

Interview with Michael Shakman

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Interviewer: Mark DePue

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DePue: Today is Thursday the 14th of February, 2008. My name is Mark DePue. I'm the Director of Oral History with the Abraham Lincoln Presidential Library. I'm here today with Mr. Michael Shakman, a lawyer and—how should I put this?—the plaintiff in what ended up being the Shakman Decree, which has had, in some people's measure, at least, a revolutionary impact on the nature of the way politics is conducted in Chicago and in Cook County. So this is one I've been looking forward to for a long time, Mr. Shakman. Thank you very much for taking time out of your busy schedule to talk with us today.

Shakman: You are welcome.

DePue: I should mention that we're in his offices, and if you could mention the business where you work.

Shakman: We're a law firm, and its name is Miller, Shakman, and Beam.

DePue: How long have you been with this firm?

Shakman: I've been with this law firm or its predecessor law firms since October of 1967.

DePue: Okay, so actually preceding the case we will be talking about.

Shakman: That's right.

DePue: Okay. I always like to start off with some background information, so if you can tell me when and where you were born.

Shakman: I was born in Chicago on August 31, 1942. At the time my parents lived in Hyde Park, and I still live in Hyde Park.

DePue: What was your father's profession?

Shakman: He had a variety of job. The time I was born (clears throat)—pardon me—I can't recall which one he was in, but he had worked , after college, in the music education business and was at one time the business manager of something called the Chicago Music College. Then he opened his own bookstore and I think did not thrive at that. Ultimately he took a job working as the manager of a bowling alley, and that became ultimately his occupation. He ultimately owned the bowling alley and ran it for many years.

DePue: What was your mother's maiden name?

Shakman: Lillian Reuben, R-e-u-b-e-n.

DePue: Had both of them been born in the United States?

Shakman: My father was born in Friendship, Wisconsin—his first name was Samuel—and my mother was born in Kalvarija, Lithuania, so no, she was not born in the United States.

DePue: She came over here at what age?

Shakman: She came over shortly after World War I, I think in 1919, when she was seven years old.

DePue: Okay. Do you remember what caused the family to come to the United States?

Shakman: I know what I've been told, sure—the family was the one that was... It's an interesting story. My mother was the youngest of seven or eight children of the second marriage of my grandfather, so my grandfather had a first family, which had largely immigrated to the United States before World War I.

Some of the older children of the second marriage had also immigrated to the United States before World War I. My grandmother and the youngest children, which included my mother, remained in Lithuania. My grandfather died at about the time World War I broke out, and my grandmother, my mother, and two brothers, the youngest children, were essentially stranded in Lithuania for the duration of the war, and were alternately on the Russian side of the front or the German side of the front, and had a hard time.

DePue: And, of course, at the time she emigrated Lithuania was only about seven years old, or maybe less than that.

Shakman: Sounds right.

DePue: Were they subject to any persecution in Russia?

Shakman: Well, I haven't heard that if they were. The stories I've heard from my mother and other members of the family are mainly related to shellings of the village they lived in during the war. My uncle, who I did know well, was ultimately a merchant in Forest City, Iowa, and bore the scars of shrapnel wounds that he suffered as a boy in World War I.

DePue: So were they coming to the United States more for opportunity or were they maybe leaving what they saw as potential problems in the old country?

Shakman: Well, I don't think there was much for them there. All the older children had already emigrated before World War I, and it was pretty clear that a better future for them would be here in the United States. I think there was little to hold them there and a lot of reason to move.

DePue: Okay. Did they move to the Hyde Park area then?

Shakman: No, no, they moved to join the older children, who were at that point adults and working in Fort Dodge, Iowa, and my mother was raised in Fort Dodge.

DePue: Okay, and both your parents are Jewish.

Shakman: Correct.

DePue: I guess I'm thinking Fort Dodge doesn't strike me as a place where Jews would immigrate to.

Shakman: Well, lots of Jews who did immigrate, and didn't stop in New York, kept going west, and many of them took up work as merchants. That was true of the people in my mother's family, the older children. One of the older siblings owned a general store of some sort in Fort Dodge, and that served as an economic resource for the younger family members who came over and others. The uncle who bore the shrapnel wounds from World War I throughout his life ultimately bought a small store and operated it in Forest City, Iowa for forty years. It was a merchant path. On my father's side they did much the same thing. My grandfather left Russia—well, he left the Ukraine—at the end of the nineteenth century—I don't have an exact date—because of the risk as a Jew that he would get drafted into the Russian Army. That meant a twenty or thirty year lifetime tour of duty, so he fled that threat and moved to Wisconsin and became a merchant there, ran a general store. My father was born there.

DePue: You grew up in Hyde Park; was that an ethnically mixed neighborhood at the time?

Shakman: As an infant I don't remember, because the early days are the sort of things you don't recall. I didn't return to Hyde Park 'cause my folks moved in the city to the north side, Logan Square, and then to Wilmette.

DePue: When you were young?

Shakman: Yeah, and I didn't return to Hyde Park 'till I went to college. My first year of college was at the University of Wisconsin, and then I transferred to the University of Chicago. I arrived in the neighborhood, Hyde Park neighborhood, in 1960 and I've been there ever since.

DePue: So the neighborhood that you moved to when you were young was where, again?

Shakman: Born in Hyde Park, moved to the Logan Square area, which is on the north side of Chicago, and then as a teenager moved to Wilmette, which is a northern suburb, and then after a year at the University of Wisconsin returned to the neighborhood in which I was born, Hyde Park, in 1960. And just to answer your question, yes, in 1960 it was a racially and economically diverse community.

DePue: And generally upper class?

Shakman: Not entirely, no, a pretty good mix of working people, students, people associated with the University[of Chicago]. Pretty diverse group.

DePue: What was your childhood like then in Logan Square area, and in Wilmette?

Shakman: Well, Logan Square was a working class city neighborhood with exposure to kids who came from solid middle class families and kids who came from broken homes and single parent households. Very few were affluent; one or two people seemed affluent, most kind of got by. Wilmette was quite different, and going to high school up there, there were rich kids up there, and it was a different and actually less agreeable, socially less agreeable community. I found the working class city neighborhood more attuned to whatever my personality was and more agreeable.

DePue: Wilmette at that time was more of a Jewish enclave, though? Or did you have to go farther north?

Shakman: Well, no, no, it wasn't. Glencoe was, and there were parts of Winnetka that were, and there were parts of Wilmette that were, but Wilmette was an old suburb that had pretty much a Protestant and Catholic population base.

DePue: Were you a product of the public schools?

Shakman: I was entirely until I went to college, and then, as I said, the first year of college was University of Wisconsin, also a public school.

DePue: Okay. What year did you graduate from high school, then?

Shakman: Nineteen fifty-nine.

DePue: At that time, what did you see as your future?

Shakman: Well, I don't know that I had a goal or an objective in mind, but I was interested in science, and I was also interested in the humanities, and somewhere along the way, history and liberal arts.

DePue: Were your parents kind of nudging you in any particular direction?

Shakman: Not at all, no. No, they didn't, they didn't really.

DePue: Did they instill in you, though, a desire to get an education, the importance of doing that?

Shakman: I think, certainly. It was assumed and expected that you would work hard at school and get good grades and try to be a good student.

DePue: Okay, so you ended up after the first year at the University of Chicago?

Shakman: I did; that's right.

DePue: Why did you change schools?

Shakman: Well, it's a little murky to me exactly why I did now. (clears throat) University of Wisconsin was a very good school, and the education I got there was a good education. I think I had the idea that I would get a better education at the University of Chicago, and I probably did; that is, the University of Chicago had things to offer that were a better education than the University of Wisconsin, although Wisconsin was very good. So I think I had a notion that there'd be a more academically rigorous environment at the University of Chicago, and there was.

DePue: By that time were you leaning toward any major?

Shakman: I don't think so. I know that somewhere along the way I got interested in law. I think that was when I was a graduate student at the University of Chicago and I took some constitutional law courses, but I wasn't particularly thinking of being a practicing lawyer.

DePue: So you went straight from college, and you would've graduated in '65?

Shakman: No, I graduated college in 1962.

DePue: Oh, okay, my years are off. I'm sorry.

Shakman: No, you're not. In those days the University of Chicago had a placement system, if you will, in which you could take exams and be given credit for whatever level of accomplishment you had in terms of learning, so some people came in and got through college in two years. I got through in three, and I went summers, as I recall, as well, and then I went one year to graduate school, got a Masters degree, and entered law school in 1963 and graduated from law school in 1966.

DePue: Okay. When you went to graduate school, what was your major?

Shakman: Political science.

DePue: So it wasn't too much of a stretch to go into law after that?

Shakman: It flowed naturally. I think I got interested in law as a graduate student in political science.

DePue: And the whole subject of Constitutional Law especially intrigued you?

Shakman: I enjoyed it. It was, as a graduate student, it was more—what's the right word for it? It was more tangible and more concrete than some of the more theoretical political science pursuits that were also available.

DePue: When you went to law school, did you focus on any type of law?

Shakman: Well, no. The answer's no. The curriculum at the University of Chicago Law School, like most law schools, is a generalized curriculum that didn't... You had choices within ranges of courses, but I had what I would view as a general legal education.

DePue: Okay. You got your law degree in '66, you said?

Shakman: That's correct.

DePue: So you're still a young man.

Shakman: I went when I—if we subtract forty-two from '66 we get twenty-four, I guess.

DePue: And were you still single at the time?

Shakman: No, I was married at age twenty-one, and that marriage lasted about seventeen years.

DePue: What was her name?

Shakman: I was married to Theresa Miller, and divorced in 1980.

DePue: Okay, well, I'm assuming that Theresa was not Jewish?

Shakman: No, she was.

DePue: Okay.

Shakman: And you know Ben; that's Ben's mother, mother of Ben's sister Karen.

DePue: Growing up and during this time would you describe yourself as a fairly religious family?

Shakman: No, I wouldn't. I wasn't agnostic, and I observed the major holidays, but I wasn't heavily invested in religious activity.

DePue: Did you have any other jobs when you were a young kid or going through college, things to help pay the bills?

Shakman: Oh, sure, over the years lots of jobs: I worked in a shoe store, as a clerk, stock clerk; one summer I worked for people who were painting numbers on the curbs in suburban developments in the northwest suburbs –that was sort of a nice job because it paid well and you only had to work about half a day, so that was enjoyable; I worked for my father in his bowling alley, stocking the beer cooler and running chores and doing things of that sort; I worked in the post office at Christmastime when you could earn some extra money in college, did that sort of thing, sorting mail, I think the typical kind of kid jobs that one could get.

DePue: And how about during the time you were in law school?

Shakman: I worked during the summer –you could typically get law firm jobs as a law student, and I did, and earned some money that way –but during the rest of the year I did not. I was able to get a scholarship for tuition and have enough money from my earnings, and my wife had some money, as well, so that we were able to get by.

DePue: Well, you were coming of age at the time when there was a peacetime draft in the United States. Was the Military ever part of the picture?

Shakman: It wasn't. I went to work after I graduated from law school for a justice on the Illinois Supreme Court, Walter Schaefer, and that entitled me to a deferment. I clerked for him for a year, and that would've been 1967, '66-67. I don't remember the details any longer of the draft, but as I recall there was a lottery and you pretty much knew whether you were going to be called or not, and I pretty much knew I wasn't going to be called.

DePue: Well, that would've been a couple years later, like '69 or '70, when the lottery came into effect, but you were married and that was a deferment, you were in school, and those were deferments during the early sixties, at least, in the peacetime years, You were a little bit older, perhaps, by the time the Vietnam War was heating up. What happened then after you did graduate from law school?

Shakman: Well, I went to work for Justice Schaefer for a year, and after that I joined the predecessor of this law firm, for whom I'd worked in law school.

DePue: Okay. When did you take the bar?

Shakman: I took the bar in—'cause I had to be a member of the bar to work for Justice Schaefer – so I took the bar the summer after I graduated from law school, which would've been 1966, passed the bar, and actually he swore me in so that he could put me to work.

- DePue: So by the time you've been spending this time with Schaefer, you are now –at least I would think –beginning to look at what kind of law you want to be practicing.
- Shakman: Well, I think I had an interest in litigation, and that's what I did for the most part, although the firm, the senior partner of the firm in those days was Milton Shadur, who's now a United States District Judge, and Judge Shadur was a generalist, and he encouraged people to be generalists, and I followed him in that direction. I learned to do business transactions, corporate work, work for charitable organizations, for individuals, individual professional people, architects, other lawyers, as well as commercial litigation, which ultimately became my principal activity.
- DePue: How would you have described your legal philosophy at that point in time?
- Shakman: Well, you know, I'm not sure I had a legal philosophy. It's a little bit of a hard question to answer, because what one means by a legal philosophy. I was certainly a civil rights/civil liberties fan and advocate, but I was also a person with a lot of respect for the free enterprise system and the importance of limiting government interference with the free enterprise system. So I think I viewed myself, both in the economic area and in the civil rights/civil liberties areas, as having the same point of view, which is: the government could do certain things and do them very well and had to do them, but it wasn't the automatic solution to everything.
- DePue: Of course, you're reaching your maturity during the 1960s when so much in the United States is going on: the civil rights movement, the anti-war movement, students' rights, things like that.
- Shakman: Absolutely. It was a commonplace that people got involved, and I got involved in issues that I thought were important often, reform-oriented issues of various sorts. I was one of the founders of the Chicago Council of Lawyers, which was a reformed bar organization. I believe I was on the first board of directors of that organization. I was very active in the Independent Voters of Illinois, which was an organization that had a strong liberal bent because it was nationally connected with the Americans for Democratic Action, but it also, to its credit, was very good at identifying and supporting Republican candidates for state and local office, for government support—supported Governor Ogilvie, for example –supported various county Republican candidates. It did a good job of trying to work both sides of the aisle.
- DePue: Well, what would you say then were your political beliefs or philosophies at that time?
- Shakman: Pretty much what I'd described. I was a civil rights and civil liberties advocate and fan. I was a free market and entrepreneurial fan, as well, and... Maybe I'll leave it there.

- DePue: Okay, but you were not—I don't want to put words in your mouth—were you a member of the Democratic party? When you voted in primaries, did you declare yourself a Democrat?
- Shakman: I voted most often in Democratic primaries, but my political center of gravity was the Independent Voters of Illinois, and I was a member of the organization, I was ultimately a statewide office holder in that organization—that is, I was the Political Action Chairman of the organization and later the Chairman of the organization—and as I say, I viewed my center of gravity as a political independent who would support or try to support both the Democrats and the Republicans.
- DePue: Why independent then instead of a Democrat, when obviously the city at that time was dominated by the Democratic machine?
- Shakman: Well, I think that was a reason not to be a Democrat. I didn't view myself as part of the –nor did I want to be part of –the regular Democratic establishment in Cook County, nor could you be without pledging your loyalty to the machine, as it was called, and that was something I had absolutely no interest in doing. I was happy to support good Democratic candidates when the occasion arose, but I was equally happy to support –and felt it was important to support –good Republican candidates, because otherwise you permitted the Democratic party of Cook County –which I thought had more power than it should have had and didn't do a very good job in the public interest with the power it had –you permitted it to continue its monopoly if you were committed irrevocably to only supporting Democrats.
- DePue: Why were you so insistent on staying independent then? What was it about the machine, if you will? What was it about that environment that you were coming to age in that caused you to come to these decisions and commitments?
- Shakman: Well, the machine, or more accurately the Democratic Organization of Cook County, was pretty much a closed system. If you were a dissenter or wished to exercise independent initiative and judgment, you were not welcomed and you would not advance. So if one was interested in politics, and I was interested in politics and wanted to ultimately run for public office –which I ultimately did unsuccessfully –but if you wanted to do that your options were either as a Democrat or as an independent, and as a Democrat one would have to pledge allegiance to the Democratic Organization of Cook County. That wasn't acceptable, and I was ideologically too far away from the mainstream Republican position; these were, after all, the Goldwater years in the Republican party, so that made no sense, and the logical place to settle was in the middle, where you could go in an individual selection, support either a good Democrat or a good Republican.
- DePue: Were these very much the same views of those who were in the Chicago Council of Lawyers and the Independent Lawyers of Illinois?

Shakman: I think the Independent Voters of Illinois. I think (clears throat) pretty much, I think that's right. Yes.

DePue: Okay. Well, you've kind of flirted around it anyway, but let me ask you directly: Why then run for the Constitutional Convention in 1969?

Shakman: Well, it had lots of appeal to it because it was a one-time job; you didn't have to plan on committing the rest of your life to politics. If you were successful, you would be elected and attend the convention over a period of months, make some kind of contribution to redesigning Illinois' Constitution, and go back to whatever you were doing before. So it was a unique opportunity to do something that was in the public sphere but that didn't require a lifetime commitment.

DePue: Did you have in your mind that there was something especially onerous about the existing Constitution that needed to be changed?

Shakman: Well, yes. The existing Constitution dated from the nineteenth century. There had been a long series of reform efforts focused on that Constitution, including the reform of the Judicial Articles in the early 1960s as a separate Constitutional Amendment. There was a recognition that a whole group of issues needed to be re-examined because of the change in government structure from the nineteenth to mid-to-late twentieth century, and I became aware of that. I was a member of the Chicago Bar Association Committee on Constitutional Revision, and I worked on that committee for several years before I ran for delegate, and so I had some pretty good technical knowledge of what some of the problems were with the revenue article of the Constitution, with the Home Rule provisions, which really didn't exist at that time. Home Rule was an essentially non-existent theory. Education funding was an area that was of great interest to me and not well dealt with by the Constitution. So there were a group of pretty well-defined issues that most people thought warranted holding a Constitutional Convention, and, indeed, one was held.

DePue: So why did you think you, who'd been practicing law two or three years –twenty-seven if I got my math right –had the chance to be selected for the Constitutional Convention?

Shakman: Well, it was a judgment about whether one could muster the forces to win a contested election in the State Senatorial District where I lived, which was comprised of Hyde Park and South Shore, primarily. That was also an area that had very good independent voting traditions, and it had elected independent Alderman for many years, the most notable being Paul Douglas who went on the United States Senate, and then [Chicago Alderman Leon] Despres who was another independent, a well-known independent Alderman. It had a network, particularly in Hyde Park and Kenwood, of strong, independent volunteer precinct workers. So there was a structure that existed that permitted one to make a serious challenge to the regular organization. I thought it was doable, and I thought I had the background from the Constitutional Revision Committee of the Chicago Bar

Association to be able to. I knew something about the subject and I was interested in it. I'd worked for a State Supreme Court Justice; we frequently dealt with State Constitutional law issues on that court and other State law issues, so perhaps it was partly hubris at age twenty-seven, but compared to most twenty-seven-year-olds and probably a lot of people with more experience I actually knew something about the Illinois Constitution: how it had been interpreted, what the problems were. And I was active in a political organization, the Independent Voters of Illinois, that had a good ability to put workers in the precinct on a volunteer basis so that there was some reality with the possibility of getting elected. So those two factors, I think, motivated me.

DePue: And from what you described, you're coming from a district where the machine wasn't quite as powerful as it was in other neighborhoods of Chicago?

Shakman: It could not reliably dominate. It had to fight to maintain its position.

DePue: And the delegate to the Constitutional Convention was the same, the district was the same, as for the State Senate?

Shakman: It was.

DePue: Okay. I suspect, though, that the Daley machine and the process of the slate makers, that they met and they decided to put an alternative candidate.

Shakman: They did. Two were to be elected from every district, and the regular Democratic organization did support two candidates. There were two elections: an initial election in which anybody who had whatever the minimum signature requirements were could get on the ballot, and a run-off at which two of the remaining four were elected. So in the first election there were thirteen or fourteen or fifteen candidates; I survived that election with no difficulty and was one of the four, and the four were Al Raby a well known civil rights activist, Attie Belle McGee, who was so far as I know not a political activist but married to the postmaster of Chicago—

DePue: What was her last name?

Shakman: McGee.

DePue: McGee.

Shakman: And Odas Nicholson, who was a lawyer and had some connection—I can no longer remember precisely what it was—with the Democratic organization. The regular organization, the Democrats supported McGee and Nicholson, and the independents supported me and Al Raby. Raby and Nicholson were elected, I was the third highest vote-getter, and McGee was the other loser.

DePue: So one of the candidates that the machine had put up did lose in this.

Shakman: That's right. One independent won, Raby, and one machine candidate won, Nicholson.

DePue: Was this an expensive race for you personally?

Shakman: I raised pretty good money, pretty good support from public sources, but at the end of the day my recollection is I was about twenty thousand dollars in debt from the campaign. The single largest debt was to the printer, who was willing to let me pay the printing bill over a period of years, and I did. I think I probably spent the next four or five years paying my printing bill, and I remember that the printer told me how unusual it was for political candidates to actually pay their debts, (laughter) so he was impressed by the fact—as long as I would send him fifty or one hundred dollars a month he was prepared to keep me on the tab as long as it took to pay it off. I felt I should pay it, and I did.

DePue: Were you at the same time paying off some school debts, as well?

Shakman: I did. I'd borrowed money for college, and I had a student loan from college, and that, too, was made easy to pay. I recall paying twenty dollars a month until at least ten years after I was out of college.

DePue: Well, I'm thinking twenty thousand dollars in 1969, 1970—that's real money!

Shakman: Yeah, it was, it was. Well, I know when I started to work for Judge Schaefer in 1967 my salary was, I believe, eighty-four hundred dollars a year, so yeah, it was real money.

DePue: But it also suggests that this was a serious campaign. You know, maybe those of us looking back today wouldn't think that people would be so serious or work as hard on sitting on the Constitutional Convention, but from what you're describing, and what I know about it anyway, this was a very important position to get.

Shakman: It had a lot of public interest, and it was an opportunity to do something. In terms of the election in the district in which I ran, about twenty thousand votes were cast for the winners, and I was, I think, six hundred behind the second position. So I wasn't far; I was very close to being successful.

DePue: What was your strategy going into the campaign then, once you got to where there were just four of you in the runoff?

Shakman: Well, the reality of running for office against the regular Democratic organization of Cook County was pretty straightforward. They had a lot of precinct workers and a lot of money, and if one wanted to compete one had to have volunteers who would go out and do the same things in the precinct; and one had to hold fundraising events and try and generate enough money to buy your printing and buttons and advertisements on the bus or on the Metro, which was then the Illinois Central Railroad; and that's where the money went. So it was a process, it was a hard process: you had to organize; work at it every day, every night; hold

neighborhood meetings; coffees, as many as you could hold –and I must have held fifty or sixty of them, two or three a night trying to meet people in the neighborhood and urge them to support my campaign; and generate a staff of workers who would work on election day. I knew about this stuff because I had done this kind of work, starting probably in the '62 or '63 period, 1962 or '63 for various candidates, the best known of whom was Abner Mikva, who ran unsuccessfully for Congress several times. He was a state representative. He'd been elected through an independent organizing effort, so there was a tradition of independent political organizing, there were people around who knew how to do it and liked to do it, and that's what I identified with and that's how I got reasonably close to getting elected.

DePue: What was your platform, then, the themes that you were expressing when you had these events?

Shakman: Well, the issues that were of most interest to me were, and I think to the voters, were public education and how you funded public education, because it was true then and it's unfortunately still true that public education in Illinois is funded by the local school districts. The quality of the education that can be generated as a result depends on what kind of tax base each district has. I knew from my own experience that when I was living on the North Shore, my parents were living on the North Shore and I was a student at New Trier [High School], the kind of resources that you had there were in a different world from the kind of resources that were available in the city to students. And the reason that students on the North Shore got excellent educations and could readily go on to college was because they were supported at an economic level far above what was happening in the city, and particularly downstate in the more impoverished areas. I would say the single major issue for me in campaigning and thinking about the Constitutional Convention was reforming the state revenue system to put public education on a statewide funding basis as opposed to funding it through local government taxation. That was the most important issue. An equally important issue for me was political reform, that is patronage reform, which we ended up getting to through courts. But I would've wanted to see some kind of effort made to remove the monopoly power that the Democratic party had in Cook County and the Republican party had in, for example, DuPage County.

DePue: Were the positions that McGee and Nicholson, taking as the machine's candidates, if you will, were they dramatically different from what you were proposing?

Shakman: I wish I could say I remember with precision, (laughter) but I don't remember. I don't recall that the others expressed the same enthusiasm that I did for restructuring the revenue system so as to shift away from local property taxation as the basis for funding the schools. I don't recall that I got any support from them on that issue. But, as I say, it's sufficiently long ago that I don't really have a clear recollection of candidate positions. The issue that I cared about the most was the one I've already mentioned.

DePue: Okay. In the midst of this campaign, as I understand things, you and Paul Lurie...

Shakman: Lurie, yes.

DePue: ...Lurie, yes, filed a brief, though. Is that correct?

Shakman: Well, we filed a lawsuit, and then briefs got filed as part of the lawsuit. The way that happened is that, from law school I had a number of friends who were young lawyers, as I was, who were interested and willing to help in my campaign and did all the regular political work that we talked about, ringing doorbells and chairing coffees and the like. But also two of them were particularly important: Richard Johnson, C. Richard Johnson, and Roger Fross, F-r-o-s-s. They were a year ahead of me in law school, good friends of mine from law school, and they had the idea—principally Dick Johnson had the idea, but Roger and others embraced it and ran with it—that there was something Constitutionally wrong with the patronage system, that the system amounted to giving one faction public support for election campaigning and for creating a treasury for candidates to use while denying it all other factions and candidates. It would have been the equivalent of the legislature passing a statute that said, "We're going to give to the candidates supported only by the Democratic organization of Cook County, in Cook County, and only to the candidates supported by the Republican organization in DuPage County, all the labor they can coerce from public employees who they hire in those counties, and whatever political contributions they can cause those employees to make in order to get their jobs or keep their jobs." Had the state legislature passed a law that said those things, there seemed little doubt that that law would be unconstitutional. It would represent the use of government resources to benefit a narrow group of political operatives and candidates and to prejudice everybody else. Well, that's exactly what the patronage system did; it was no different than if you'd passed a law which said what I just said. Dick Johnson was perceptive at recognizing that and developing a legal theory that said that's unconstitutional, it prejudices candidates who aren't supported by the organization, and it prejudices their voters, not just the candidates but their voters, because the voters don't have an equal voice in getting their voice heard in the assemblies of government because they can't get their candidates elected. There had been a series of lawsuits that recognized the rights of independent candidates and voters in other contexts, Federal Court lawsuits—some went to the US Supreme Court—that in a way laid a framework, created a framework for Dick Johnson's theory. The best known was *Rhodes v. Ohio*, [actually *Williams vs. Rhodes [393 U.S. 22 (1968)]* if I remember the case correctly, which was a ballot access case. It dealt with what states could do and could not do in putting people on the ballot or setting the standards by which candidates could get on the ballot. Many states discouraged independent candidates from running for public office by setting disproportionate signature requirements. If you ran as a Democrat for Governor of Ohio, for example, you might need ten thousand signatures, but if you wanted to be on the ballot as an independent you needed twenty-five thousand signatures. I'm making up the numbers, but I think it's something, that what I've just described is not far off, and

I think that's what gave rise to, if I'm remembering the case by the right name, *Rhodes v. Ohio*, [*Williams vs Rhodes*] where the Supreme Court said states cannot create different standards for independent candidates and regular party candidates. They can't make it harder for the independents to get into the electoral process than for the regular organizations to do so. Dick Johnson applied that theory by saying, "Well, if that's true of ballot access, it ought to be equally true of a system that uses public employment to make it hard for the outs to get in and easy for the ins to stay in."

DePue: But I have to believe at this time—this is 1969—Daley's been in power for what, fifteen years or so by that time? Twelve years?

Shakman: Well, he'd been... He'd had a series of jobs, government positions, elected and party positions, before he became Mayor, so it'd been longer than that that he'd been a major player.

DePue: Would it be correct to say, that of all the cities in the United States, that the Daley machine seemed to be most efficient in terms of turning out vote, patronage system, getting their people elected?

Shakman: I think that would be fair to say.

DePue: So it sounds to me like you and Johnson and Fross and probably others are the young Turks of Chicago politics at the time.

Shakman: Well, there were a bunch of others. This was a time where the social and political unrest that generated radical responses, like the Weathermen, who were violent criminal individuals, bombing, creating bombs, and actually blowing themselves up more than anybody else, engaging in radical political activity. We had a counterpart to that, which was me and others who were prepared to work inside the established political structure, and that's where we wanted to be, but were reform-minded. There were a lot of people like that. Bill Singer got elected to the Chicago City Council about this time, and that was a remarkable reform effort. I worked as a Precinct Captain for him up on the North side, and I was happy to do it and so were lots of other people. This was the first time anybody, other than in Hyde Park where Leon Despres was able to get elected, had taken on the machine head-on, had gotten a mainline, North side, regular Democratic Alderman defeated and elected a young Turk in the person of Bill Singer. So that preceded the Con Con election, and I think a lot of people looked at that and said, Hey, if he can do it so can we!

DePue: My mind's going in a lot of different directions now. (laughter) I want to jump back just a little bit. Nineteen-sixty-eight. Democratic convention right here in your doorstep practically. What were you doing during the Democratic convention?

Shakman: Well, that's a good thing to ask about because I saw the police riot on TV, as did one of my partners here in the same law firm, Ronald Miller. He called me up

about ten o'clock at night and said, "You know, the Police are just beating these kids up. We got to do something about it." We agreed, and we went down to Eleventh and State where the bail court was, the Bond Court, and we just started offering our services in the middle of the night to these—it looked like a war zone, it absolutely looked like a war zone—kids coming in bleeding profusely, big-time head wounds and broken limbs, and I'm sure hospital emergency ward would've seen a similar experience. And we got involved in first trying to represent people who needed representation in bond hearings that night, which went way into the wee hours, and then we kept some of the cases that resulted. The first case I ever tried was a case that grew out of the Convention disorders. It was a person who worked for Eugene McCarthy, and he had been an organizer and supervisor of young people working on the McCarthy campaign. He'd been in the Army, he'd been an officer, his discipline in the Army was Military Intelligence, so he was anything but a bomb thrower, but he got swept up by the police along with everybody else because he was out on Michigan Avenue trying to get the McCarthy kids who worked for him off the street and out of harm's way, and instead they all got arrested. So I went to trial for him out at Twenty-Sixth and California on charges of resisting arrest and disorderly conduct. He was convicted on the disorderly conduct on the theory that he disobeyed an order to disperse, and he was acquitted of resisting arrest. Our defense to the order to disperse was that it was impossible to obey the order to disperse (laughter) because the police were lining both sides of the street and beating people up who tried to move through their lines. So he ended up being fined twenty-five dollars. I had my first trial experience out of that, and oddly enough, because it was one of the earliest cases tried in the Convention disorder story, it earned itself a full-page article in either *Look* or *Life* magazine. So my first case (laughter) that I ever tried, ended up getting a full page in a national publication!

DePue: There aren't too many young lawyers who can say that!

Shakman: That was quite an odd thing to have happen. I'd done nothing to generate it; I just happened to be first in line when it came time to try some of these Convention cases, and I had a pretty appealing defendant. This guy, as I say, was an Army officer; he was anything but a bomb thrower and a radical.

DePue: Well, the amazing thing to me is that August of 1968 Chicago was truly at the center of the world's attention.

Shakman: Oh, yeah.

DePue: Was this a galvanizing experience for you, then? You and the others that you're going to be linking up with in just about a year after this?

Shakman: Well, I think the same people who were motivated by what they saw at the Democratic Convention—and there were a lot of them; it wasn't just me, I was just one of many—fell into step in a kind of common direction. Right after the Convention, Adlai Stevenson, who was later a United States Senator, and Mikva

who was then a Congressman by 1968, both of them stepped forward at some considerable political risk, because they were supported by the Democratic machine of Richard J. Daley. They said, This is unacceptable and this kind of behavior by the police is unacceptable. And there was a real fissure, a real fragmentation among the liberal members of the Democratic organization, like Mikva and Stevenson who nonetheless tried to work with Daley, the father, and Daley, because he didn't take kindly to dissent. So people like me were a whole notch down from that. We didn't hobnob with Richard J. Daley or people of that ilk, and we did see that there was not only an opportunity for reform but that it was urgently needed, because in my view Daley was really out of touch with what was happening in the streets of the city and national politics generally.

DePue: Well, I noticed that when you used – looking for a term to describe what you were witnessing –you called it a police riot, which, of course, is—

Shakman: That's exactly what it was.

DePue: —but that was a phrase that Dan Walker basically penned when he wrote the Walker report, the report that dealt with the riot in the first place.

Shakman: Well, he was right, that's what it was. If you looked at it you could see this wasn't law enforcement, this was just unrestrained aggression by police directed at demonstrators who were counterculture people and had long hair and stimulated, I guess, the juices to fly when confronted by the police.

DePue: But I also recall that, in terms of the general public, that didn't necessarily damage Daley's reputation that much, in the short-term at least.

Shakman: I think that's right.

DePue: So it still is a rather audacious thing you were undertaking a year later when you filed the lawsuit.

Shakman: Well, it didn't seem audacious to me. Going to court seemed to me like, in a way, that's the most conservative approach. In the rhetoric and temper of the late 1960s that was a very conservative response. Lots of other people were talking about – here and in Europe and elsewhere –taking over the streets and engaging in some version of revolution, and public disorder. So going to court compared to that, filing, developing legal theories and filing briefs was the conservative response to a time of great unhappiness and great strife.

DePue: What was your specific intent for the lawsuit at the time? I guess I'm asking that in the context of, I have to believe that in 1969 you didn't realize that this particular decision of yours was going to have implications for decades afterwards in your personal life, as well.

Shakman: Well, you couldn't make any predictions of that sort. The lawsuit was filed during the electoral campaign, during the campaign for delegates to the Constitutional

Convention, and it was filed in the hope of getting an injunction that would say – certainly unrealistic, I suppose, to hope that you would actually get this –but an injunction that would say, "Stop coercing people to do political work against me. I'm running and it's affecting my chances of getting elected, and I want an injunction against the ward committeeman of the Fifth Ward, Marshall Korshak, and the ward committeeman of the Fourth Ward, ward committeeman of the Seventh Ward, who have patronage workers out there keeping me from getting a fair shot at an election. I want you to tell them to stop threatening people who work for the city to go work against Shakman in favor of McGee and Nicholson." Well, obviously, we didn't get any such order; instead, the case simply got dismissed by the judge, and it took months and months and years to move beyond that. The initial hope was –well, there was multiple hope: A, it wasn't impossible that somehow we might persuade a judge that we were right and he would grant some relief of the sort I just described. Didn't happen, but it didn't mean it couldn't happen. The same election, another candidate for delegate to the Constitutional Convention was another Chicago lawyer, another person like me who came from the independent liberal lakefront IVI, Independent Voters of Illinois oriented group named Bernard Weisberg. And Weisberg filed a lawsuit which was more limited than mine and less grandiose, if you will, but he was successful right then and there. His lawsuit said that the practice that had been followed for decades by the Secretary of State that permitted the Secretary of State, then Paul Powell, to select among the candidates and choose which one would be first on the ballot and which one would be third, fourth, or fifth, was illegal. Same argument, that you can't—being first on the ballot has a distinct advantage in terms of the number of votes you get. Weisberg's argument was you can't permit a political figure to pick the guys he wants to help or the women he wants to help, the candidates he wants to help, and prejudice the ones he doesn't want to help. Exactly the same theory as my lawsuit, and he won it right away. I don't remember if it occurred in an hour or a week, but it occurred before the election took place. So he forced Paul Powell to abandon that process and go to a lottery for assigning ballot positions in the very election in which I was a candidate. So there were others out there who were also attempting to use the legal system to challenge some of the practices that were, in our view—correctly, as it turns out—illegal.

DePue: Okay. Did you have a mentor who was especially important to you at this time? And I'm thinking perhaps that would be Judge Schaefer or some others in the law firm?

Shakman: Well, Schaefer was not a mentor in that sense. He was a friend of Richard J. Daley. He'd been a collaborator of Daley's when Daley was down in Springfield, and he would go over when I clerked for him and see Daley. He was anything but anti-Daley; he was a supporter, so no, he would not have been. Abner Mikva would not have really been a mentor either because at this point he had made that very delicate move from being an outside independent trying to get the Democratic nomination for Congress in our district, to someone who showed such political muscle that the machine said, We're not going to fight with you anymore,

and replaced Barratt O'Hara, the longtime Congressman, with Mikva. So he wasn't either in a position where he was prepared to embrace me and go against the machine. No, I wouldn't say I had a mentor, but I had colleagues who were other people like me, mostly lawyers who were running for delegate to the Constitutional Convention, several of whom were successful. Peter Tomei was one; he'd been the Chairman of the Chicago Bar Association Constitutional Revision Committee, the same committee I was on. Frank Cicero was another, someone I'd known in law school and who was by then a practicing lawyer, and they each got elected. Frank from Evanston and Peter from the North Side of Chicago. So there was a real movement by independents to try and take on the machine in the Constitutional Convention, and some people were successful at it.

DePue: Okay. Perhaps this question is a bit unfair: you just told me what your immediate short-term goals were for this lawsuit. At that time, which was more important to you: winning the lawsuit, or winning the election, or did you see them one in the same?

Shakman: Well, they went in the same direction, but if I had to, if someone had said to me, "Which would you prefer," I would've said, "I'm in this election to get elected and go to Springfield and work in the Constitutional Convention. That's what I want to do. That's why I'm here. I'm not interested in a symbolic race or an educational race, I'm interested in a race that I win so that I get elected so that I can go do the things I like to do."

DePue: In retrospect, do you think filing the lawsuit hurt you or helped you in terms of that election?

Shakman: Oh, I think it helped. I don't think it made much difference in the election. I think whether I'd filed it or not the results would've been exactly the same, absent some kind of real judicial intervention, which did not happen. So I think the lawsuit was an adjunct to the election and my primary focus was the election.

DePue: Okay. And, of course, we've already mentioned, and I think it's obvious in our discussion, you were not successful; you lost that race. So why not drop the lawsuit after that?

Shakman: Well, except losing the election, nothing had changed in terms of attitude. I was still interested in political reform, and I still thought that the machine was a major impediment to both political and social reform in Chicago. I thought we were on to a legal theory that was sound and solid. I thought it had real upside if you prevailed, and I thought we were going to prevail. Maybe I adopted our rhetoric in the lawsuit, and 'our' means the fact that it wasn't just me but there was a bunch of lawyers who were volunteering their time to work on this. I thought we were right and at the time would show that we were right. And it did, and I thought it had potential to really do some good, and it did.

DePue: So you might've just answered my next question, then. Normally, pursuing a lawsuit through all the various steps of the process is very expensive. How did you deal with that?

Shakman: Well, we had lots of volunteers. I had my own time to contribute to it, and I was fortunate to have a partner in the law firm in which I was then an associate, an employee, a partner named Robert Plotkin who was enormously energetic and very smart and tenacious; he was a bulldog of a lawyer, and when he got onto something he just didn't let go. He was very much of the same social/political orientation I was, or I was that he was. We shared the same notion that there was a lot that was wrong with society, that the law was a tool that could be used to do something about it, and he, unlike me, had the litigation experience and tools. He was easily ten years older than I was, and he'd been litigating cases, and he knew how to do it. He had the background and he was good at it. So he got interested in this case and in Dick Johnson's theory, because Dick, like I, was wet behind the ears as a lawyer, and he wasn't. And he knew how to draft a pleading that played out all the facts and how to push it aggressively, and that's exactly what he did. He was absolutely vital in the first four or five years of this lawsuit.

DePue: Okay. And...

Shakman: And he continued to contribute thereafter, although his interest and focus shifted elsewhere after a period of time.

DePue: Did the intent of the lawsuit then change after you got past the election itself?

Shakman: No, no, it was always the same lawsuit. It was, that patronage is unlawful and that it's unconstitutional, and that it prejudices everybody other than the incumbents, and that somewhere, somehow courts should enjoin patronage in all of its aspects.

DePue: But the focus of it initially was that it corrupted the election process—

Shakman: Yeah.

DePue: —and that remained the focus thereafter, as well.

Shakman: Correct. The focus initially was it prevented me from getting a fair shot at getting elected, and my supporters like Paul Lurie from having a fair shot at getting their voice heard in the electoral process in the Constitutional Convention, and that never changed. It was a class action, so it was brought on behalf of all independent candidates and all independent voters, and it was brought not just in the State Senatorial District but citywide, countywide, and it was later broadened to include the state.

DePue: Was it initially filed as a class action suit?

Shakman: It was.

DePue: And that was accepted right from the beginning, as well?

Shakman: Well, no, it was dismissed right away, so it took an appeal to the US Court of Appeals from the Seventh Circuit, and a remand after reversal fifteen months later. It wasn't until 1970 that we got a decision from the Court of Appeals that reversed, and then there was a lot that... That was the beginning of the process. It was going on and on and on.

DePue: What were the Constitutional arguments at that time?

Shakman: Well, they were pretty much as I've been outlining them: that it was a violation of the Equal Protection Clause and of the Civil Rights Act—Equal Protection Clause is the 14th Amendment, the Civil Rights Act passed after the Civil War—to permit a use of government resources, that is government employees and their funds, to support one faction in an election but then to work against all the other factions and candidates. Those were the theories. Theories were never complicated, and actually were pretty easily understood and had a pretty clear appeal.

DePue: I'm dropping back here just a little bit. The initial lawsuit was dismissed. Who was the judge and what was his rationale?

Shakman: He was Judge Marovitz, Abraham Lincoln Marovitz, and his rationale was that the lawsuit presented a political question, that is a question for the legislative branch of government, not one that the courts should become involved in. That was his way of getting rid of it, but the Court of Appeals disagreed. They said if you can prove that there's a massive army of patronage workers being paid at public expense to work for certain candidates and against everybody else, you've proven a violation of the Equal Protection Clause and Civil Rights Act so you're entitled to go back and try and prove that.

DePue: Was Judge Marovitz a product of the machine in the first place?

Shakman: Oh, very much so. He was very close to Richard J. Daley; he'd been his roommate in Springfield when they were both legislators, and he made no secret of his close affection for... I think he swore him in as Mayor. He was, by the way, a very nice man, but totally part of the political machine.

DePue: Do you think he was sincere, though, when he dismissed the case, or...?

Shakman: Well, in the sense that I think he had no intention of being the author of taking apart the Democratic organization that had brought him to his judgeship and had nurtured him for many years before that. I think he sincerely believed that letting me do what I wanted to do was not good! (laughter)

DePue: (laughter) Not good for him and not good for the city?

Shakman: I'm sure that's what he thought.

DePue: And it fared differently once it got up to the Court of Appeals.

Shakman: It did, two to one. It wasn't unanimous, but...

DePue: The Seventh Circuit Court of Appeals includes what areas?

Shakman: It's the intermediate Federal Appeals Court between the United States District Courts, which was the federal trial courts, and the United States Supreme Court, so that includes Indiana, Wisconsin, Illinois, maybe Kentucky.

DePue: So it had moved up pretty quickly in getting to this level.

Shakman: Well, it got tossed out pretty quickly! (laughter) So there's only one way to go from there if you're going to do anything, which is take your appeal. We took the appeal and briefed it and the court heard the argument, and then it took them fifteen months to generate an opinion. It was written by a judge named Fairchild from Wisconsin who wasn't part of the regular Democratic organization in any way and who believed we were right. The supporting vote came from a judge named Cummings, Walter Cummings, who was a Chicago judge, longtime lawyer and judge in Chicago, a fair man. I think he was appointed as a Democrat but I don't think he had any particular close affiliation with the Democratic organization of Cook County. And the third member of the panel who dissented, who did feel that this was going into an area where courts shouldn't go, not because he was loyal to the mayor—I don't think he had any relationship with the mayor, he was just not prepared to see courts get involved in this kind of question—was Luther Sweigert, who was a good judge, I believe from Indiana. All three were, you know, high-quality people.

DePue: And where does the Seventh Circuit sit?

Shakman: They principally sit in Chicago. I think once in a while they sit somewhere else, but...

DePue: Okay, okay. And so that's—

Shakman: I'm not even sure that's right. I can't remember that I've ever heard of them sitting anywhere but Chicago.

DePue: What were the specifics of their decision then? I mean, did they...?

Shakman: Well, the majority said, since this is a case that hadn't been tried, it had been dismissed on the face of the complaint by Judge Marovitz, it presented only a legal issue. If you assume the facts alleged in the complaint are true, the legal issue is: are these plaintiffs entitled to some kind of relief from the courts? And the answer was yes, if you can prove there's a patronage system and it does all the things you say it does, including affect the outcome of elections, then you're entitled to get some kind of relief, some kind of court order that says, "Don't do that anymore." So basically that's what the Court of Appeals decided, two to one,

that we had alleged facts that, if we proved them, would entitle us to have a court enter an order that said, Stop that stuff.

DePue: Okay. So there's no monetary—

Shakman: No, it wasn't a money damage lawsuit.

DePue: Okay, never was to begin with?

Shakman: Never was, and I think we had a taxpayer count in it that got dropped or dismissed along the way and never resuscitated which said that taxpayers were being injured by the patronage system. It happened to be true; they were injured—the patronage system is notoriously inefficient—but it didn't afford a basis for judicial relief because generally courts are unwilling to permit standing to sue where every member of the public is equally disadvantaged. So that was the only remotely economic component of it, and it wasn't a money damage claim, it was a claim for relief for taxpayers.

DePue: Okay. But it's one thing to say stop doing this and it's another thing to figure out how are you going to enforce that. So what was...?

Shakman: That's something that came much later.

DePue: Okay. How did we get to that?

Shakman: Well, a lot happened between the Court of Appeals saying in October, I think it was, of 1970 that we're reversing and remanding this to the trial court for further proceedings, consistent with our view of the law, which is basically what they do. They say, Here's what we think the law is, and here's what we think the rights of the plaintiffs are. Now, trial court, you go take it from here and figure out what you're going to do, which obviously included having to conduct a trial, to find out who could prove all these claims we made about how the patronage system worked and what its effect was. Now, as it happened, that was the easiest part of the lawsuit because the patronage system in those days was open and notorious. There was no secret about how it was working; it was widely known. So the case was remanded to the trial court, still before Judge Marovitz, and we started going about the process of assembling evidence. The first thing we did was serve a subpoena on Mayor Daley's secretary saying, "Let's see your records about who's getting jobs and what role the Mayor has in allocating jobs," because he approved each one. He had a guy named Tom Donovan, who is still in town, a very nice guy, who was his patronage chief. Donovan had an office next to or near the Mayor, and he reviewed with the Mayor who would get jobs, and he allocated public jobs among the committeemen based on letters of sponsorship. It was all open and above board at that time, and so we said, Let's have the documents. Let's see what they look like. We want to see the sponsorship letters, we want to see the records. And that promptly brought a call from a lawyer named Peter Fitzpatrick, a very pleasant, amiable person, a good man to deal with. He said, "I'm representing the Mayor and the Democratic Organization of Cook County, and

maybe we need to have a discussion about settling some aspects of this case," and that led to—must have been two years of negotiations, over what could or might be settled. I'll give you the truncated version of it because, without going and looking at records, that's all I remember at this point. The truncated version of it is this: Richard J. Daley and his lawyers, who included Michael Daley who appeared in the negotiations, recognized that they could not contend there was no patronage system, and they could not contend that it didn't require people to do political work. They couldn't go to trial on that case and expect to win it, even before Judge Marovitz, or they weren't prepared to. So they said, We're not prepared to abandon hiring on a political basis; we don't think you're going to get that, we think you're not entitled to that, but we will agree not to engage in political firings—which was the muscle that drove the machine, if you told someone he'd lose his job if he didn't deliver his Precinct—we'll agree not to engage in political firings, or to otherwise prejudice the individual employees for political reasons, but we don't want to be engaged in what was quickly referred to as unilateral disarmament. There are Republicans out there, they said, who had patronage operations of their own, so if you want us to agree to this you go join some Republicans as defendants in this lawsuit and you get them to agree to the same thing. That's exactly what we did, and we had to then persuade a number of Republican office holders. That meant joining the Secretary of State and joining the Governor as defendants and bringing them into the lawsuit, and that brought in a whole new bunch of lawyers who represented them—state lawyers, the Attorney General, We had to persuade them that it was in their interest—and it was, 'cause they didn't have a system anywhere near as good as Daley's for turning out the vote—that they ought to be prepared to be bound by the same kind of restrictions in the jurisdiction in which the US District Court sits, which is the northern district of Illinois. It's seventeen or eighteen counties that go out to the Mississippi River and down to the Illinois River and up to the state line towards Wisconsin.

DePue: Okay, I guess that was part of my confusion. So it didn't apply to everybody within the Seventh US Circuit, just this—

Shakman: Well, the law as a court interprets it is the law for everybody, but the case that was before the court was Shakman and Lurie against a bunch of Democrats in Cook County, so the only parties that could be bound in the sense of an order entered against them were the defendants, who were the Cook County Democrats, basically. And the Democrats said, We'll give you what you want on firing, but you've got to get a similar number of patronage jobs under the jurisdiction of the Republicans under this same umbrella, because we don't want to be engaged in having given up the benefits of patronage, and they don't have to.

DePue: But just within the city of Chicago at that time, if I recall the figures I'd been reading, there were something like forty thousand plus jobs—

Shakman: That's right.

DePue: —and as far as the Daley machine was looking at them at that time, that's forty thousand patronage positions.

Shakman: That's right.

DePue: And then you throw in Cook County and you throw in lots of other governmental districts and entities, and...

Shakman: It's a little more nuanced than that because the fireman and the policemen weren't working the precincts for the most part, so you have to subtract some. But yeah, it was a lot of people, and we ended up getting Republicans, office holders, the Governor and the Secretary of State, who controlled—I can't tell you the number of jobs anymore 'cause I just don't remember—but it was all the jobs under the jurisdiction of Governor and all the jobs under the jurisdiction of Secretary of State from the Wisconsin line down to wherever the Northern District ends, half the state or a third of the state, a lot of people.

DePue: What was the mood when you first got the decision from the Seventh Circuit?

Shakman: Seventh Circuit Court of Appeals? It was very... It was good news! It wasn't entirely a surprise because we thought we were going to win this thing. This is legally sound. Weisberg won his lawsuit; there were the Supreme Court precedents out there. It's pretty hard to figure out how you could write an opinion, if you wanted to, that didn't go our way.

DePue: But no one—

Shakman: But we were real happy, there's no question about it, and it was big news. I mean, it was the front page of the newspapers.

DePue: Was that the pinnacle of the excitement that you had, or...? Because there are so many steps that are going to be coming after this.

Shakman: Yeah, it's hard to remember emotions so many years later. What I do remember is being very happy with that decision but also recognizing that we were just cranking up the litigation process. We had a long way to go.

DePue: Was it part of the way your own group, you and Plotkin and some of the others who were plaintiffs in the lawsuit, looking at, Well, let's divide this up and take firing first and then hiring, or is that something that evolved?

Shakman: Well, I think, yeah, both were in from the beginning, both hiring and firing, but it was clear that the Democrats weren't going to give up on hiring without a fight, and it was equally clear that they knew they couldn't carry the day on firing, because that's pretty egregious when you think about it.

DePue: What I'd like to have you do then, and maybe—would you like to take a quick break here before we...?

Shakman: Well, no, I'm okay. We can go a little longer.

DePue: Okay. What I'd like to have you do is explain the difference in how the firing part of this brief, how firing practices worked for the benefit of the patronage system versus hiring practices.

Shakman: Okay, they worked together, and you're right to ask that question because we really have not talked at all about how the patronage system worked back in the late sixties and early seventies. That's the bedrock on which this is all built, and it's worth describing so it's clear. There were, I think, thirty-six hundred precincts in Cook County; maybe twenty-four hundred of them were in the city and the rest were the county, and I could be off by a hundred or so one way or the other but I'm pretty close. In order to win elections the most important single ingredient was to have workers who would go out in each one of those precincts and work, in the weeks and months in advance of election day, by canvassing the voters, taking literature around, telling the voters these are people who are good, you should support 'em, and then on election day being in the precincts, ringing the doorbells, driving the people to the polls if they needed a ride, and otherwise pestering them and reminding them to vote until the voters—who'd already said I'm with you, I'm going to support whoever you're telling me is a good candidate—actually came out and voted. That's a patronage-based electoral system, and it's more effective than any other system that exists for getting out the vote for every office that is not really high profile. By that, I mean people will come out and vote without much prodding for President of the United States, Governor, and maybe Senator, but once you leave that elevated-office group and start talking about Aldermen, committeemen, state representatives, state senators, trustees of the Metropolitan Water Reclamation District, members of the County Board, Clerks of Court, Recorder of Deeds, State's Attorney, and many, many other state and local offices, Assessor, there's little or no knowledge of the candidates, little or no public profile, and virtually no interest on the part of voters in those races. In those races a patronage force is absolutely essential to electing people. So that's what it looked like in the precinct on election day and in the period preceding it, and that's why it was important. Now, how did the patronage system put people in who would do this stuff, because most people who work for government don't particularly want to donate their nights and weekends to walking the precincts in the kind of winters we get in Chicago—which is when all this stuff takes place, from November through March—to get out the vote. So why do they do it? They do it because that's how they get jobs and that's how they keep jobs; and that's how they get, over-time, which can be very valuable; that's how they get good assignments instead of bad assignments; that's how they get excused for being late or tardy or inefficient or criminal—worse than inefficient. All of that is protected and forgiven if you're generating the vote on election day and if you're in a patronage system. In order to get a job with the city or the county, one had to get a letter of sponsorship from the Democratic ward or township committeeman, and the letter said, "I introduce John Jones to you. He's a member of my organization. Please get him a job." And that would go to the Mayor's patronage office, around the time of my lawsuit, by Tom Donovan, and Donovan would look at it and say,

"A-ha, this is from the Committeeman of the 18th Ward. He's doing a good job on election day turning out the vote. If he wants this individual to get a job, I'll put this guy in with the first opening I've got in streets and sanitation or the Sheriff's Office or the County Highway Department –or wherever it may be that there's an opening –he'll get the job and I'll send a note back to the Committeemen of the 18th Ward saying, 'I just am employing Mr. Smith and thank you for sending him to me.'" That means that now the Committeemen could call up Smith and say, Here's what I want you to do on election day, and here's the tickets I want you to sell and the money I want you to raise, and as long as you do that I'll protect you with the city or the county on your job. If you have any problems at the job, I'll take care of them; if you get into trouble with your supervisor, I'll take care of that; but you've got to turn out the vote on election day. You do that for me and everything else short of rape or murder will be forgiven.

DePue: Now, perhaps with the exception of that last very short quote, all of this process that you're describing is entirely transparent? It's open? Nobody's embarrassed about the way the system works?

Shakman: That's right.

DePue: It's just accepted fact.

Shakman: It's public. It's established fact that's how the system works. There is a civil service overlay to this. Many of the jobs were civil service jobs, and there was a civil service system in effect, but the civil service system had what were called temporary appointments, which lasted for six months and did not require the testing and did not generate the protection that went with a civil service system. So there were tens of thousands of people who had these civil service jobs as six month temporaries, renewed every six months for thirty years. So they never became real civil service employees, They never had any protections because they were subject to renewal and could be fired within the six month period. So although they were nominally civil service, they were at the beck and call of the Ward Committeemen.

DePue: But were they otherwise able to access the retirement system and health care and some of the other things that would normally go with these positions?

Shakman: Yes. So that's how the system worked, and it generated, probably, five or six workers per precinct for each of those thirty-six hundred precincts. They were there every election. Year in, year out, they were there in advance of the election. They weren't necessarily highly literate and committed political theorists, but they were real good at ringing Mrs. Smith's doorbell or Mrs. Jones' doorbell and trying to do any favors they could for her. They usually had a means, for example, if the son got in trouble with a speeding ticket they knew who to call, because the judges were appointed through the political system as well; and the prosecutors and States' Attorney and the Corporation Counsel all came up through the same system. So they weren't going to get somebody off a murder charge but they

would sure be able to help them with a traffic ticket or a misdemeanor of some kind, and that, too, was part of how you developed a loyal support in the precinct so that when you went around on election day and asked for help, or for election day, you got it.

DePue: Again, I'm wanting to go in two different directions here. From your perspective, from those of you who were working on your case, why wouldn't the legislative path be the more logical path in fixing this problem?

Shakman: Because the legislators are all elected by the patronage system, so it's like reapportionment where you could never get a... Until the courts intervened in *Baker v. Carr* and said it's no longer a political question immune from judicial review, you could never get a legislature that was free of patronage control to reform itself.

DePue: Okay. And the second question, then, is why do you think the Daley administration was more willing to compromise on the firing versus the hiring piece?

Shakman: Well, I think they felt they had a better chance of prevailing on the hiring, because the hiring wasn't as directly connected to the outcome in a precinct as telling somebody, "Go out and work."

DePue: That they feared their case was weaker in terms of the firing side of it?

Shakman: Absolutely, and for good reason. If you say to somebody, "I'm going to hire you for a job," and that's all you say, once you've got the job you're a free man, the likelihood of being able to coerce that person while there's still some there, because you may want something else down the road, is much less than if you say to somebody, "You're not going to be working next Monday if you don't deliver your precinct on Tuesday."

DePue: And I guess that's the reason for my question, because the way you've described this, and very well, I think, the real strength of the patronage system, of the machine, is being able to get those workers out at any point in the elections.

Shakman: That's correct.

DePue: And that's what they're sacrificing now.

Shakman: Yeah, and they're giving up their political freedom in order to get job security and promotions and overtime and all the things that can be done for you if you are a cooperative member of the machine.

DePue: So how did it come to pass, then—you've already stated this, I think—that it was just the firing that was that concession that the Daley administration made?

Shakman: That's all they were willing to do, provided we lined up a sufficient number of Republicans—and we did—and that led in 1972 to a court order that did what's called *Shakman One*, and it says more or less: You can't fire people or otherwise punish them for doing or not doing political work or making or not making political financial contributions.

DePue: So what's the initial impact of *Shakman One*?

Shakman: Well, some, but it's got impact, and it's not without some teeth, but it wasn't the be-all and end-all of reform of the patronage system for a number of reasons. One reason is the hiring issue still remained. All these people who were in these jobs got them and knew they got them because the Ward Committeeman wrote that letter of sponsorship. They would eventually retire and somebody else would want a job, and he or she would be asked, "If I give you this job will you promise to do the work? Maybe I can't fire you if you don't, but..."

DePue: Or expectation that they would make contributions?

Shakman: Mm-hmm. So unless you could address that you hadn't solved the problem, and then there's a cultural problem. The patronage system had been around for decades, and the people who were running government—and this is still a problem, a big problem, and it's still true—came up through the patronage system, and they didn't know another way of life. The fact that there was a court order somewhere that said you shouldn't do this and that it got some publicity in the newspaper, that didn't mean that they necessarily obeyed it. We had a contempt proceeding—because that's how you enforce these orders—we had a contempt proceeding against a man named Cardilli, who was a Deputy Commissioner in Streets and Sanitation in 1976, because he was doing it the old fashioned way. He was calling in workers and telling them, "You're going to have to pass petitions for Richard J. Daley, who's going to be a candidate for Mayor next year, and if you don't you're out." At that point, Ralph Metcalf, the Congressman—and you know, the former Olympic star from the 1936 Olympics—had broken with Daley over the fact that police were beating up a lot of black people and brutalizing them. Metcalf, although he'd come up as a loyal machine person, felt that he really had to get some reform from Daley on the police issue in the black community or leave the organization and go his own way, which he did. His Precinct Captains were called in and said, "You're going to work for Daley in this election or you're going to lose your job." That led to an enforcement proceeding against Cardilli; he was found guilty of having violated the court order, and some economic sanction was imposed on him. The city took an appeal and the Court of Appeals affirmed that, and that was sort of the first major enforcement piece of the no firing rule. But it was clear there was still a patronage system out there and it was still working.

DePue: But for the firing consent decree itself—just that piece—what was the mechanism for...?

Shakman: Enforcement?

DePue: Yeah, enforcement.

Shakman: What we did is, we the plaintiffs did not want to be—what's the right word for it?—the patronage ombudsmen of the City of Chicago forever. We had day jobs and things we wanted to do and—

DePue: Law practice?

Shakman: Yeah, and just the need to earn a living, because this was before the Attorneys' Fees Statute had been passed. There was no prospect of getting paid for any of this legal work, which was vast, was strictly out of public service. Later, the Civil Rights Attorneys' Fees Act was passed and it applied to this lawsuit so that people could make application for fees. But that wasn't true at the time I'm talking about. So whether it was being self-protective about how much energy of our own we could afford to present for this lawsuit or whatever, we said, Let's structure this so that any registered voter can come in and complain if there is a violation of the decree. And that's what these decrees have always said: Any registered voter can file his own application with the court to enforce the court orders so that you don't have to come running to Shakman or Lurie to do it, and that's how it's been.

DePue: When you say any registered voter, are you really saying anybody who has a grievance because they were unfairly fired or removed or didn't get a promotion?

Shakman: Yes. Yes, those were the people who would normally do it, but they had to be registered voters to do it.

DePue: And I read someplace that, you know, the logic of that, of course, was that was pretty straightforward, that you could relatively easily prove that you've been grieved, if you will.

Shakman: That's right, and it's harder to prove you weren't hired when you don't know who was and you don't know what qualifications they had or whether you were the best qualified; so that's right.

DePue: So at the time of the '72 consent decree, and this isn't everybody within that district, it was...

Shakman: It's virtually all the Cook County Democrats. It's all the major offices held by the Democratic Organization of Cook County: it's the Ward Committeeman, the Township Committeeman, it's the Governor, the Secretary of State, Attorney General, and their jobs, and the rest of the Northern District of Illinois. It's a lot of people.

DePue: Again, at that time, though, your group certainly saw this continuing on until you addressed the hiring piece, as well?

Shakman: Absolutely, and discovery went on on the hiring. Requests to admit were served. Depositions were taken. A lot was done on a volunteer basis to keep pushing the case, which continued to be pending. It was no longer pending before Judge Marovitz, because at some point he had made a ruling that was clearly wrong and inconsistent with the consent decree from '72. I'm thinking this was '73 or '74. I'd have to look at the records to see exactly when. But the outcome was, Plotkin, who was not a shy fellow, filed a motion with Marovitz that he should recuse himself from the case, withdraw from the case. Plotkin attached his affidavit in which he described one of the many meetings with Marovitz in the settlement process, and Marovitz had described the fact that he and his friend Richard J. Daley, who was a defendant in this case, had gone together to a Bears game and had discussed the case at the Bears game over in Soldiers' Field. So judges aren't supposed to talk to litigants about cases in which litigants are participating, except in very limited circumstances where, you know, somebody calls for information or something of that sort that's not quite the same as a merits-based determination. And Marovitz was outraged, but the outcome was, he withdrew and the case was ultimately reassigned to Bernard Decker, who was a Republican from Waukegan, who—

DePue: What was his first name?

Shakman: Decker, Bernard Decker, a law-and-order Republican from Waukegan who had absolutely no sympathy for the Democratic machine or the patronage system. If Marovitz was a nightmare in terms of patronage because he was so closely connected to the Daley's, Decker was the opposite; he was a Republican who saw the system as a bad system and who had owed it nothing and hadn't earned anything from it and was prepared to extirpate it to the extent he could.

DePue: So we're now into the early seventies, mid-seventies timeframe?

Shakman: Right.

DePue: I should know exactly when Mayor Daley passed away, and then Jane Byrne came into power shortly after that. [Daley passed away on December 20th, 1976. Michael Bilandic was selected by the city council to serve as interim mayor. He won outright in 1977, but lost in the 1979 Democratic primary to Jane Byrne.]

Shakman: Right, and I don't remember the exact date, but when we take our break I'll look it up and give you an exact date.

DePue: Did Daley's death cause any acceleration of the case, if you will, or a different approach?

Shakman: It did. The biggest change was a combination of judicial and political. The judicial change was, eventually Judge Decker retired and the case was reassigned to Nicholas Bua, who was also a Republican by origin, although not a partisan in any sense, and someone who'd been in the Circuit Court of Cook County as a judge for a number of years and who'd seen the patronage system when bailiffs

and clerks and others would come to him and say, I'm being victimized in some way, Judge. I can't be here on election day (laughter) among other things, and I'm being required to make financial contributions, and so forth. So Bua knew how the system worked and he was no fan of the system either. He was a great settler of cases, so he viewed this as an opportunity to do what he could to resolve the case. What he did do was grant the motion for summary judgment that we had filed, which is a means of getting a resolution on the merits based on undisputed evidence on hiring. And in 1988 [1979] he said, "The plaintiffs have proven their hiring case; I'm ruling for them on hiring. You cannot do political hiring." That was the other shoe dropping, and that was a very big decision. And we then got into the question of now, how do we implement—and this is a problem we've been grappling with ever since—how do we implement that decision? So that was the legal ruling that was the next major step in the case that led to so-called *Shakman Two*. The political side of that was the election of Harold Washington, who, although brought up in the machine tradition, had broken with the machine and was prepared to do what he could to implement patronage reform.

DePue: That was not the case for Jane Byrne, though?

Shakman: It was not.

DePue: And she was very much a Daley person?

Shakman: Well, she'd come through the machine, and we never saw any sign that I can remember that she was opposed to patronage.

DePue: Now, you mentioned this decision, *Shakman Two*, came in '98. I—

Shakman: Seventy-nine.

DePue: Okay, '79. Okay, that makes more sense, because I know the *Shakman Two* consent decree didn't come until like 1983?

Shakman: That's correct. And maybe this is a good time to take a break.

(pause in recording)

DePue: Okay, well we are back after a short break. We were talking about that transitional period. Mayor Daley is out of the picture now. Jane Byrne had a short administration, and you had mentioned that Harold Washington had come in. [Michael Bilandic served as mayor from Daley's death in late 1976 to April 1979, Jane Byrne from April 1979 to April 1983, and Harold Washington served from 1983 until his death in November 25th, 1987.] But before we get into some more of the details here, I would think that this is pretty intense for all of the parties

involved, because what you're doing essentially is going after the lubricant of the Chicago Democratic machine, and this is the heart and soul of what operates. So were there any social or personal implications because of what you were pursuing?

Shakman: Yes, there were, and it's important to remember that this isn't just me, and often it's not me, often it's others. Dick Johnson and Roger Fross, two lawyers who by now had advanced in their careers –and we're talking about time when they're fifteen years or so out of law school –they're playing major roles in their firms; they're busy with other things, and they're also handling this lawsuit. Dick Johnson, in particular, then worked for a firm known as Isham, Lincoln, and Beale and did a lot of municipal bond and municipal finance work; that was his specialty. He and his firm effectively received threats from Donald J. O'Brien, who was a powerful judge, Chief Judge of the Chancery Division of the Circuit Court of Cook County, one of the most powerful judicial figures in Chicago, saying, "What in the world are you doing supporting this kind of activity against"—I'm not sure he put it this way, but—"against the Daley machine and political organization?" Well, the firm didn't buckle under to that kind of threat, and they didn't tell Dick Johnson he couldn't continue to do the case, work on the case. But it was obvious that Dick, at least, was feeling political pressure because of an attempt at recrimination by a powerful judge because of his involvement in the case. So I never had anything quite that dramatic, probably because it would've been pretty obvious that I was always in a small law firm and we never did depend on city business in any way, so it didn't matter to us whether we were in or out of favor with the city. But to Dick it was a serious issue. So yes, there were recriminations. That was the one that comes to mind most readily.

DePue: Does it mean that –and maybe this isn't important at all –but that you weren't invited to certain parties, you didn't get the free tickets to the football games, you didn't move in particular circles that maybe you thought you might have before this?

Shakman: I never felt that, no, because I never moved in the same circles as people who were politically connected in Cook County did anyway. It was never my social or political life. I was always on the IVI [Independent Voters of Illinois] independent voters side of things, and that didn't change any. In terms of social matters in Hyde Park, what I was doing was a popular thing and was supported broadly, and it was supported broadly wherever I went. You go to court and run into clerks and bailiffs; they were very appreciative of the patronage reforms because they had to live with the system firsthand and had to suffer under it. So I've never had a public employee ever give me any trouble over patronage; it's always been the opposite. They've always been appreciative; often said so.

DePue: Okay, so 1979, you said, was when a ruling came down that dealt with the hiring aspects of patronage. I know that it wasn't really until 1983 that *Shakman Two*, the consent decree, came out, so if you could, tell us quickly what transpired between '78 and '83 to get to that.

Shakman: Well, litigation. We had to engage experts and develop proof about what kind of remedy you put in place. It's not real hard to design a remedy for firing, which is to have an order that says you can't fire.

DePue: Remedy meaning—

Shakman: A judicial order.

DePue: —an enforcement mechanism?

Shakman: Exactly, an enforcement mechanism. But what's the enforcement mechanism for political hiring? It has to be more than an order that says, You can't do political hiring. If you want it to work you have to address two major questions. One question is, what system are you going to put in place and who's going to put it in place—and I'll come back to that. And the other question is, who's exempt, because there are some positions that are going to be exempt. And what happened between 1978 and 1983 is, both those issues were worked heavily: who would be exempt and how you would design and implement a non-political hiring system for the City of Chicago, because that's who was governed by the ruling. The answer to the question of how you do it is, we got experts who expressed opinions about what kind of hiring systems could be put in place. Ultimately, we said to the City: We don't want to tell you how to do hiring, you tell us how you're going to do it, and you develop a system that you're comfortable with that has built into it some protections against political factors. The City hired consultants and came up with a program that basically provided for a division of responsibility between the Department of Personnel and the hiring agency, under which the hiring agency would say, "We need X number of people at a particular job, and here's the job description.", The Department of Personnel would advertise for the job. And by the way, public advertisement was part of our remedy; we wanted the public to know there were jobs available. One way the patronage system worked was by not telling people jobs were available so that the Ward Committeemen were the only ones who knew. So we had a public posting and disclosure process, and we had a system in which the Department of Personnel would collect applications and pass them on to the hiring department—might be the Streets and Sanitation Department or the Aviation Department or Water Management –and a group of names would be sent down in batches of five or ten or fifteen, and the hiring people could then interview them and evaluate them using a form and fill out the form and pick the best person; didn't have to be strictly merit but there had to be some non-political basis for making the hiring. That's what came out of the 1983 negotiations with Harold Washington and his administration, and for the most part those were good negotiations. I dealt with Washington personally; I liked him. I thought he wanted to really make it work. He had another motive to make it work, which was he'd inherited a lot of people who weren't loyal to him, and he would like to be able to hire his own people, and the patronage case had imposed some restrictions on him. He couldn't just clean house because the old-timers were loyal to the last administration. So he had mixed motives, but he was a good man and I

think committed to reforming patronage. As he said –incorrectly as it turns out –
“Patronage is dead. I know. I danced on its grave!” (laughter) He was wrong.

DePue: But it was a colorful quote!

Shakman: That's right. And that was... I've given you the short version of how the hiring issue was resolved. On the issue of who was exempt, I'd like to say that we took the Supreme Court precedent, because there'd been an intervening Supreme Court case on the exemption issue called *Brianti, B-r-i-a-n-t-i, v. Finkel* that involved public defenders. It came out of New York, and it held that public defenders, the guys that actually do the day-to-day work, can't be hired on a political basis because there's no plausible political reason for who you would hire for a public defender's job. In the process the court established a broad principle that said it's up to the people who want to do political hiring to persuade the court that they've got a good reason for that particular job that requires that that particular job be one in which politics is relevant. You could think of a few examples right off the bat: the Mayor's or the Governor's Press Secretary really should be committed to the Mayor's or Governor's political point of view, and there are a few others, but it isn't a big number. I wish I could say we adhered strictly to that principle, but that's where the negotiating took place. In order to get the hiring plan we wanted for most of the public employees, we agreed to almost a thousand jobs in the city and under the jurisdiction of the City Council that would be exempt. I think we had 791 under the City and another three hundred or so under the City Council, and most of those jobs did not deserve to be exempt. But we thought it made sense overall to make a deal, give them that number. You can't run a massive patronage system with those numbers. There aren't enough people there, and it'll generate relief for thirty-eight thousand people. So let's do it, and we did, and that's how the second part of the equation is resolved. That is, with one important footnote, the end of the second phase, which is the hiring phase. The important footnote is that George Dunne, then President of the County Board, and the County never agreed with the judge's ruling from 1978 –Judge Bua's ruling that hiring was unlawful –and they took an appeal to the US Court of Appeals in Seventh Circuit, and they didn't... Well, they attacked all the rulings, all the bases that Bua had used for his ruling, but they won. They won on the ground, not on the merits, but on the ground of standing. The Court of Appeals said Shakman and Lurie and other independent voters and candidates are not sufficiently, tangibly injured by a political hiring system to be entitled to ask the court to act on their behalf against political hiring. So in a 1987 decision, which bears Dunne's name, the Seventh Circuit said, We're vacating the decision to require non-political hiring of the county, and we'll leave untouched the other orders because they were entered by agreement and they're like contracts: they bind the parties and they remain in place. So the hiring consent decree with the City stayed in place, the firing consent decrees from 1972 stayed in place, but the County was now out from under the no-political-hiring order. That changed when Dick Phelan became President of the County Board. There had, in the meantime, been a Supreme Court decision, also out of Illinois, handled by Mary Lee Leahy from Springfield, the Rutan case [Rutan v Republican Party of Illinois] that held that political hiring

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was unlawful. The upshot of that was that in 1991 or '2 or '3—I don't remember which year right now; it's probably on the chronology I provided you.

DePue: Nineteen ninty was the Rutan_case.

Shakman: Okay, well, I think it was a little before that that we got an agreement, with Phelan, but I could be wrong, that put the County back into the no-political-hiring category. We filed a new complaint that added some additional job holder claimants and in our view, restored the standing that had been rejected by the Court of Appeals. So we effectively undid that Court of Appeals decision by the agreement with the County and adding new parties to a new complaint, and that is pretty much where matters stood. There was some limited litigation with the City in the nineties over whether the City could do hiring that fell outside the rules of *Shakman Two* if it used employment agencies. The City had a couple thousand jobs they were trying to fill that way, and ultimately the court in our case held no, those jobs are covered by the patronage orders as well, and required that the City comply, and if it uses agencies to hire people that's ok, but it's got to instruct the agencies not to do it on a political basis.

DePue: I'm not sure I understand this part. Was there was an argument that because they had gone out to an employment agency it shouldn't apply?

Shakman: That's correct.

DePue: And their rationale for that? Their argument?

Shakman: That these were jobs that were now under the control of the employment agency rather than the city, because the employment agency was picking the people, and so there shouldn't be any concern about patronage controlling jobs. It didn't matter. The order that had been entered both in *Shakman One* and *Shakman Two* said any job for the city is covered; it didn't say, "...except those that you choose to fill through an employment agency."

DePue: Did you have a more difficult time for the hiring side of the argument to find the evidence that you needed?

Shakman: No, we didn't. That was work that Dick Johnson, Roger Fross and others did. They were able to assemble evidence, some expert evidence, some not, that plainly the hiring of people on a political basis affected the outcomes of elections. That was something that the Democrats admitted, which helped, and that that formed the basis for Bua's 1978 decision. But I want to jump forward because this gets us into the modern era of this case, to some events that occurred in connection with this litigation of the employment agency question, which by itself was not a big issue in the case, although it was a big issue over the two thousand jobs that were filled that way, but ultimately we won that issue. The judge to whom the case was now assigned, Judge Andersen, Wayne Andersen in the US District Court, not only said we were right on the employment agency issue, but he also said plaintiffs ought to file a motion against the City and the Mayor for

contempt, which, frankly, we hadn't thought of. We weren't trying to hold anybody in contempt, but he said we ought to do it, so we did it. That got the Mayor's attention, apparently, because he then moved to vacate the hiring decree, going back to the standing arguments that had been successfully pursued by Dunne in the 1980s. He filed a motion in—I'm going to guess it was 2001, [January 2002] I could be off a year—

DePue: This is Richard M. Daley?

Shakman: Richard M. He said, "We don't do political hiring anymore." That, of course, turned out to be untrue. "We don't do political firing anymore." That turned out to be untrue. "But we're spending a lot of money complying with this case." And that also turned out to be untrue. "We think the court should end the decree and get rid of it." And that was his response to a concern, I think, about being held in contempt by Judge Andersen. Judge Andersen denied the motion to vacate the decree and it went up on appeal. In the meantime the Hired Truck Scandal broke and the city hiring fraud scandal broke, and that changed everything. That put the case back on the front burner, and that generated enormous public interest and led to a whole new round of court orders and action and brings us to what I call the modern era of the case.

DePue: Would it be fair to say that in 1983 you thought certainly there would be adjunct kind of actions but that was essentially the end of your efforts?

Shakman: It would be very true. We thought we were done. That is, that we'd set up a monitoring system in which once a year there'd be audits by an outside auditor. The defendants for a period of time had to file affidavits saying that we're not doing political hiring, and any registered voter could bring an action if they thought there was something wrong going on. Our assumption was we're pretty much done with this; it's pretty much over and we've done our job. And that, with the exception of litigating the employment agency issue in the nineties, that was the case. We weren't doing much until the hiring truck scandal and the public hiring scandal.

DePue: Well, I certainly want to get to the hired truck scandal, but I still want to talk a little bit more about the mid eighties, the –

Shakman: Go right ahead.

DePue: –the consent decree, and some of the other implications of that. Your mood, the mood of the team at that time when you actually got the consent decree?

Shakman: Well, very positive. We had what I would call a good working relationship with the Washington administration, which was a novelty because we were not accustomed to being treated well by the City; they didn't roll over and play dead and they were aggressive in trying to pursue their view of things, but it was a good relationship and a decent one. We thought we'd closed the loop on the last part of the case, and apart from the ongoing monitoring responsibility which we

continued to have, we thought we'd solved the problem we set out to solve. I think in the [Mayor] Washington era we largely did. I think, from what I've heard from people who were in government in that period—and I get a lot of anecdotal responses and information from public employees, because over the years I've talked to hundreds and hundreds of public employees about their experiences, what's happening to them, how patronage is or isn't being used—and in the Washington era, the general sense was they were playing by the rules and trying to eliminate the vestiges of patronage in hiring and everywhere else.

DePue: I'd like to have you respond to at least some of the criticisms I've read about it, and to get your reaction to some of these criticisms on both *Shakman One* and *Shakman Two*.

Shakman: Okay.

DePue: One is that it erodes Committeemen's powers.

Shakman: True. If that's a criticism, I embrace it. If the power they're talking about is the power to engage in a role that really isn't a part of the Committeemen's responsibility, that is, to control government employment. It was never part of the statutory or otherwise part of the Committeemen's job to control government employment. But that's what it became, because the Committeeman was given that power by the Mayor, Richard J. Daley, and others, to permit the administration of a patronage system.

DePue: So in that sense what you're encountering there is an obvious difference in perspective and what it means to be an effective, efficient Committeeman.

Shakman: Right. I've never heard the argument made that Committeemen are more efficient because they have patronage. They're more powerful; they can do things in turning out the vote that they couldn't otherwise do, but that would be true if they were given prison gangs to work with or slave labor. It doesn't make it right. It's not an argument for doing it. The more frequent argument, and the one I'm sure you'll get to, is that—you do still hear this occasionally—that if you don't have the power to hire and fire people you can't get public employees to really toe the line and do a good job.

DePue: Accountability.

Shakman: Accountability. The problem with that argument is it's never been unlawful to fire someone for not doing a good job, and it's never been unlawful or inappropriate to discipline people for not doing a good job. That power has always resided with government officials, so the patronage system doesn't take that away. The patronage system actually works the other way; it generates inefficiency because it does not reward employee efficiency in doing public work. It awards and rewards inefficiency in staffing, because inefficiency in staffing for a public job means more people to work the precincts for the political side of the equation, and it changes the means of evaluating employees. Instead of evaluating public

employees on how good a job they do at their public work, they get evaluated on how good a job they do in the precincts, and if they do a really good job in the precincts they can get away with murder on the public side, and they often do. In terms of government efficiency, it leads to a bloated workforce, to a less efficient delivery of government services, to non-accountability to supervisors who are non-political supervisors, that is to the guy who's just trying to get the streets cleaned and has people working for him who have clout and can't be disciplined because a ward committeeman will protect him. (coughs) Excuse me. I'll give you what I think is the best example of the efficiency argument from a dollars and cents point of view, two examples. In the 1970s and '80s the *Chicago Tribune* would periodically run studies of the cost of providing government services of a certain type in Chicago where there was patronage—'60s as well, but I think these were in the '70s—and in Milwaukee where there wasn't, where they'd pick another town and there was no patronage system. The example I still remember is that both Chicago and Milwaukee had the same type of street lighting fixture, and that lighting fixture had the same kind of electric bulb in it. They each were identical bulbs and identical fixtures on the street, and they periodically burn out and have to be replaced. The burn-out rate in Chicago and Milwaukee is no different. It costs fourteen dollars per street bulb to change them in Chicago and three dollars in Milwaukee, and the only explanation for the difference is—the bulbs didn't cost different amounts, they were presumably buying from the same supplier—it was the labor cost inherent in running a bloated, patronage-driven workforce and the difference in efficiency. The other part of the efficiency argument—and we made this point in court filings in the 1980s when there had been a fee application filed in this case—and for us, (Johnson and others, including me) who'd worked on the case, filed for fees. One of the things we did is, we got the cooperation of Arch Pounian, who had been Richard J. Daley's chief personnel person.

DePue: What was the last name?

Shakman: Pounian, P-o-u-n-i-a-n. So he'd administered the personnel system under the first Mayor Daley, and then had gone into private business after that. He provided us with testimony in an affidavit that said the patronage system is enormously wasteful, and he quantified it. The numbers he provided were many millions of dollars per year that were being wasted by having a patronage employment system. The judge, who ultimately awarded fees, cited that testimony as one of the reasons for providing a fee enhancement, saying, You normally get your hours; you get a third on top of that because of the literally hundreds of millions of dollars saved for the tax payers by eliminating patronage. So the efficiency argument, which is the one you frequently hear, is belied by the cost of changing the street bulbs in Chicago and in Milwaukee, and by Pounian, who was in a position to know, by his testimony that patronage was enormously inefficient and expensive and wasteful.

- DePue: When you first filed the case –again, you emphasize it wasn't just you –did you and your cohorts see that this was going to be one of the benefits, that this is one of the core problems?
- Shakman: Oh, sure, the efficiency issue was clear from the start, because the *Chicago press*, month to month, the *Sun-Times*, the *Daily News*, the *Tribune*—there were then three papers, maybe there was a fourth—they regularly ran the Chicago work crew photograph. The Chicago work crew photograph was always the same story: it was one guy working and six guys watching. It must have been repeated a hundred times on city TV news shows, on pictures in the paper. It was notorious that the city staffing of public works projects was bloated beyond belief, one guy with a shovel in his hands and seven guys drinking a cup of coffee, sitting in cars, and watching him work. It was just open and obvious to everybody that this was a highly inefficient system.
- DePue: Now, another one of the criticisms I think you've already addressed in one respect, but I'll put it out there again to you, that the hiring decree was unenforceable.
- Shakman: It's harder to enforce, and it requires a commitment on the part of the city to enforce it, and a commitment that goes beyond the law but has some spirit behind it, some commitment behind it. One reason it's harder to enforce is, if you're one of a group who applies and you're not hired, you might not know who was hired. If you do know who was hired, you may not know whether they got special treatment for political reasons, and you don't have the same motivation as someone who's lost his job to bring suit, because you're doing something else somewhere else. So all of those are legitimate concerns that render it harder to enforce a hiring decree. But they don't change the fact that you need the decree if you're going to correct the system, and if you don't get a prohibition on political hiring you're never going to eliminate patronage from public life.
- DePue: Mm-hmm. But apparently, in '83 at least, you were optimistic that you had decisions in place. The decree was going to be effective enough that the most onerous aspects of the system were behind you.
- Shakman: Right, and we also thought we had a commitment from the city –and I think for a number of years we did –to actually do non-political hiring, to try to bring in people who were qualified. Now, Washington may have had a mixed message, a mixed motive for this, but there's no question that Blacks and other minorities were not getting hired under the Daley administration in the same proportion that they should've been, and Washington may have felt that simply by moving away from political hiring, by definition he would be augmenting the hiring of Blacks and other minorities, and he probably did. So he may have had that secondary motive, but as long as they were hiring out of a common pool and nobody got special treatment because he was black or minority he couldn't complain about it, and it looked like we'd solved the problem. I think the key historical fact that changed all this and led to the other more modern, recent circumstances and

problems we had was not the election of Richard M. Daley, the son, in 1989; it wasn't the election of Richard M. in 1989 but the background to that election and his fears and concerns. Unlike his father, he did not enjoy the uniform support and backing of the committeemen. In fact, if you may remember, Ed Burke ran against him. Burke, being a powerful Alderman today, opposed him, and he initially lost in an election involving other candidates: Jane Byrne and others. So he was not blessed with the same unified control that his father had enjoyed over patronage, and the court orders come along and made it much harder to run a patronage system. So he got elected in 1989. I voted for him; I thought he was the best candidate that year, and I voted for him on other occasions, but it now appears that he was very insecure about his ability to get re-elected and that he set about creating an alternative patronage system in which, instead of having the Ward Committeemen—who were not reliable in his view—running patronage, individual operatives in city departments who were directed by his various Chiefs of Staff at various times, some of them, not all of them, created their own ad hoc patronage systems. These became public knowledge in the Sorich indictments and prosecutions in 2005. They consisted, for example, of a fellow named Tomczak in the Water Department who had several hundred people working for him. Another individual was named Katalinic, and there were people outside government, such as the Hispanic Democratic Organization, Victor Reyes, Sanchez. People who had government jobs and connections set up their own patronage operations and used and were given control over government employees so that the patronage system continued, but not under the administration of ward committeemen. Instead, Tomczak would have his few hundred employees, Katalinic would have his. Sanchez became the Commissioner of Streets and Sanitation, would control the Hispanic Democratic Organization workers who were not necessarily Hispanic; they included whites, Blacks, and Hispanics, each sent to areas of the city where they could work with people of their ethnicity in order to get jobs and keep jobs and get promotions and move from a temporary laborer to a career service, which on the back of a garbage truck was a jump from thirteen or fourteen dollars an hour to twenty-four dollars an hour in one step, big step. You had to work for the HDO, the Hispanic Democratic Organization, and make contributions and so forth. So out of Daley's insecurity about re-election and wish to have a political organization loyal to him, these ad hoc but powerful patronage operations came into being, and through the nineties they functioned. The only one that got any significant public attention was HDO, the Hispanic Democratic Organization, and there were occasional newspaper articles about it. We were generally aware that this looked like a patronage operation and smelled like a patronage operation, but we didn't have enough connection data to do anything about it.

DePue: So this was no longer transparent like in the old days; it was very much hidden away from the general public.

Shakman: Exactly, exactly, and the way it became widely known once again were the events in 2003 when the city outsourced its trucking contracts, leading to millions and millions of dollars of contracts being awarded by city administrators to politically connected or bribe-paying trucking companies. This generated a newspaper series

in the *Sun Times*, and then a U.S. Attorney's investigation, and then subpoenas. Somebody in that investigative process started to ask questions about how the people who were running the program for the city had been hired. How did this guy get hired? Under the court decrees, there should've been an interview and an evaluation and some record. The U.S. attorney started to look into hiring as an adjunct of the hired truck program, and in the process they found a wholesale mail fraud. They found that the tests and interviews that people were being subjected to when they sought a job were rigged. Somebody was picked in advance. That individual and the name of nine others were sent to somebody to be interviewed in the Department of Streets and Sanitation or Aviation. The interviewers were told: Do the interview, sign the form, but don't fill in the evaluation boxes. We'll do that. "We" being the people who worked for the Mayor in the Department of Intergovernmental Affairs, Robert Sorich and the others. So we'll see that John Jones, who's the pre-selected choice among the ten, gets the highest ratings, and you just sign the forms. This became standard procedure through half a dozen city departments, with the result that hundreds and hundreds of people were hired on the basis of fraud, and they'd get notices through the mail or the wires would be used, and you had mail fraud and wire fraud under the federal statute, which is what Sorich and the others were indicted and convicted of doing.

DePue: Which were the departments that were especially guilty of the practice?

Shakman: The big ones with lots of labor jobs: Streets and Sanitation with over five thousand; Aviation with lots and lots of jobs; the Water Department; General Services, which provides trucks and other services. Those were the big ones; I may be missing one, but those were the big ones, and collectively they represented maybe half of the non-police and -fire workforce in the City of Chicago. Lots and lots of jobs.

DePue: So this doesn't just apply to the hired truck scandal; that's outsourcing or contracting out for services. Now we're talking about right back to the old practices of the sixties.

Shakman: That's right, that's right. The hired truck scandal was simply a window into the hiring process for the U.S. Attorney, and he started to indict people. As you start to indict people, some people start to plead guilty, and when they plead guilty they file a plea agreement in which they say, I admit I did all of these things. Tomczak was an example. He had a lengthy plea agreement that said in six different ways that he had violated, and the City had violated, the hiring and firing decrees. We saw that stuff in early 2005, and there were a whole series of them, and we said, This is wholesale violation of the 1972 and 1983 decree, and we're going to do something about it. So we put them all together and we filed them with Judge Andersen. We said, This is wholesale violation of your orders, Court's orders, your orders, your predecessor's orders. We want you to appoint a Special Master, is the technical term, to look into what the city's doing and set it right. Judge Andersen was appropriately appalled and said so, and the City really didn't

fight him on this because they had no way to fight him. They had all these people pleading guilty and signing plea agreements. They had federal—

DePue: And getting closer and closer to the Mayor himself, I would think.

Shakman: I would think. They had Sorich, who was the Head of the Department of Intergovernmental Affairs, which is in the Mayor's office, part of the Mayor's office, running the show, being the administrator of all these patronage decisions, deciding who would get the jobs. Just the way Tom Donovan for the father had done it, Sorich was doing the same thing secretly for the son. Donovan did it out in the open and, at that time, legally for the father. So Judge Andersen appointed Noelle Brennan, an experienced labor lawyer who'd come out of the EEOC [Equal Employment Opportunity Commission] and who knew about employment discrimination and employment systems and what you have to do to try to set it right, because she'd been dealing with that as a federal labor administrator for ten years. She was authorized essentially to take over the city's hiring, and to put herself and her monitors into any city hiring and every city hiring decision to see whether they were doing it on a political basis and to report to the court. So it gave us, for the first time, an independent, outside investigator right at the heart of the city's employment system. What she found was, that even after the Sorich indictments and convictions, there were many, many problems, lots of disobedience, and no strong commitment on the part of the present administration to set it right. We have had two major settlements, one with the City and one with the County, that grew out of these events. The one with the City led to a whole new order to replace and incorporate the 1983 and 1972 orders, which are carried forward and embodied in the new order and remain effective in case of the 1972 order on its own, and created a twelve million dollar fund, which Noelle Brennan will administer to pay to people who are the victims of patronage shenanigans, who either weren't hired when they should have been hired, or didn't get promotions, or were otherwise prejudiced and lost money, lost jobs, lost payment. They've all been afforded an opportunity to apply. She got about fifteen hundred applications and she is to administer that twelve million dollars and allocate it equitably among those people. If an individual has a claim and doesn't want to be a part of her system, that individual is free to opt out and sue the City on his or her own. A few have, but most who have claims, the fifteen hundred, have filed with her and she will decide what they get. So that's part of the 2007 court orders that grew out of this. Another part of that order is that the City can ask Judge Andersen to terminate this whole oversight function, but in order to do so the City has to prove to the court that it has eliminated, not perfectly but substantially eliminated, all the vestiges of this illegal system: patronage hiring and promotion. Until it does that these orders stay in place. The earliest the City can apply to be relieved of that obligation and that oversight is December of 2008. In December of 2007, December 18th, Ms. Brennan filed a report with the Court that describes the progress the City's making, or lack thereof, in eliminating patronage. It's a very discouraging report. It reflects that there's a lot of abuse, a lot of violation of court orders still taking place, and that remedies are made reluctantly. The City isn't enthusiastic. The people who do the things they shouldn't be doing, hiring

and promoting, when they're caught—and they are caught because the monitor's in there looking—they only fix it for the most part to the extent necessary. They don't punish people who are violating the rules and administering the system for the most part. It conveys the impression that they are half-heartedly and reluctantly being dragged along, the City's administrators, and not embracing and promoting any kind of reform, which is, as I say, very discouraging. In the long run, it should be discouraging for the City because it should mean that they're going to have a hard time persuading Judge Andersen to relieve them from the court orders and federal court supervision. On the County side, because we haven't talked much about the County, but the County also has had a patronage system that also had a renaissance and rebirth in the last ten years, and that also has been the subject of a hiring decree and a firing decree and part of the same case. We filed a contempt petition against them in August of 2007, and we settled it rather promptly in November of 2007 when the County Commissioners all agreed to the appointment of an independent monitor by the judge, and similar kind of proceedings for review of county hiring, creation of new hiring plan, which was also part of the city remedy with the monitor, Noelle Brennan, being involved. In the case of the County the judge appointed Julia Nowicki, a retired circuit court judge, as the court's monitor. She has staff, and she's doing much the same thing at the County, which has ten thousand employees, as Brennan is doing at the City with its thirty-six or thirty-eight thousand employees. So that's a quick summary of events of recent years.

I should add one other thing. From a legal point of view, I mentioned earlier that the City had pursued an appeal of Judge Andersen's ruling that he would not vacate the decree for lack of standing. That appeal went up to the Court of Appeals; they did not affirm it and they did not reverse it. They instead sent it back to him during this hired truck scandal period and said he should decide under standards they articulated whether the plaintiffs, i.e. me and Lurie, still had standing. In response to that, and because I'd been getting calls from public employees who were willing to stand up and file papers in court and be counted, we added a group of individuals like that to the lawsuit, and they became plaintiffs with me, as did the Independent Voters of Illinois. Those individuals had fresh, new, detailed allegations to contribute, which are in the court papers, describing how the patronage system had been used to hurt them, keep them from getting jobs, keep them from getting promotions, benefit others who weren't qualified. They told a highly detailed, appalling story of how patronage was alive and well in Chicago and in recent years, in recent days was leading to elections being affected, candidates losing elections who were not supported by the Hispanic Democratic Organization, workers having to do all the bad stuff that occurred years ago, was still going on. So that, in our view, resolved the standing issue: whether Lurie and I have standing to complain based on a 1969 election and 1969 events is irrelevant because we've got all these new plaintiffs who have brand new evidence.

DePue: But in essence—

Shakman: But that issue's gone away now. The standing issue is gone because as part of the settlement with the City in 2007 they agreed to withdraw any objection to standing.

DePue: But in essence, this is all just a continuation of that original case in 1969, so...

Shakman: Same case. You go to the court house, it's got the same 1969 case number on it.

DePue: Amazing. Well, here's another criticism, and perhaps you'll agree with this allegation of your opponents, but say that's part of what you wanted to accomplish in the first place, that the Shakman decrees, that the hiring decrees, the firing decrees weaken political parties in the City of Chicago and Cook County.

Shakman: I think exactly the opposite. It requires, for a political party to be successful, that it be able to motivate workers and voters legitimately, that it have issues that are relevant to the voters and to the workers, that it offer them something to work for and something to achieve other than getting a job and keeping a job, that, in other words, it involve them in public policy, state good public policy, or at least public policy options that are relevant to voters and to workers, and that it ought to, and does, in my view, reinvigorate the political process in a positive way, because it removes what amounts to a corrupt, bribing influence or political work, a job and other economic rewards, and replaces it by what politics should be about in the first place, which is addressing the merits of government programs, and trying to build support for those programs based on their merits, not based on an offer of a job. So I think it goes directly toward reinvigorating the democratic, with a small 'd', democratic process.

DePue: How close has any of this gotten to Richard M. Daley? Has he ever been indicted? Has he ever had charges brought against him?

Shakman: Not that anyone knows of. He's been interviewed by the United States Attorney. That interview has never been made public. That was done with the Sorich investigation in the pre-trial phase. I don't know and I can't prove that Richard M. Daley administered the details of the patronage system that Tomczak and others implemented, but we know a couple things: we know that he is a very hands-on administrator; we know that he, by reputation, calls Commissioners and Deputy Commissioners and others into his office and engages in long, detailed discussions with them about how they're doing their job, whether they're doing it the way he wants them to do it, and he gives them directions and instructions. Most everyone finds it hard to believe that a man with those kinds of managerial behavior patterns would not have had regular contact with Robert Sorich and with the other potential indictees. Sorich has been indicted and convicted; others have not yet gone to trial, like Sanchez, who was Head of Streets of Sanitation and also HDO. It strikes most observers, me included, as highly improbably, virtually impossible, that Richard M. Daley did not know that Sorich was running a large-scale patronage operation and was using it to generate a workforce to go out in elections and support candidates that the Mayor supported. If that was the case, it

paints a picture of a Mayor very much out of touch with what his own high-level administrators are doing. It paints a Mayor out of touch with what commissioners and deputy commissioners, who reported to him either directly or one tier down, were doing. It is entirely inconsistent with what's known about his management style. So if I had to bet, I'd bet a lot of money that he knew a large portion of what was going on, and by way of the unlawful patronage practices.

DePue: Well, just reading the newspaper accounts of the hired truck scandal and Sorich and things like that—and I'm not talking about the editorial pages, but the news columns—always refer to Robert Sorich as Mayor Daley's Patronage Chief, as if that's his official title! (laughter)

Shakman: Well, we can be more specific on the linkage to Daley in one very significant respect. During the trial of Sorich, the government introduced a document called, what became colloquially known as, the clout list. The clout list was a computer-generated spreadsheet printed by the government that had perhaps five thousand names on it, maybe a little more. It wasn't new; that is, it dated to, I think, 1997 or 1998, and it listed—these were names of government employees in the city, and some other agencies, but mostly the city—and it indicated who their sponsor was. Richard M. Daley is listed as the sponsor for a significant number of people. Maybe it's ten, maybe it's fifteen, but it's some significant group of people. Well, the strong inference from that is that he knew he was sponsoring people for government jobs, and they weren't all exempt jobs, so some jobs he has the right to sponsor people for. These weren't all exempt jobs. So it's a detail, but it's a significant detail.

DePue: This is a little bit more of a philosophical question for you, but you had talked about the critical step of deciding which positions were exempt. What would your view be of where that line should be drawn?

Shakman: Well, I don't think there's a lot of doubt as to where the line should be drawn if you read *Brianti v. Finkel*. It's a job that really requires that politics play a role in the job, so it doesn't include, for example, most of the deputy commissioners and assistant commissioners, maybe even the commissioners in many city departments. For example, to be the Deputy Commissioner of Aviation administering an airport system, there should be no political decision being made in how you administer an airport system. There should be no political decision made from Streets and Sanitation or in the Water Department, yet we recognize that the commissioners and deputy commissioners in each of those departments and the assistant commissioners are exempt. That's a compromise to get the deal done, and it may be one of the problems that we have in that many of these people are brought up in the patronage system. Because they haven't received the kind of clear and unequivocal message from the Mayor that says we're not doing that anymore, many of them may still hold on to patronage practices. When Noelle Brennan wrote her report and released it in December 2007, it strongly suggested that the middle managers in the city haven't bought into patronage reform in many instances, and that that's one of the continuing problems.

DePue: Well, the way you have defined that dividing line, the truly appropriate patronage positions might be in the scores but not in the hundreds.

Shakman: I agree with that.

DePue: You would agree with that.

Shakman: I agree with that.

DePue: Okay. And again, we're talking—and how would you justify even a handful of patronage positions?

Shakman: Well, in the handful, the Mayor's got a Personal Secretary, a Press Secretary. There are a few jobs that he's entitled to say, I want someone who shares my views politically.

DePue: And wouldn't that include Streets and Sanitation, to have one or two key positions within that department?

Shakman: It might include the Commissioner. It's hard to see why it includes forty assistant commissioners or thirty; there are a lot of them.

DePue: Okay. Well, let's take the particular case of *Upton v. Thompson*, if you're familiar with that one.

Shakman: Not by name. Maybe when you describe it I will know.

DePue: Well, again, this is one, in my background reading here. It dealt with Kankakee County deputy sheriffs, and I think the decision was that all of the deputy sheriffs were justifiably patronage positions.

Shakman: I'm aware of it. It's a decision by the Court of Appeals for the Seventh Circuit that in my view cannot be reconciled with the US Supreme Courts decision in *Brianti v. Finkel*. I think it's wrong, but until the US Supreme Court takes that kind of case and straightens it out, there are a number of cases like that floating around.

DePue: So patronage is still something in the works, it's still something that has to be...

Shakman: Yes, it's not over.

DePue: Okay. I'm not finding the right way to ask the question, perhaps, in that respect.

Shakman: No, you're directly on point, and you're right to mention those cases. They illustrate why the exempt position problem has continued to plague us in trying to get patronage reform.

DePue: I think we're getting to the point where I can start asking some concluding type of questions, if you will. We have brought it up to December 2007, so that's certainly

recent history. It certainly has a life maybe well beyond what you ever thought it would have in the first place.

Shakman: That's certainly true.

DePue: What has been the political impact of these decrees and the continued in-the-trenches fight over patronage?

Shakman: Well, I think it's been positive. I don't claim that it's a cure-all for everything that's wrong with government in Chicago, because it obviously isn't. I can't certainly claim that it's been generally respected all the time everywhere because that's certainly not true. What I can justify, I think, is that we've gone from a system in which patronage was open and notorious involving every job, with few, few exceptions under the control of the Mayor and the County, and State officials, as well, to a system in which it's clearly unlawful for almost all the jobs, in which there are court orders in place that prohibit it, in which there are two strong and effective monitors in place in the County and the City to prevent it, in which there have been widespread, widely publicized criminal prosecutions for mail fraud in efforts that were spurred to avoid following the patronage rules. The criminal cases are not criminal patronage cases, they are criminal mail fraud cases, but the mail fraud grew out of efforts to evade the rules on patronage. So all of that is a positive in the sense that it has greatly deterred the abuses of patronage. There is a good source on this, on impact: an article that ran in the *Tribune* last year and compared voluntary absenteeism in city departments on the primary election day in 2003 –which was before the Sorich hired-truck-scandals broke –and the same election day in 2005, which was—2006, '06 or '05, but it was after the Sorich scandal broke, 2006, I believe—and in the pre-Sorich period I think 36 percent of the workers in the Department of Streets and Sanitation chose to be absent on election day. In the post-Sorich period it was 12 or 16 percent. I'm going from memory and it's not perfect, but it was a drop of 20 percent. That told me and told the reporters and was confirmed by workers who spoke to reporters, that it was a result of the fact that word had gotten out that you couldn't force public employees to go out and work on election day anymore, so a 20 percent drop in absenteeism in a department with five or six thousand people in it means there were a thousand people not doing patronage work who'd been doing it before. So that's progress.

DePue: Perhaps the discouraging aspect of that is that's thirty years after the firing consent decree. Thirty years!

Shakman: Agreed. As I said before, we haven't brought about a complete and successful reform of patronage practices in Chicago or Cook County, or, I suspect, in the State. A reason we haven't talked about –and I might as well get it out on the table –is patronage is very valuable to politicians. Instead of having to persuade voters to vote for them because they have good policies or they're good administrators, people get elected, particularly for lower level offices, because they have control over public employees. That's very convenient for people who want to hold onto

their elected offices and don't have the means, capacity, or inspiration to motivate people to work for them on the merits, or because there are some jobs for which you can't motivate people. Who's going to get excited about the Recorder of Deeds? Well, the Recorder of Deeds in Cook County happens to run a patronage operation and it's under attack in the courts, but that's an example of a job for which it may never be possible; it probably shouldn't be an elected job in the first place. The point is that patronage is very appealing to a whole group of public office holders, and as a result it's their natural inclination to want to hold onto it. When we try to eliminate it we're fighting against the mother's milk for many of these people.

DePue: Do you think you have made any change in attitude among Daley or his top lieutenants?

Shakman: It's limited. I see nothing—I wish it weren't, but I see lip service from this city government. I see cooperation when the monitor is there and catches them doing something wrong. I see their lawyers getting up in court and saying, We don't do this anymore, but then I read the monitor's report who says: the Law Department is not being truthful with the monitor, the Law Department is hiding information or not accurately reporting information, and when people are caught nothing happens to them. I conclude that until we get to the day when this Mayor says to everybody publicly, "I mean it. I don't want this to go on any longer. Stop it," until that message gets communicated, all we're going to get is half-hearted support. Now, the jury is still out on this Mayor, and his place in history is still within his control. He could be known as the Mayor who ended patronage, or he could be known as the Mayor who held onto it as long as he could. It depends on what decisions he makes.

DePue: Is it your hope, at least, that the next administration will approach this differently? Or do you think there's something inherent in politics, that you'll always be fighting this?

Shakman: Well, I hope this Mayor will straighten it out. I've not given up hope that he will do the right thing. On paper he's done the right thing. In the world of telling people what to do and in the world of providing guidance and moral support, he's not yet done it, so I haven't given up on my hope that he will. But if not then, I hope we get a Mayor who will.

DePue: So 1969, 2008 –a lot of years between those. What are you most proud of in terms of this long fight that you've had with the City of Chicago and with Cook County about the patronage system?

Shakman: Well, you know, I think what I'm most gratified about is that it's now generally accepted by the man in the street, and certainly accepted by government employees, that patronage is a very bad deal; it ought not to continue, it has no public support. There's no public outcry when you talk about eliminating patronage. The individual public employees who I meet are uniformly really

happy to have somebody out there trying to prevent the kind of extortion –which is really what it is –of their labor and of their money that otherwise takes place. So I'd say the area of personal satisfaction for me that is the highest is not the publicity, because after almost forty years of this publicity on the same topic, it gets a little tired and it isn't really new or particularly gratifying to be involved in the public relations side of this case. But what is gratifying to me is that there are real people out there who have real jobs, who are driving trucks, running elevators, and working in the jail, and doing the things you have to do to make government work, who are better off because there is some restraint of what would otherwise be done to extort work from them against their will, to make them into second-class citizens politically so that they're not free to support or not support the candidates that they choose, and who are prejudiced in economic terms because they don't get the same overtime that the people with clout get. So the most gratifying aspect to me is when I see some benefit flowing to a group of public workers who really have often lousy jobs made worse by the patronage system.

DePue: You've mentioned already that people have been able to put some dollar figures in terms of the amount of efficiency, that because of the series of decrees, and your involvement and others' involvement, the benefits monetarily to the City of Chicago have been immense.

Shakman: There's no question that patronage is the most inefficient way to deliver government services, because it doesn't reward good government services, it rewards good political services.

DePue: So what would you say your biggest disappointment, perhaps?

Shakman: Well, the biggest disappointment is real clear, and that is, that almost thirty-five years into the game we have the Sorich scandal and the widespread systematic disobedience of court orders by a city administration that had made a big deal out of claiming in court when they were trying to vacate these court orders, that patronage no longer existed and there was no longer any need for any kind of judicial oversight. That's the biggest disappointment.

DePue: Well, how would you like to close our session, then?

Shakman: I don't have really anything to add. I think it's still a process that's unfolding, which is too bad because it should've been over a long time ago, but it isn't. It's obviously something that all the people who've worked on it –and I just happen to be the most visible of a whole bunch of people—Roger Fross; Dick Johnson; Robert Plotkin a long time ago; Brian Hayes, who works with Roger and has been critical; Edward Feldman, one of my partners who's worked on the case. I could go on and on and on, and there are lots of, there are several dozen people who've played important roles. All of them have made a major contribution to try to make government work better. We're not going to stop. We're going to do it as long as it needs to be done.

DePue: Still very much a work in process.

Shakman: Unfortunately.

DePue: Well, thank you very much. As I mentioned at the start, I've been looking forward to having this conversation for a long time because this is an important chapter in Chicago's history and in the State of Illinois's history, as well. It's worth preserving and understanding from your perspective, especially, since you've been at the very heart of this. So thank you.

Shakman: Well, thank you for giving me the opportunity to tell that part of the story at this stage in my life. I can still remember! (laughter)

DePue: Okay, thank you.

(end of interview)