound by certain statutes and by certain funding restrictions. And that became very troubling to me as the years went on.

DePue: Would you say that some of the things he was trying to do were contrary to the constitution? I mean, you were intimately involved in the creation of the Illinois State Constitution.

Leahy: I knew of no constitutional authority for a governor to put in place a program that had been rejected by the legislature and not funded by the legislature. I thought he was violating separation of powers. He was invading the legislative power and, in a sense, not giving a damn about it. He wanted to do it; he thought it was a good idea to get it done; he went ahead and did it, even though the legislature had not approved it.

DePue: We didn't ask you earlier about your personal assessment of George Ryan as a governor.

Leahy: Well, I thought George Ryan was a good politician. I remember when he was Speaker of the House and led the charge to defeat the Equal Rights Amendment. I

remember having to go before a committee he chaired, to get an appropriation for DCFS when I was part of the Walker administration. He was very angry at me and I had nothing to do with the fact that the senate had not released my appropriation bill; that was the senate's control. But, he didn't know why the bill wasn't down in front of the house earlier. I must say that with his political appointments, I thought he appointed people who were far more competent than the people that Blagojevich appointed. Now I'm talking about exempt positions. At least the Republicans had an element of competency and I was very concerned, not about directors or deputy directors of the Blagojevich administration, but like bureau chiefs, like head of personnel. Appointing a woman head of personnel at Agriculture who had absolutely no experience in personnel ever. What that must've been like for morale? Because I had taken depositions over the years of people who worked at Ag and worked in personnel and those employees had been there twenty, twenty-five years, and the new head of the department of personnel walks in with no experience and they report to her, but they have to train her; I don't think that's good for morale. I have never seen morale as bad as toward the end of the Blagojevich administration.

DePue: That brings us to the opportunity of asking you to make some comparisons, because you served in the Dan Walker administration in the mid-70s. Of course Walker ended up in jail after he was out of office for things he had done having nothing to do with his term as governor. But you've got that case and now both Ryan in jail now and Blagojevich being impeached and awaiting trial. How would you compare Walker with Blagojevich, for example?

Leahy: Oh, Walker believed in governing. I don't know that Blagojevich ever had a cabinet meeting. Walker believed in management by objective, so each department had objectives that they had to meet and we gave quarterly reports to the governor's office on what we were doing. For example, my trying to remove so many kids from institutional care to foster care, from foster care to group homes, from group homes back home. I mean, we had goals. I remember Joyce Lashof, head of Public Health¹, had to inoculate so many children in the state of Illinois per year per quarter. We had goals that we had to meet. I don't know that any department under Blagojevich had to account for what they were doing. You know, I do other work. I do family law. I do wills, I do a little bit of simple probate, and I've had people come to me who work for the state. I had one woman come about a year ago and she said, "You know, I'm the head of a bureau. I used to have to tell somebody what my bureau did. I haven't had to report what we do in three years." And that I've got friends, I have clients, and everyone that could retire, retired as soon as they could or they're counting the days till they can retire. And that wasn't true twenty years ago, thirty years ago. People felt it an honor to work for the state of Illinois.

¹ Dr. Joyce Cohen Lashof became the first woman to be appointed director of any State Department of Public Health when she was appointed director of the Illinois Department of Public Health in 1973. "Changing the Face of Medicine" Celebrating America's Women Physicians, *National Library of Medicine*, http://www.nlm.nih.gov/changingthefaceofmedicine/physicians/biography_191.html (accessed April 19, 2013).

The other thing is that when the impeachment proceedings were going on in the House, I got on line and got some of the documents they had used. One of them was a letter of an attorney who had worked in the governor's office in Chicago for maybe fifteen months, eighteen months; I thought the governor was just not being in Springfield, but he was hardly ever in the governor's office in Chicago, that he operated out of his home and I just found that very unusual. So there was no presence of governing, particularly in his second term.

DePue: Let's go back just a little bit. You mentioned that this contract was eventually signed, but it had taken out the phrase legal advisor, is that correct?

Leahy: Legal counsel, legal consultant, I think.

DePue: Did that have any implications down the road?

Leahy: Well, if I'm retained as a lawyer to give legal advice, then I have malpractice coverage. My malpractice coverage doesn't exist if I am just simply an advisor on personnel matters.

DePue: And what are the implications of that, again, from a laymen's perspective?

Leahy: There would have been a lot of monetary implications, if I'd been sued.

DePue: So you would have been hanging out on your own in that case.

Leahy: And what was interesting, that you bring that up, is that some employees who were discharged were represented by Howard Feldman and Carl Draper and Jim Craven's son Don and they tried to take my deposition in one of these discharge cases where Blagojevich had discharged people. When I went for my deposition, the attorney then representing the defendants put every privilege they could think of, including the attorney-client privilege, to prevent me from answering any questions in the deposition.

DePue: Were they entirely successful?

Leahy: No. The defense counsel went before the federal judge, Judge Scott,² and she ruled that I was not retained as an attorney and therefore the attorney-client privilege did not exist and so I went back and gave my deposition.

DePue: Well, a little bit of—I hesitate to use this word—but a little bit of revenge or irony involved in that, then?

Leahy: I think so. But what was really ironic was that I knew everyone in the room. The attorney representing the defendants, at that time I believe was from Jenner and

² Jeannie E. Scott. Nominated by William J. Clinton on April 2, 1998, to a seat vacated by Richard Mills. Confirmed by the Senate on October 21, 1998, and received commission on October 22, 1998. Service terminated on August 1, 2010, due to resignation. "Biographical History of Federal Judges," *Federal Judicial Center*, <http://www.fjc.gov/servlet/nGetInfo?jid=2804> (Accessed April 19, 2013).

Block, a young man by the name Devine, whose dad was the Cook County State's Attorney, Dick Devine; Dick Devine had represented me in a DCFS lawsuit, so you know, Devine went to Knox College with my daughter, so I knew this attorney from way back in another part of my life. Carl Draper had been the attorney working in the governor's office when I filed Rutan, so he was involved in the preliminary things regarding that lawsuit. I'd known Howard forever. So it was kind of a very interesting thing when we all sat down for my deposition, that I knew everyone in the room. The chief legal counsel for IDOT was Ellen Schanzle-Haskins. She and I had been co-counsel when she was in private practice on a couple of cases. So, it was kind of like memory lane going into that deposition the first time.

DePue: What have we forgotten to talk about here?

Leahy: I think the lost opportunity. I think there hasn't been a governor in a very long time who had the opportunity to do what Blagojevich could have done. I mean, you have a Democratic senate, you have a Democratic house, you have a Democratic governor and the departments were—I don't want to say screaming out—but they were aching for direction, guidance, competency. There was so much hope in January and February of 2003 and then nothing happened and I think it was just a tremendous lost opportunity.

DePue: When you're saying lost opportunity, not just the reform of the personnel system to make it more efficient and more logical in how it was structured, but in other areas as well?

Leahy: Absolutely. Ethics. I mean, it was just crying out for ethics legislation and we finally got something through just recently since Governor Quinn's become governor. So, I mean, there were all sorts of areas. There were areas where, if we would have coded something different, our federal reimbursement—my daughter worked on that—our federal reimbursement would have gone from fifty percent for this particular project to seventy-five percent of the cost. And when my daughter raised this with the department, "Why are you coding it so you only get fifty percent from the feds?" "Well, we've always done it that way." Well, there was a real chance and finally after six months they did re-code it and they began to get the seventy-five percent reimbursement from the feds. It was little things like that where there were untold opportunities to straighten things out in the state of Illinois.

DePue: Any final words for us? We've had a wonderful conversation. You've helped me understand a little bit better, a lot more about the personnel system in the state. I'm still confused about many things, but I suspect that's because it's kind of a convoluted system.

Leahy: That's right. And I think there ought to be a new personnel code.

DePue: Okay. How would you conclude then, having just said that?

Leahy: Oh, I'm not sure it will ever happen. (both laugh) Not in my lifetime. So, we'll see.

DePue: Thank you very much Mary Lee. It's been a lot of fun.

Leahy: Thank you.

DePue: And thank you.

(end of interview)