

Interview with Mary Lee Leahy

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Interviewer: Mark DePue

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DePue: Good afternoon. My name is Mark DePue; I'm the Director of Oral History for the Abraham Lincoln Presidential Library. Today is Tuesday, the 25th of March, 2008. I'm in here with Mary Lee Leahy to talk about her lengthy career. Mary Lee, I was trying to figure out exactly how I would introduce you. How would you describe yourself and the career you've had?

Leahy: As a lawyer.

DePue: OK. That simple.

Leahy: That simple.

DePue: Well, you've been involved with several very important landmark cases in American and certainly in Illinois' history, as well as some interesting political chapters of the state as well. We will talk about all of those, but obviously we need to start with the beginning. So why don't you tell me a little bit about your parents and your ancestors?

Leahy: Well, I'm all Irish. All of my grandparents, great-grandparents came from Ireland. My father's people settled in the upper peninsula of Michigan, in Ishpeming. My paternal grandfather was a miner in the iron ore mines.

DePue: Was he the one who came over?

Leahy: Yes. He's the one who came over. We've traced them: they went from Ireland to England, where my grandfather worked in the mines, and then, after they had three children, they came to the United States, and came through Canada.

DePue: Do you know when he left Ireland?

Leahy: Well, we know that they were married in Bishop Auckland, England, in 1876. So we think they came around 1880, 1881. The records in those days weren't very good. My dad was the youngest of 13, and this kind of ties in with their coming—the first time my dad could remember my grandmother crying was when the Titanic went down, because the captain of the Titanic had been on the ship they came over in. And she thought the world of him.

DePue: Did she know him personally?

Leahy: Well, the way my father told it was that the captain would let those who were in the lowest class of the ship up on deck during the night to get some fresh air.

DePue: Wow.

Leahy: And then my mother's people came from County Cork to Chicago.

DePue: Was that a little bit later then?

Leahy: Yes. They were a little bit later.

DePue: OK. Did they go through Ellis Island?

Leahy: No.

DePue: OK. So none of your relatives did?

Leahy: No.

DePue: What brought your mother's family to Cook County, to Chicago?

Leahy: Well, it always seemed that there was somebody already there. My father's people went to Ishpeming because there was a brother there, and they came to Chicago because there was a relative there.

DePue: Was he mining in England before he came over?

Leahy: Yes.

DePue: So he was still pursuing the same occupation.

Leahy: That's right.

DePue: Do you know why they came?

Leahy: I think it was opportunity, and I've never been able to figure that out, because we've stayed in touch with relatives in Ireland. There are some that never go more than three or four miles from home, and then there are those who sail away knowing they'll never come back.

DePue: Well, I know in doing the pre-interview, you had some fascinating stories you talked about. One of them was one of your relatives who didn't leave Ireland during the First World War era, I guess, or a shortly after that.

Leahy: That's on my mother's side. They did not leave. They were very active in the Easter Uprising, and eventually one of my cousins was executed.

DePue: OK. The Easter Uprising was in 1916 during the war.

Leahy: That's right. But the war went on until '21 or '22 in Ireland.

DePue: The fighting between the Irish and the English.

Leahy: That's correct.

DePue: So your ancestor was—what was the relation?

Leahy: He's a cousin. Probably on my mother's level would be the best way. We're all—we've got so many different age levels that we just refer to everybody as a cousin. But there's a monument to him at Cork University, and there's also a monument to him in the town where my mother's people came from, Liscarroll.

DePue: OK. And he was executed in 1922?

Leahy: I believe so. It was within two weeks of the truce, because a man who was arrested with him by the British, the British had shot, and apparently you could not execute someone who was ill. So the man who was shot lived, because he had to recover before he could be executed. But my cousin was executed. In fact, he was arrested, tried, convicted, and executed within thirty days.

DePue: Executed by hanging?

Leahy: No, by shot.

DePue: Oh, he was shot. Okay.

Leahy: There was a group of them, around twenty, that were all lined up against a wall after they had dug their grave, and then they were shot and fell into the grave they had dug. And that's at Cork University. So there's a monument there over that mass grave for every one who was executed.

DePue: Now, this other gentleman who was shot was not shot during the execution, obviously; he was shot beforehand when the fighting—

Leahy: He was shot during the arrest.

DePue: Okay.

Leahy: There were three of them. One was sixteen years old, Paddy O'Brien. And the other O'Brien told Paddy to run like hell, and he did. So I mean, he lived. I talked with him at great length about all of this back in 1981, when we went over with the entire family.

DePue: Oh, my. Yes, those are the kinds of things you don't forget about.

Leahy: No. Especially because it was so close to the truce. That group was the last group that was executed by the British.

DePue: Now, you also mentioned, when we were talking before, that—I don't know if it was your grandfather, perhaps, who—during the First World War tried to enlist in the United States Army?

Leahy: It wasn't my grandfather; it was some of my father's friends who tried to enlist. I mean, everybody wanted to go in. My father was a couple of years too young. But I remember what friend they talked about—maybe it's Chin Small, because I always thought that was funny that that was his name. He was so thin that he couldn't pass to get in, and so he went and stayed with his grandmother for three days, ate nothing but bananas and water, went down and made it into the service. He had gained enough weight. And then they ended up putting him shoveling coal in a ship going back and forth carrying troops to Europe. Not a good place to be for someone who's real skinny, I always thought, the boiler room.

DePue: But he was Irish, correct?

Leahy: Yes.

DePue: The part that amazes me is, that here you have a young Irish lad in the United States who is eager to join up with the United States Army late in the First World War. But you're basically fighting for England's war, essentially, and he obviously didn't have any problems with that.

Leahy: No. I think the country was so wrapped up in excitement and patriotism and everybody in the town would go down, when people took off to go to basic training; it was a big celebration in the train station. I mean, very different from what I think things are today.

DePue: Well, let's move ahead a little bit in history. When were you born?

Leahy: April 28, 1940.

DePue: Okay. So that was well before the United States got into the war, but World War II in Europe was already started. What was your father doing at the time?

Leahy: He was a Pullman Conductor. [Pullman cars were sleeping cars]

DePue: Okay.

Leahy: And my mother was—after she got married, she did not work.

DePue: Okay. Was he a Pullman Conductor in the city of Chicago?

Leahy: Well, he was with the Santa Fe Railroad. In those days, the Pullman Company was separate from the railroad, and the railroads would lease the cars from the Pullman Company, and Pullman employees had to work on the Pullman cars.

DePue: So he did an awful lot of traveling.

Leahy: His route was from Chicago to LA.

DePue: Wow.

Leahy: He was gone a week and home a week. And when I got to first grade, I felt so sorry for all of my classmates, because my dad was home a week, and their dads had to go to work every day. I just thought—that was so unusual, I didn't realize how good I had it.

DePue: You mentioned your mother was a housewife.

Leahy: Yes. And then she ended up working part-time at Marshall Field & Co. in Evanston.

DePue: Okay. You lived in Chicago proper.

Leahy: Until I was ten, and then we moved to Evanston.

DePue: Okay. I'm just curious, because I had jumped to the conclusion that maybe you would have lived in Pullman itself, or maybe that was already in Chicago at that time.

Leahy: That's right.

DePue: And what was the name of the other community you moved to?

Leahy: Evanston.

DePue: But I thought there was another one.

Leahy: We lived in Rogers Park in Chicago.

DePue: Okay. Sure.

Leahy: And then we moved to Evanston. I mean, neighborhoods have names.

DePue: And for somebody who hasn't spent a lot of time in Chicago, where is Rogers Park?

Leahy: On the very northeast end of Chicago. It's the furthest north right on the lake neighborhood in Chicago. [One street separates it from Evanston]

DePue: Okay. Now I want to talk quite a bit to you about the medical problems you had growing up, especially at a young age. Could you go into that for us?

Leahy: Well, I was born with bilateral clubfoot. And in 1940, you did not correct it. The theory was, you had to wait until the bones of a child grew to a certain extent, and usually that was around eight years of age. So between birth and 1948, I had about 13 surgeries on my legs. I was in casts most of the time. I think I mentioned this to you: I didn't realize at the time, but how difficult that must have been for my parents, because casts had to be changed every three weeks, and we're talking World War II; we're talking a gas shortage. My folks didn't have a car. So it was before the electric saw that now cuts casts off, so Mom would have to get me up at three in the morning, put me in the bathtub, soak the casts, then soak them in vinegar and water. I can't imagine how heavy I must have been by the time they had to carry me to the bus stop and then ride the—two buses, in fact—to get from Rogers Park to the hospital.

DePue: And so you said from about the time of what age did you have this first operation?

Leahy: Oh, I had a few shortly after I was born.

DePue: So even before you can even remember any of that.

Leahy: That's right. My mother used to say that somehow I sensed when we were going to the hospital, because I would start to cry a block away from the hospital. (laughter) And if we weren't going there but we were on the same route, I didn't cry. And I've often thought about—we had a dog that we would walk by the vet all the time, and he was fine. But somehow he knew if he was going there for a bath, and then he didn't want to go.

DePue: Was eight the last time you had one of these operations then?

Leahy: Yes.

DePue: Okay. So in those early, early formative years, your life was spent in casts. And you've got to be looking at other kids—your sister was a couple of years younger?

Leahy: Yes.

DePue: That's Maggie? Margaret?

Leahy: Yes. Well, she named herself Maggie when she got to high school.

DePue: Okay. What did you think about all of these other kids who were running around on two legs and they were never in casts?

Leahy: I think it was probably my parents who were very accepting—it didn't seem unusual. I can't explain it, but it didn't seem unusual. And I did do a lot of things. I mean, my aunt and a friend of hers took me to Lake Michigan, and held the casts up

in the air, and I would try to swim. So I mean, they did let me do a lot of things, as much as I could.

DePue: Do you think all of that experience has changed you? Has it affected your outlook on life?

Leahy: Oh, absolutely.

DePue: How?

Leahy: In some ways, my mother always thought Maggie and I were just absolutely great kids. And we could do anything that we wanted to do. And this was like something that had been given to me that was a gift that I would learn from and grow from, rather than being like a handicap. It was an opportunity. I'm not sure I'm explaining that right.

DePue: Is that how you look at it today, that it did change you in a fundamental and a good way?

Leahy: Yes, because it taught me about pain. And I think that makes you far more understanding of people who are undergoing pain. Because really, when—pain makes you crabby. (laughter) But then you get used to it.

DePue: You mentioned the Second World War, and I know when we talked earlier, you said you actually remember some of the things like rationing. Is there anything else that sticks in your mind about the Second World War era?

Leahy: Well, when I was talking about having to go to the hospital for the cast changes, Mr. Laurey, who lived above us—we lived in a two-flat—he would try to save the gas rations so he could drive us once in awhile to the hospital. I remember going to the meat market—in those days, the stores were pretty separate; you had your greengrocer and you had your meat market and you had your bakery—but I can remember being in the stroller, that's how I got around, and going with my mother, and she'd have her book of rations [stamps in a booklet designating allowed quantities] to buy the meat. So a lot of sacrifice in those days as compared to today when we have war.

DePue: Well, in your comment about your neighbor, there's a sense of community as well.

Leahy: Yes.

DePue: Anything that you'd like to mention or you recall about going to school during that timeframe?

Leahy: Well, I went to the public school for the first two years, because first and second grade were on the first floor. And at the Catholic school, first and second grade were on the third floor, and I couldn't make the steps. So after my surgeries in '48,

then I went to the Catholic school, Saint Ignatius in Rogers Park, and then when we moved to Evanston, to Saint Mary's.

DePue: So your family were regular churchgoers as well?

Leahy: Yes.

DePue: The Catholic Church was very important to them?

Leahy: Yes.

DePue: Okay. How about politics, for your parents? Were they interested or in tune with any of that?

Leahy: Well—

DePue: You smile.

Leahy: My father was a great believer in—you know, we got *Progressive*, *The New Republican*, and even in late grammar school, I would be reading articles and we'd be talking about all sorts of social and political issues at the dining room table. I can remember when Stevenson lost; I thought it was the end of the world. You know, I'd never known anything except a Democratic president. It's funny, I think in Chicago—my father couldn't understand this—but apparently if you're Irish, you're Irish-Catholic-Democrat. Those things all went together in the city of Chicago in 1940. My dad, I think, came to his beliefs much more through study of ideology, and probably his father, because his father had mined in England. In England, there were certain safety rules, and they only worked half a day on Saturday. When he came to Ishpeming, Michigan, there weren't the safety rules, and they worked six days a week. So, I mean, I think my grandfather was progressive in wanting safety standards for the mines. And I mean, mine disasters up there weren't at all unusual.

DePue: Was he in a union at the time? Or was that prior to unions being successful?

Leahy: Prior.

DePue: Was he working for that end, though?

Leahy: Oh, yes. Oh, yeah. And my dad was a member of the Pullman conductors union, and of course the porters became organized eventually. So yes, the porters and the conductors were unionized.

DePue: Okay. And all of that is part and parcel to growing up in Chicago. You're a Democrat if you live in certain neighborhoods and you're of certain ethnic backgrounds.

Leahy: That's right. And I think the funny thing too is that, in those days when I was growing up, it wasn't so much your neighborhood as the parish you lived in. I mean,

my mother and her best friend lived on Twelfth Street when they were little, and they lived right next door to each other. But Marguerite went to the German Catholic church, and my mother went to the Irish Catholic church. So you had your parish, and that was very important.

DePue: Were the politics different in the two churches, then? In the two parishes?

Leahy: No. I don't think the politics were any different.

DePue: But people otherwise were paying attention to those things.

Leahy: Yes. Because when my dad came to Chicago to go to work for the Pullman Company, he was very surprised at this identity with the parish.

DePue: So early on, your father, your parents, are making sure that you're aware of what's going on in the world; you're exposed to a lot of different ideas. What other activities and interests did you have growing up?

Leahy: Well, I think I should comment on something else, because in thinking about this interview, I think it became very important to me, and I didn't realize it at the time, I had a great-aunt who was a BVM nun.

DePue: A BBM—?

Leahy: BVM. Blessed Virgin Mary. That was the order. And their headquarters were in Dubuque. In the summer, she would be assigned to a parish in Chicago, and she would come for lunch. Of course, she had to bring her companion, and they all wore the habit. And I remember the summer of 1954, when the desegregation case came down from the US Supreme Court. And of course—

DePue: So Little Rock—okay, the Board of Education in Topeka.

Leahy: Yeah. *Brown v Board of Education*—yeah. And of course, we had discussed it at the dining room table. I had been going—in those days, the word was Negro—I'd been going to grammar school with Negro children for five years. My mother was very big on everybody in the class being invited to a party. You didn't have your own clique of girls that you had come to your house. If there was going to be a party, it was going to be everybody. And I brought up *Brown v. Board of Education* that summer of '54. I had just gotten out of eighth grade. And Sister Francis, at the dining room table, said, "I don't know if I could ever teach a Negro child." And I just got furious. (laughter) I can remember it. And I said, "Oh, you don't mean that," and she said, "I certainly do mean it." And I went on about, "But all children are God's children. All children are made my God." I remember saying to her, "You claim you're a bride of Christ and you couldn't do that?" Well, I got promptly sent from that luncheon up to my room. So I think I probably learned at a very early age that sometimes, if you take on authority about something you believe in, you may not win. (laughter) And in fact, you may get punished. And I think that was a valuable lesson to learn, looking back on it. I mean, my mother apologized to me

later on, but I just couldn't—Sister Francis was such an authority figure, because she was a nun.

DePue: But you don't regret that incident, I would assume.

Leahy: No, I don't. But I think it taught me something. The day it happened, I certainly regretted it. (laughter) But I think it taught me something very valuable.

DePue: Your exposure to African-American students was in the schools, as you mentioned? Or—

Leahy: Yes. At Saint Mary's.

DePue: Okay. So in this case, it's obviously not just Irish-Catholic kids, or German-Catholic kids, that are going there. These are African-American families who are looking for better schooling for their kids as well?

Leahy: Well, Evanston was different from Chicago. I mean, Evanston you have the mansions on the lake, and my mother saw African-American children at Mass – the first time she went to Mass –and she went and saw the Monsignor, the pastor of Saint Mary's, and he explained to her that those children were the grandchildren of the original servants that worked in the mansions that were on the lakefront, and that Saint Mary's encompassed that geographical area. So we had both the mansions and then we had the servant living quarters on the west of the parish.

DePue: The folks who lived in the mansions were probably going to Protestant services someplace and sending their kids to other schools.

Leahy: That's right.

DePue: Okay. Well, as you're in high school now, and you're getting exposed to all this myriad of ideas, did it occur to you what you wanted to do with the rest of your life?

Leahy: Well, I began to debate, and I think that was really important. I went on the debate team in high school as a freshman. Got to do a lot of traveling because of it. We went to debate tournaments, Philadelphia, all over. And that was a valuable experience. We had what we would call mock student congresses, and I'd be elected and go for two days and have a lot of fun, and debating all sorts of issues. I remember we had a whole year of debating farm parity. I couldn't tell you today a thing about farm parity; it was the most boring subject in the world. But it was fun debating. And I think probably as I got to be a junior in high school, I really wanted to be a lawyer. But I didn't dare tell anybody.

DePue: Because there weren't a lot of role models out there for you?

Leahy: There just weren't very many women attorneys. In fact, when I got out of law school, females were only three percent of the lawyers in the country, much lower than doctors.

DePue: Were there a lot of other women who were involved in debating at the time?

Leahy: Well, see, it was an all-girls high school. We had all-girls high schools and all-boys high schools. We had very few that were coed in the diocese at that time. I've often thought about that. Looking now at some of these studies, I am rethinking an all-girls high school and an all-boys high school.

DePue: That that's not necessarily a bad thing?

Leahy: That's right, because I've read some of these studies about teachers subconsciously being more likely to call on boys in certain classes than they do on girls, particularly if it's chemistry or physics, that type of thing. So—and you're not always distracted, I think. (laughter)

DePue: Nor are the boys.

Leahy: So I'm rethinking, I'm rethinking that whole thing.

DePue: Well, that's interesting. Gosh, where would I like to go with this? Oh, I know what I wanted to ask. The debating: was that something that you did at the home as well, with your parents? Because you described that environment as one where you're exposed to a lot of ideas.

Leahy: Oh, sure, we'd talk about ideas. My father would always kind of egg on the other side of an issue. But...

DePue: So that all came naturally for you.

Leahy: Well, see, you also go back to these—my mother's maiden name was O'Brien, so the O'Brien side of the family in Chicago—I mean, my grandfather won elocution—that's what they called it in those days—medals. That family all went to Saint Ignatius High School, and I've got some medals of my grandfather and my uncles.

DePue: Was there ever any doubt that you were going to go to college?

Leahy: No.

DePue: Okay.

Leahy: But I did have to stay at home.

DePue: For financial reasons.

Leahy: That's right. I missed out on the debate scholarship at Loyola. The coach had only given a debate scholarship to one woman, and that woman got married at the end of her second year, and he wasn't going to chance that happening to him again. So I missed out on the debate scholarship. But I did go through Loyola on a Pullman scholarship. That was a foundation set up for the children of Pullman Company employees. So because my dad was a Pullman employee, I was eligible to be considered for that scholarship.

Leahy: Was that a full tuition scholarship?

DePue: And obviously not room and board.

Leahy: No.

DePue: Okay.

Leahy: So I lived at home.

DePue: So how long a drive was that? Or a train or bus?

Leahy: The El. [Chicago's elevated train] I don't know exactly what the Jesuits were doing at that time Loyola's a Jesuit university. But if you were a girl, you had to go to liberal arts downtown at Chicago and Michigan Avenue. If you were a boy, you could go to liberal arts either on Lake Shore campus or downtown. So from Evanston, I had to go right by Loyola, which was ten minutes from home, to go all the way downtown. But you know, going to college on Michigan Avenue –and the back entrance was Rush Street –that was an experience.

DePue: Yeah, that's not such a bad thing, is it?

Leahy: And I can also remember in those days that girls could drink when they were eighteen and boys at twenty-one. So when we would go out, we'd have to pull two tables together, and the girls sit at this end of the table if they wanted a beer, and boys sit at this end and not have one. (laughter)

DePue: Well, that's interesting, because later in your career, you might be the cause for changing that.

Leahy: Yes, that's right.

DePue: Okay. Did you graduate from Loyola?

Leahy: Yes.

DePue: What year was that?

Leahy: 1962.

DePue: I think we might have already seen some pictures of you when you were perhaps in a prom dress in high school? We're getting off track here a little bit. Your last year or two at Loyola, now that's the time when most students are thinking, Okay, now I have to actually go out and make a living, or decide exactly what I want to do with my life. Where were you tending at that time?

Leahy: Well, I think probably by the end of my second year, I had let people know that I wanted to go to law school. And the debate coach, Don Stinson, sent me over to talk to some professors at Loyola's law school. And I remember one, Mr. Vitullo, who said to me, "You're going to have so many strikes against you, being a woman in that profession. You've got to go to the best place you can get into." He was just really blunt about it. He said, "Loyola would take you. But try higher." And so I was accepted at the University of Michigan, and then found out three days later than I had a Fulbright to go to England. So I went to England and not the University of Michigan.

DePue: Wow. We should back up a little bit and perhaps put the picture up of you in your debating garb that got on the front page of—was it the Saturday Evening Post?

Leahy: Yeah. On the left is the picture. They decided that since debating originated in Greece, that they would take a sheet and make a toga out of it.

DePue: So this wasn't what you normally wore when you were debating.

Leahy: No, no. But anyway, the article was that I was the best female debater in the country in college. And so that's what the article was about.

DePue: Well, how was that determined?

Leahy: Well, I think it was looking at a lot of the national tournaments. And again, there weren't many women doing college debating like there are now. So it was looking at where we had finished, and then, you see, not only where your team finished, but who got the best speaker awards during the tournament.

DePue: Well, that's quite a distinction to get.

Leahy: It was. It was fun.

DePue: And was that a big part of why you were able to get the Fulbright? [fellowships provided by a former U. S. Senator]

Leahy: I think so. If you want to know the real reason I think I got the Fulbright—because I think, number one, there weren't many from Catholic universities that got Fulbrights. There were 112 that went to England; I think I've got that figure right. But not many were from Catholic universities. They were primarily east coast and west coast. So you had Harvard, Yale, Princeton, Cornell, UCLA, but you didn't have much from the Midwest. And I really think the reason is that I'm the only applicant that wanted to go to Manchester. Everybody wanted to go, you know—

DePue: Oxford or Cambridge?

Leahy: Yes. Or London, University of London. But I guess I was the only one that wanted to go to Manchester.

DePue: Why Manchester?

Leahy: Because one of the professors had suggested that maybe if I did that, I'd have a better chance. (laughter)

DePue: Well, maybe he was right.

Leahy: I think so. I think so. But it was a wonderful year. Absolutely marvelous.

DePue: What did you study in Manchester then?

Leahy: Political science. I was a history major at Loyola, political science minor. And then did political science, got my Master's from Manchester.

DePue: Was Manchester a place where your views evolved, in terms of your own political ideas?

Leahy: Oh, I think so. Yeah, I remember Jeremy Bentham very well: the greatest amount of pleasure for the greatest amount of people. That was his political philosophy. Spread it around a bit. But I think it was just being away. It isn't like now where you can call people. I got one phone call from home that whole year. I joined up with Loyola in Rome. They had just started their facility in Rome. We sailed from Venice, went around Italy, and eventually ended up in Israel, after we'd been to Syria, Beirut. So that was a marvelous trip at Christmastime.

DePue: So that's how you spent your Christmas, instead of going home. That would have been probably much too long a time to be away.

Leahy: Well, see, it was five days by ship. And there was never a thought that you would go home. Just find something else to do for Christmas.

DePue: Now you'll have to forgive me for these kinds of questions, but did it feel peculiar at all, that here you are, a good Irish-Catholic girl in the University of Manchester?

Leahy: Well, I lived in the Anglican dorm, and again, it's one of those flukes why you choose something. I chose it because it said it had central heating. I didn't know that that would mean 55 to 58 degrees. (laughter) But anyway, so I went into this Anglican dorm and didn't think anything about it. But because I was a graduate student—there were three of us—we had to eat the meals at what they called high table. And the head, the woman who was over the dorm, was called a warden, and she had two vice-wardens. And so we had to sit—

DePue: That's a rather descriptive term, isn't it?

Leahy: We had to sit at high table with the warden. And about three weeks after I was there, I didn't go in for breakfast, and we would then have our big meal at noontime, and then we were free the rest of the day, on a Sunday. So I signed out for breakfast, and went in for dinner, which was at noon. And Mrs. White, the warden, started talking about how the neighborhood was going down, because the Irish-Catholics were moving in. And it was sort of like I had heard as a child about the Jews moving in and the blacks moving in. And anyway, I was kind of taken aback: she went on to other subjects. And then about twenty minutes later, she came back to me and said, "You weren't in for breakfast." And I said, "No, Mrs. White. I was at church." And she said, "Isn't our cathedral beautiful?" And I said, "No, Mrs. White. I was at Holy Family." (laughter) She was so shocked. She told me at the end of the year that she had spent quite a bit of time trying to figure out how they slipped an Irish-Catholic in on her.

DePue: No apologies, though?

Leahy: Oh, at the end. At the end, she said she really appreciated my having been there. The halls had a debate tournament and I brought home the trophy for the first time, so there was a big celebration with that. And I did go to some of the Anglican services, the choir and that kind of thing. So I think by the end, we got along very well. But I think she was just so shocked.

DePue: I'll put you on the spot, here. Do you remember the subject for that debate series?

Leahy: Yes. Should Mrs. Pankhurst have been chained to the iron gates? She was in the suffragette movement, and that was one of her protests. I think she chained herself to prevent arrest, and so that's what we debated. But debating in England is very different, because the audience shouts at you and cheers you—

DePue: Just like in Parliament, huh?

Leahy: Yeah, just like that. Yes. It was a very different experience.

DePue: Well, that was all excellent training for the future you had in store for yourself though.

Leahy: Yes.

DePue: So you came back from there. While in Manchester, did you continue to apply to different universities and law schools?

Leahy: Well, during the summer between my graduation from Loyola and my leaving for England, I began to date Andy who then became my husband. He wrote me quite often, more often than I wrote him, I must say, when I was in England. And I thought, Gee, you know, I've been gone a year, and he's written me so often, and then many months later, I found out he'd written a girl seventeen months when he was in the Army, so I only got twelve months. (laughter) But he broke up with her shortly after he got back from Germany.

DePue: How did you meet Andy?

Leahy: I don't remember meeting him. He always laughed about that.

DePue: Well, that's flattering, isn't it? (laughter)

Leahy: Yes, yes. (laughter) I think it was a practice debate tournament. He had just gotten out of the Army and he was going to law school at night, and he had debated. So they would ask the graduate who had debated to come back and judge, judge the debates. And so it was a Friday night practice kind of tournament we were having, and he came back and judged, and so that's when he met me. But I don't remember it. (laughter)

DePue: So what do you remember, in terms of the first time?

Leahy: Well, I remember when I was a sophomore, he asked me out. And I had just made arrangements to do something else that Saturday night, and so I was sure he'd ask me out again. And it was two and a half years later. (laughter)

DePue: He did, but a little bit longer than you were expecting.

Leahy: That's right. That's right. So anyway, after I was home about six months, we became engaged. So I was through my first semester of law school when we got engaged.

DePue: Well, a very busy time for you then. And you went to law school at the University of Chicago.

Leahy: Yes.

DePue: I don't know that you told us exactly how you ended up at Chicago versus elsewhere.

Leahy: Well, the other—I mean, the ones that were in the top five, that was the only one in Chicago, and I didn't want to be away from Andy. So that was the reason.

DePue: So different compelling reasons now.

Leahy: Yes. Yes. Certain things drive you in your life that you'll never imagine how they—the reason that gets you there —and then you take off in a different direction.

DePue: What do you recall about going to the University of Chicago, especially in the campus and those classrooms and the intensity that we, you know—somebody like myself who hasn't gone to law school—just the intensity that we assume you experience while you're going through there.

Leahy: Well, let me say that I didn't appreciate it until like the day after I graduated. I mean, it was so hard. Competition in my class was so tough. The professors used to comment that in other law school classes, you know, you'd have your group of

friends that you'd study with and discusses the cases; we didn't do that. It was sort of the attitude that if I think up a thought, and I study with you, I'll give you that thought, and you'll write it up better than I will in the exam.

DePue: So was this an aspect of the personalities that were in your particular classes?

Leahy: I think so. And the other interesting thing was that—I think there were six women out of 139 and that set a record. They had never had that many women in a class before.

DePue: Now, I'm going to put you on the spot again. You spent your high school and your college years being a very successful debater, and that's straight-out competition. So were you one of those who was there and maybe subconsciously you were competing all the way through this?

Leahy: I think that was the atmosphere of the class. I think, on the other hand, if there had been these study groups, I would have loved them. Because again, that would have been a kind of debating, throwing ideas back and forth. I mean, I've known some people in my life—

DePue: So that's part of the debating experience as well.

Leahy: Yes. But I've known people in my life that when you bounce an idea off of them, it goes back and forth and back and forth, and it becomes something bigger and better than either one of you could have done alone.

DePue: What kind of law did you gravitate to toward the end of that time?

Leahy: Oh, I loved constitutional rights. Constitutional law. Phil Kurland was a magnificent professor. Just magnificent.

DePue: What about that really excited you?

Leahy: Well, I don't know when it happened, but obviously, somewhere along the line, in a sense, I fell in love with the First Amendment. I think it's the greatest thing; I think the right to speak out, the right not to speak out, the right to join, the right to affiliate, the right not to affiliate, that that's what makes this nation great. And somehow along the way, I really got interested in that.

DePue: What year did you get your degree? 1966?

Leahy: Yes.

DePue: And were you already gearing toward a particular law practice by that time?

Leahy: No. Actually, it was very interesting that the women—three of the six went into labor law, which was again unheard of. And looking back on it, when we've had our reunions, we've often thought that the law firm is saying, well, if I hire him, he may

go to Vietnam. If I hire her, she may get pregnant. What difference does it make? And so for the first time, there were these openings in labor law. So I went with the labor law firm. Small one. My husband was already there. And in fact, the firm offered me—I I didn't not think about going to work there—but they offered it to me.

DePue: Your husband had graduated from what law program?

Leahy: At Loyola.

DePue: And what was the law firm?

Leahy: Lightenberg, Goebbel, and DeJong. It was three Dutchmen. And they hired Andy, and then they offered me the job. I worked primarily for John Lightenberg. Teacher tenure work, teachers' rights. And he was great, because I had a daughter at that time, and John's attitude was, well, if you write part of the brief at home, I don't care. Just so it gets done. So anyway, very early on—in fact I was still in law school—John Lightenberg got the Pickering case, and then that became a major lawsuit that I was involved in.

DePue: I'm curious about going to the same law firm as your husband. I would think that there might be lots of questions about conflict of interest. But you also did very well at law school, did you not?

Leahy: Yes.

DePue: Okay. Can you elaborate on that a little bit?

Leahy: Well, I qualified for law review. And I declined it, because I had my daughter. The irony about that is that I had worked so hard and I had gone to law school during the summers, so I could get out in January and take the March bar. I really wanted to get on with this. And I don't think they offer summer school there now. But I became pregnant and was going to have Anna in what would have been my last term. So I went to the dean of students and asked if I could take two seminars, because we had students that we never saw except for the examination. That's the kind of law school it was. And anyway, I told him I was pregnant, and he said he'd have to talk to the faculty, and come back in a couple of days. And I came back, and he had left a message with his secretary to tell me that they all thought it was better that I take that last term off, because they had never had a pregnant law student before, and I might fall down the stairs. So I did it. I mean, I was very good about authority in those days. So I took that term off, and graduated then with—you know, finished up; I didn't finish in January. I went back from January to March and then graduated with my class in June.

DePue: I assume that the law school was a small enough place so that you were not an unknown quality to these people; they all knew you and they had drawn opinions of you based on knowing you in the classroom and elsewhere—the people who were making these decisions?

Leahy: I just think they didn't know what to do. I mean, you've got to remember, when I think about these things, how far we've come in many ways. In the Chicago public school system, in 1966, if you were pregnant, you had to quit at the end of your third month of pregnancy. And I had a friend of mine from Loyola that bound herself, because her husband was going to law school, and she didn't want to show. She wanted to finish that semester in June. And everybody was very concerned about her doing that. The baby was fine, but yeah. Those were different days.

DePue: Well, you hit the law practice at pretty tumultuous times in American history anyway. I mean, those next four to six years, an awful lot is going to happen. So that's an interesting time, I'm sure, to begin a law practice. Teacher tenure, talk a little bit about that as the casework you had.

Leahy: Well, the law firm represented the American Federation of Teachers and the Illinois Federation of Teachers, and with other law firms, the Chicago Federation of Teachers. So, we had many cases where teachers had acquired tenure and then were fired for cause. In those days, you had your hearing before the school board, which had already decided to fire you. And that's where the Pickering case came up. So Marvin Pickering was a teacher in Lockport, Illinois, and he wrote a letter to the editor of the newspaper which was critical of the school board, and they fired him for conduct unbecoming a teacher. So I got involved working on that case when I was still in law school, because my husband was working on it at the school board level with John Lightenberg. Then the administrative review went to the Circuit Court of Will County; I went out and heard Andy argue that case. Then, because it raised a constitutional issue of Marvin Pickering's right to freedom of speech, it went directly to the Illinois Supreme Court. So I worked on the briefs all the way along the way.

DePue: So how far along was the case when you actually got to the law firm?

Leahy: We had lost in the Circuit Court of Will County. So we were now preparing to take it directly to the Illinois Supreme Court.

DePue: Do you recall the grounds on which you lost in the Circuit Court?

Leahy: Well, the judge was just amazed that an employer couldn't fire an employee who spoke out critically. (laughter) I mean, I can remember the judge saying, "Do you mean to tell me, Mr. Leahy, that if my bailiff sitting here criticizes me in public, that I can't fire him?"

DePue: Was there a discussion at that time—as I know this was one of the main issues—once it got to the US Supreme Court level, that the statements he was making, what he had written, had factual errors, serious factual errors, apparently, that Mr. Pickering was making. Was that something that was brought up at the Circuit Court level?

Leahy: Well, the letter certainly was. I mean, there were statements in there that were more than opinion. There were also some factual things that he talked about in building a

new high school. But no, it was his right to speak out. We lost in the Illinois Supreme Court.

DePue: What were the grounds on which you lost there?

Leahy: That the school board had the right to hold this conduct against him, to fire him.

DePue: So essentially, he did not have First Amendment rights of freedom of speech as an employee.

Leahy: That's correct. And that all related back to a 1890s decision in which—I think it was the Massachusetts Supreme Court said—when a person goes to work for the government, he leaves his constitutional rights at the door. So that had been the law throughout whatever line of public employment. You went to work for government on any level, you dropped your constitutional rights when you walked into work.

DePue: Was Andy the primary—I'm looking for the right term, because I'm not a lawyer here—litigant, in this case?

Leahy: Well, Andy and I wrote the briefs, supervised by John Lightenberg, in a sense. He would review what we'd done, make a suggestion. But John argued it in the Illinois Supreme Court, and in the US Supreme Court.

DePue: Okay. But both you and Andy were there.

Leahy: Oh, yes.

DePue: How long did you have to wait—again, I'm not familiar with the specifics of this—how long did you have to wait before you could argue the case before the US Supreme Court?

Leahy: Well, Marvin Pickering was fired in '64, and the US Supreme Court issued its decision in June of '68.

DePue: So it would have been earlier in '68 that you actually argued the case?

Leahy: Oh, yes. Like January, February.

DePue: Okay. Tell me a little bit about it. Because here, you and Andy are still fairly young, and it's got to be quite something to even argue a case before the Supreme Court.

Leahy: Well, that's right, or to know that they've read our briefs and that kind of thing. We went out for a couple of days before the argument; John wanted to get familiar with the room, so he'd feel comfortable. And I remembered that years later, when I argued Rutan. I went out and watched the court for a couple of days. And I think the most telling moment was Justice Black, who—you know, we're all waiting for Justice Black to ask something—because he's the constitutional scholar. And for the days we're watching, we didn't see him at all. He had books piled up on the bench,

and we saw the top of his head. And then when the attorney for the school board at Pickering was arguing, Black pushed the books aside, and I know Andy and I were thinking: Here comes the great question. He said, "Counsel, where is Lockport, Illinois?" You could have heard a pin drop, and when we talked to the attorney out in the corridor after the argument, he said, "All I could think of was, 'I live there.'" Because you're so primed on the argument that to be asked, "Where's Lockport, Illinois?" was so unexpected, so finally, if I remember right, he blurted out something like, "Well, it's near the state penitentiary, and you've had a lot of cases from there." (laughter)

DePue: Something that he could relate to.

Leahy: Yes. But it was interesting, because that was a 9-0 decision. So the Supreme Court reversed the Illinois Supreme Court nine to nothing. There was no dissent.

DePue: I thought there was one who had one qualifier on it.

Leahy: But not an outright dissent.

DePue: Okay. Were you confident, was your team confident going in?

Leahy: I always expect to lose. (laughter) I don't know what it is. Then if I win, I guess I feel much better about it. But I think we were so disappointed at the Illinois Supreme Court. Justice Schaefer was on the Illinois Supreme Court at that time – and he and a justice from California were considered just the top State Supreme Court justices –and he asked all the questions. We thought we had won, walking down the steps of the Illinois Supreme Court. And then of course we lost. Schaefer was in the dissent.

DePue: At the Illinois Supreme Court level, though, were they basing their decision on US Supreme Court precedents?

Leahy: They were going by this decision from the 1890s.

DePue: And that was the US Supreme Court.

Leahy: No. It was the State Supreme Court.

DePue: Okay.

Leahy: The US Supreme Court had never addressed this issue. That's why Pickering is so important, because it all flows—

DePue: It's astounding that it took that long, isn't it?

Leahy: Yes.

DePue: Go ahead.

Leahy: To say that public employees have the right to speak or not speak, the right to associate or not associate. And in fact, I had a case pending in the Seventh Circuit Court of Appeals that was mine –the McLaughlin case –at the time we argued Pickering. And in that case, two non-tenured teachers had tried to organize a union, and their contracts were not renewed. We had lost that at the US district court level, so we were on appeal with that one. And when we got the Pickering decision, we just walked it over to the Seventh Circuit Court of Appeals in Chicago, asking them to use that as additional authority. And then a few days later, the Seventh Circuit decided that public employees had the right to associate, meaning to join unions. And then another big one in that same era: my law school professor, Bernie Meltzer, over labor law. He said that public employees would never have the right to bargain collectively, and yet we worked on those briefs in the late sixties, and the result was that in Illinois at least, public employees could bargain collectively.

DePue: Did this decision, the Pickering case, apply just to state employees? Or to federal as well? And local employees?

Leahy: All public employees. But the federal congress has enacted the Hatch Act, which puts certain limitations upon political activities of federal employees. That's been upheld.

DePue: Well, I know in my case, being a career officer, we certainly were conscious of the limits of what we were able to do and how we were able to speak out. And I do think that there's—well, I probably shouldn't say this, but –there are some differences between serving officers and being a teacher in a school district someplace.

Leahy: Absolutely. And I mean, I think the court has recognized that. I mean, Pickering wasn't absolute. Pickering said, Mr. Pickering has a right to speak out. The state can limit his speaking out, but only if they have an overriding interest, and they if do it in the least restrictive way possible.

DePue: Through legislation?

Leahy: That could be. What it has really come down to is a much more case-by-case analysis. For example, if your speaking out is disruptive, it interferes with the workplace, then they can restrict it.

DePue: But it has nothing to do with whether the statements you're making are factually true or false?

Leahy: That's correct. That would be a different area of the law.

DePue: Okay. Now, I think I read someplace that part of the argument that was presented for Pickering also included a Fourteenth Amendment issue?

Leahy: That's right. They didn't have to reach that, but we had raised it, and it's been raised numerous times since. And that is that the procedure whereby the teacher—

DePue: Due process.

Leahy: —who is tenured can appeal his discharge. That raised real serious due process problems, fairness problems. Because the school board voted to fire Pickering, and his only recourse was to appeal to the school board, but they had already made their decision. So now there's been enacted in Illinois a very sophisticated mechanism for appealing discharge once you're tenured.

DePue: But the Supreme Court did not find on the basis of the Fourteenth Amendment, strictly the First Amendment?

Leahy: That's right. I think there's a footnote that makes reference to these, but we don't have to go there. I mean, the court's not going to go somewhere if it can get by with deciding less. I mean, that's usually my view of appellate courts. They will decide what is necessary, but they won't reach out to decide other issues.

DePue: Okay. Now I want you to explain what it felt like when that 9-0 decision came down?

Leahy: Absolutely ecstatic. It was absolutely wonderful. Except we made one mistake; I think I told you this before. We didn't celebrate that day. We were going to wait until the weekend. And by the weekend, Bobby Kennedy had been killed, and we never celebrated the Pickering—you know, we never had the party, we never did it. Because Andy and I were working very hard for Bobby Kennedy, and his being killed just—we couldn't do that.

DePue: Why did you decide to wait?

Leahy: I think it was as much John Lightenberg as anybody else, you know. "Well, let's get back to work now. We've had our hour of celebrating in the office, but now let's get back to work, and we'll do it on the weekend."

DePue: So he wasn't necessarily the kind of personality that spent too much time worrying about celebrating in the first place then?

Leahy: Well, I think he was a very stoic Dutchman. He couldn't believe when he took Andy around the courthouse in Cook County how well Leahy was received, because the name is Irish. (laughter) You know, in the clerk's office, and the bailiffs. He was very surprised at that.

DePue: And the town had been run by Daley for a decade or more at that time.

Leahy: That's right. So he was astounded at what that Irish name could do. I can remember that. But he was a wonderful man. He was a member of the National Presbytery, and he stood up at—I don't know what you call it, but I think it was like the National Convention of the Presbyterian Church. He made a motion for the church to donate money to the Southern Christian Leadership Council, and there was just this stunned silence as he told it. And then they didn't know what to do, but they

voted to donate the money. But I think he was—he was very laid back, but he also believed very strongly in justice. Very good-hearted man.

DePue: I would gather from talking about being involved in the Robert Kennedy campaign, that somewhere along this process, you, and maybe Andy as well, decided to get much more involved in politics in a direct way?

Leahy: Yes.

DePue: Can you explain that evolution?

Leahy: Ab Mikva's campaign. Ab Mikva ran for Congress, and we lived in his district. By that time, we were living in South Shore, which is on the lakefront, but south of the loop. And so we worked on Ab's campaign.

DePue: Abner. Everybody called him Ab at the time?

Leahy: Yeah.

DePue: Okay. Tell me more about Abner then.

Leahy: Well, Abner was an independent. He'd been in the state legislature. He had gone to the University of Chicago law school, had a good law practice, just a very fine man.

DePue: Now, you say independent. Having talked to a lot of other people about this same time period, we're obviously going to get to Dan Walker, who would certainly see himself as an independent, but also a Democrat.

Leahy: Absolutely.

DePue: And Mikva was also in that same mold?

Leahy: Absolutely.

DePue: So he's a Democrat, but how is he independent? Explain that.

Leahy: Because he didn't follow the machine line. I mean, he took on Daley's candidate.

DePue: Was that the thing that excited you most?

Leahy: I think so. I think that the '68 convention had a powerful impact.

DePue: On you? Or—

Leahy: Yes. But prior to that, when Martin Luther King was killed, that's really when Andy and I decided we had to become involved; we had to make things better, or try to make things better. We worked the bail bond hearings after the riots in Chicago after King's death. We worked the bail bond hearings to a lesser extent during the Democratic convention.

DePue: So was your commitment to do something and to make a change based on the Chicago police response to the King riots and the response to the Democratic convention?

Leahy: I think it was not the police response to the riots, but I called a friend of mine who was with ACLU on that Saturday after King had been killed. They had said on the radio that the Chicago Bar Association was arraigning all of these people that had been just picked up in street sweeps. I can never say that right. But the police would just go down the street and put everybody in a paddy wagon. And the radio said that was all under control. So I called that Saturday morning, and the secretary said there's only two people there; there are hundreds of people waiting to be arraigned. So then Andy and I went and worked that Saturday and Sunday. So did some of my other classmates. As a result of that, the Chicago Council of Lawyers was organized, as distinct from the Chicago Bar Association. So there was that need. And then I remember—I couldn't go in the back to talk to anybody I was going to handle in front of the judge. I had to talk to them for about ten feet when they were led out of the lockup up to the judge. I remember one young man was just back from Vietnam. He'd been decorated. He was out on the street trying to get some milk for his child, and was just caught up in that sweep. I explained that to the judge, and the judge then said, well, he should have known better, and doubled the bond. So what was the normal bond was doubled for that guy.

DePue: Let's just touch base on this one, then. How would that judge have been appointed or arrived at being a judge in Chicago in the first place?

Leahy: Well, he was part of the Daley machine in those days. We went back and worked Easter Sunday. They convened court at Twenty-Sixth and California; the first weekend had been at Eleventh and State. But on Easter Sunday, Andy and I went back with some others, and we worked Easter Sunday trying to get the last few people out.

DePue: Were there any other aspects of the Daley machine that really made you angry, that you had serious problems with?

Leahy: Oh, the way the convention was handled.

DePue: The Democratic convention in '68?

Leahy: Yes.

DePue: How about the way the machine—

Leahy: I mean—you've got to see that Walker was involved in that, although I didn't know him then—because he did the Walker Report on that Democratic convention.

DePue: Absolutely. He didn't make any friends in the Daley administration after that came out.

Leahy: No.

DePue: Were any of your problems with the Daley administration the way that the precincts were run, the discipline that he was able to impose on people of turning the vote out, of the patronage system that he had developed?

Leahy: Well, I really think I got a little bit of taste of that in the Mikva campaign. But then in '69, a young man by the name of Billy Singer got elected against the machine.

DePue: An independent Democrat?

Leahy: That's right. And all of the sudden, all these independent Democrats in Chicago thought they might have a chance to do something. It's been interesting to me to see how there was confrontation then, but then how the current mayor—I mean, there's been reconciliation between a lot of people.

DePue: So was it the events of the Democratic convention, the tumultuous times of 1968, that really energized you and Andy to get much more involved in politics then?

Leahy: That's right. And it's funny, because we were very, in a sense, involved in the church; I think we both began to think we couldn't get what we wanted through that vehicle—social justice, let's put it that way—but that we might have a chance of being more effective through the political system.

DePue: Okay. This occasionally happens to me; I forget what my next question should be. Oh, I know what I wanted to ask you. It strikes me, listening to you, that it's Andy and “myself.”

Leahy: Yes.

DePue: It was a team.

Leahy: Yes.

DePue: Were there any problems that emerged, because you have two very involved lawyers married to each other and bringing some of these things home?

Leahy: No, I think we complemented each other. Before Andy went with the law firm, with Lightenberg's law firm, he had been an organizer for the American Federation of Teachers. You've got to understand that this is like 1963, '64, '65, when again, we're dealing with public employees who don't have any rights. Collective bargaining is maybe sometimes on the horizon. A lot of people joined the teachers' union to get the insurance, so if a kid fell in their classroom, they felt they'd have coverage. So the teachers' movement at that time was a very exciting thing. But Andy was an organizer, and he always used to say that the organizer is not the good person to be the first president. The guy who organizes the union—he was a field director helping organize, the guy who really does the organizing—the talents needed for that are very different from being the president of the union, of the local union. And

in looking back on it, Andy loved the organizing part of it, so he thought it was just great if I was out front but he was organizing and making it happen.

DePue: So what were the talents that you brought to the team?

Leahy: Well, I used to think, speaking. When I began to get involved.

DePue: You used to.

Leahy: Yeah, I think. I mean, I really enjoyed, when I was campaigning or working on somebody else's campaign, doing coffees, meeting people. I really, really loved that. Whereas Andy was much better at, "Okay, we got all the precincts covered." You know, you've got to make sure that when people are going out working these precincts, they go out in twos. Andy thought that Jesus Christ should probably be studied from the aspect of political organizing, because, you know, if there's two of you when you go out, and it's cold and it's wet and it's a primary, and you've got three more houses on the block, if you're alone, you'll probably go home. But if there are two of you, you'll go to the end of the block. So anyway, so he liked that organizing part of it.

DePue: Was he more comfortable with the behind-the-scenes things then?

Leahy: Yeah, but he was such a gregarious—I mean, juries, I think, loved him. I mean, my debate coach once said to me—he was comparing me to another woman, Kay Dwyer—and he said, "You know, when you're together, you're a really good team, because Kay is, 'Oh, c'mon along with me, you like me so much you want to be on my side,'" whereas, he said, "You're like, 'I really don't care if you come along with me or not. This is where I stand.'" So he said it was a very good—

DePue: What I'd like to have you do now is explain your political philosophy, if you will, at that time. We know how it manifested itself in terms of your involvement in campaigns, but what would your core and Andy's core political philosophy be?

Leahy: That we wanted to open up the Democratic Party. We wanted to open it up to ideas. We also were very concerned about the role of the Cook County Democratic Party in terms of segregation. We just wanted to open things up for more ideas, more participation. Not that it had to be done—like the precinct captain has to go out and has to work the precinct—but if people wanted to, that they could get out.

DePue: Well, that may be a good transition. I know that in 1968, one of the results, one of the outcomes of the '68 Democratic convention, was that there were people in the Democratic Party who wanted to reform how the primary process worked. I guess we were living that and watching it each evening as we went home and watched the news and read the newspapers and such. The McGovern Commission is what I'm referring to here, and the McGovern Commission rewrote some of those policies. Can you talk about that a little bit?

Leahy: Well, the whole purpose of the rules of the Democratic Party was to open the party up to women and minorities. And we did not see that happening in Illinois, that the slate that the regulars proposed for delegates to the convention were not open to women and to minorities. So Billy Singer and Jesse Jackson teamed together to challenge the Daley delegation.

DePue: Okay. Now we're jumping up to 1972. So the results of that McGovern Commission that worked after 1968 rewrote the laws, and now '72, four years later, this is the first time you can really test those?

Leahy: That's right.

DePue: Okay. Go ahead.

Leahy: And anyway, Wayne Whalen, John Schmidt, myself, and Andy were the attorneys involved representing the challenge delegation.

DePue: Singer and Jackson's delegation. What was the original delegation that you're challenging then? The Daley slate?

Leahy: Oh, yeah. Absolutely.

DePue: And that was selected how? What was the mechanism that chose those delegates?

Leahy: I think it was the back room, as it always had been, I think.

DePue: So the delegates are chosen at the back room, but then they—

Leahy: They're rubber-stamped.

DePue: They run in the primary election, correct?

Leahy: And rubber-stamped, yeah.

DePue: Rubber-stamped in terms of the machine turns the vote out and makes sure that the voters elect their candidates?

Leahy: Yes.

DePue: Was there a counter slate of delegates that Jackson and Singer had proposed?

Leahy: Yes. And that slate of delegates was eventually seated, although we tried to convene caucuses to select those delegates. The regulars—I don't know what better word to use—well, they showed up and tried to disrupt them.

DePue: Now, I want to make sure I get this clear, because I've read some things and I'm not sure I understand the process. I thought I had read that this counter-delegation, this slate of delegates, were not on the original ballots at the same time that the Daley candidates—

Leahy: That's right. And so, but we had these challenge proceedings going on, for example—

DePue: After the original primary?

Leahy: Mm-hmm. The National Democratic Committee flew a hearing officer in from San Francisco to Chicago, and we had hearings on exactly how the Daley slate was selected, and presented proposals for opening it up to get a new delegation that was representative of women and minorities. I believe we prevailed with the hearing officer; then it went to the credentials committee of the National Democratic Party in DC, and they voted to seat the challenge delegation. Then it went to the floor of the convention.

DePue: Okay. Can I back up just a little bit here, though, Mary Lee? How was the counter-delegation selected in Chicago, if they weren't on the ballot initially?

Leahy: In this caucus process.

DePue: Okay. And were the Daley people involved in the caucus process?

Leahy: Well, they were involved to the extent that it became a bit physical at the one I was at. It was in a church; Wayne Whalen was chairing it, and he was hit. Fell down on the altar.

DePue: Well, that's kind of an ironic scene, isn't it?

Leahy: Yes. I was really concerned, because Andy was at another caucus, and eventually I found out he was okay. But to back up on this a little bit, there was litigation filed in federal court. And the challenge delegation won at the district court level. I argued it in the Seventh Circuit; the judges left, came back in, and they said, "Stay, we're going to reach our decision." They came back in and overturned the lower court's decision two to one, meaning that the Daley delegation would be seated. And that was the last day the United States Supreme Court met that summer. So we raced back to the office; we had put together a petition for a writ of certiorari asking the US Supreme Court to take the case in case we lost that morning. So I took those petitions. Andy went around our building with lawyers he knew collecting enough cash, because the only plane ticket that was available went from O'Hare to Baltimore; we couldn't get on a flight to DC. So they wanted me to have enough cash to pay for the cab ride from Baltimore to DC. So I got this cab in Baltimore, and I told him, "We've got to get there by 4:30; this is the last day of the term." And he really raced. I mean, he was going on the sides of the highway; he really scared me, but he got me there. We get to the outside of DC, and he turns around, and he says, "Lady, I've never been here before. Where's the Supreme Court?" I had never been to DC, but I knew the Supreme Court was opposite the Capitol, and so in the distance, I can see the Capitol. So we kept going, just following until we got to the Capitol. And of course, it was 1972; things were, I remember, a little bit rough. They had tremendous security around the Supreme Court, and I was passed on from one walkie-talkie to another. I got to the clerk's office with 20 minutes to

spare. And the clerk started laughing, as did many people in the office, and they said, "We had bets on whether or not you'd make it on time."

DePue: They knew you were coming?

Leahy: Oh, they knew we were coming. In fact, we were trying to get them to stay open a little bit later, but they couldn't do that. So that's why it was so important that I get there. Then one more irony to this whole thing: so I filed the petition; meanwhile, the National Democratic Party's credentials committee is meeting about which delegation to seat.

DePue: Also in DC?

Leahy: In a suburb, yeah, of DC. So I come out of the courthouse, it's June; it's so hot, it's so humid, it's, what, 5:00, I had trouble finding a cab. And when I got in the cab to go to the hotel where the credentials committee was meeting—I'll never forget it—the cab driver said, "Lady, have you ever seen the Watergate?" And I said, "No," I hadn't seen the Watergate. And so he said—

DePue: Had you ever even heard of it before then?

Leahy: Oh, probably, I guess. But he said, "Well, I'll take you by there. I won't charge you any more, because we have circles, our fares are in circles, not by miles." So he's going down, and he points out the Watergate to me, and then he turns around, and it made me very nervous that he wasn't looking at the road. And he said, "Lady, that's the Watergate." I said, "Yes." He said, "You know, that's where they broke into Democratic headquarters last week." And then he said, "You know, I think that Mitchell's behind the whole thing." I'll never forget that moment, given how history unfolded later on.

DePue: But you hadn't really been all that conscious of the background of the Watergate break-in before that time?

Leahy: Oh, I'm sure I had read about it. It was a minor blip when it first came out.

DePue: Yeah. The decision that the Supreme Court made then, I assume, obviously was in favor of your brief.

Leahy: Oh, no, it was much more complicated than that.

DePue: Okay.

Leahy: Our case came out of the Seventh Circuit Court of Appeals, which is the federal court of appeals over Illinois, Indiana, and Wisconsin. The justice on the Supreme Court assigned to the Seventh Circuit in June of 1972 was Rehnquist. So I went out to the hotel. Wayne Whalen and John Schmidt were there on behalf of the challenge delegation in regard to presenting the case to the credentials committee. So they knew what I had done. We just stayed, and we got a phone call, I believe it was—I

believe I filed this on Thursday –got a phone call on Friday that Justice Rehnquist would hear us in chambers on Saturday. I think I've got the days right. And so Wayne and I called the clerk and said, "How is this handled? What's the procedure?" And the clerk indicated it hadn't happened. So anyway, he wasn't so sure, but we got to the Supreme Court, Wayne and myself, and Justice Rehnquist heard us in chambers. The other side was there as well. It was a very frank, open discussion. Justice Rehnquist had been very politically involved in Republican convention politics; he'd been Eisenhower's supporter in opposition to Taft. Wayne and the justice had a wonderful historical discussion of poly-party conventions, and they really knew a lot about the subject. But then at the very end, Rehnquist said something to the effect, I'm the least senior justice on the court; I just don't think I can convene the court to come back in. There was a similar challenge delegation fight in California, and the next week, if I remember correctly, Justice Berger brought the court back into session to consider the California case, and ours went in at the same time. So we got hooked up to the California case. The sum result was that the US Supreme Court said that the Democratic Party can adopt rules, and it's bound by those rules, which certainly is germane today. I mean, I would bet you that when they just denied the Florida matter, that it was based on that decision. So the party has its rules; the party must follow its rules.

DePue: And of course, back then, you have no idea how some of these things will play out in future decades.

Leahy: That's right.

DePue: I mean, that was a huge decision. But maybe at that time, it didn't have nearly—or did it? Did it have a lot of national attention?

Leahy: Oh, yes.

DePue: Okay. I know it obviously did once it got to the floor of the convention itself. You were not at the convention, though.

Leahy: No. I was teaching law school at night at Kent College of Law. But I was involved; the delegation, the challenge delegation flew out on a Saturday morning, and the Daley delegation had moved to enjoin the challenge delegation from leaving the state of Illinois. Judge O'Brien convened the Circuit Court of Cook County on that matter on that Saturday morning, and Andy and I represented the challenge delegation. I remember we had to object to Judge O'Brien hearing the case, and I believe the judge was—he said he was very upset that attorneys of our caliber would think he could not deal with the matter fairly, even though he knew Mayor Daley very well.

DePue: I was going to say, let's see, O'Brien, Leahy, Leahy, Daley—a lot of Irish Catholics in there.

Leahy: But see, you don't have to give a reason to get a change of judge the first time. You just ask for it. And so we just asked for it, didn't say anything else. It was, I believe,

the judge who threw out the fact that he knew Mayor Daley well. But he then called Judge Covelli on the phone, and Covelli was out—I think mowing his lawn. So Covelli showered, changed, came downtown to the courthouse, and we had our hearing then in front of Judge Covelli. And at the end of it, Judge Covelli ordered, in a sense, that the Daley delegation be seated, and that the challenge delegation not be seated. He ordered me to call the attorneys at the convention—

DePue: But this decision came after they had made the decision at the US Supreme Court level?

Leahy: Yes.

DePue: Wasn't he effectively overturning that decision?

Leahy: Well, eventually, the higher courts said yes.

DePue: I'm sorry, I got ahead of the story.

Leahy: Eventually they said yes. I think they viewed their ability to restrict the travel as being very different than a federal claim. So I did call; I called John Schmidt in Florida and read him the injunction, and he acknowledged that he had heard it. Okay, then of course, I think if Daley had gone to the convention; the Daley delegation would have been seated. But the mayor chose not to go. So the challenge delegation is seated; the convention goes on. And then of course when the challenge delegation came back, they faced contempt charges in front of Judge Covelli. And that's what eventually went up. So we had all these different cases about the 1972 Democratic convention going in all directions.

DePue: And it's not like you can delay the convention.

Leahy: No.

DePue: Obviously what happens at the convention is the Daley delegation does not get credentialed; the Singer and the Jackson delegates do get credentialed. McGovern is eventually selected as the Democratic candidate, and then is overwhelmingly, in a landslide, defeated in the general election. I'd like to—

Leahy: And by the way, though, these lawsuits went on long after McGovern's defeat, because it takes a while to go up through the appellate process.

DePue: Sure. What I'd like to do now is, in reverse order, to ask you to reflect about the impact of these last two things we've talked about: the Pickering case and this fight at the Democratic convention. Since we were just talking about it, let's start with the Democratic convention. Because it is so much in the news today, it's fascinating to me. I've read a lot of things that suggest that the McGovern Commission, and the way the '72 convention played out, has fundamentally changed the nature of the Democratic Party, and weakened what some people would refer to as that old FDR

coalition of Southern Democrats, Catholic working-class Democrats, white liberals, other groups as well. How would you react to that comment?

Leahy: Well, I think the '72 convention—the end result, after all the litigation—came down to the fact that the national party can adopt rules, and those rules are enforceable. I think that the party as a result did open itself to women and to minorities. And in fact, the first time that it was just Clinton and Obama in a debate, I was watching it, and all of a sudden, I said, "Oh, my God. Is this the result of 1972?" And maybe it is. Maybe it is.

DePue: A good thing then?

Leahy: Well, being a woman, I sure think so. (laughter)

DePue: Okay. Let's go back to the Pickering case then, the impact of the Pickering case.

Leahy: Tremendous. I mean, we have a method whereby, when a court cites a decision, you can go and find that citation. And if you open the book to see the citations in Pickering, they're almost endless, because there has been public employee litigation on all levels, from mosquito abatement districts on up. What rights do public employees have? So that's had a tremendous impact. Although I am a little concerned about the Supreme Court's recent decision on a whistleblower, in which the court said that if whistle-blowing is part of that employee's duties, then if he speaks out, he can be punished. And I have a very strong feeling that whistle-blowing is protected by the First Amendment, and that the citizens benefit greatly from whistle-blowing. There's a line in Pickering, something to the effect that it's not just Pickering's right to speak out, but it's the public's right to hear. And who better knows what's really going on in government than someone who works for government? So that the public, the taxpayers, have the right to hear what's going on. So that whistleblower decision of the US Supreme Court disturbs me greatly.

DePue: We're going to talk about the Rutan decision at great length in a future interview. But I have a sense in what you've talked about before, and what you've just explained now, that Pickering is perhaps what you would look at as the biggest contribution that you've made to constitutional law?

Leahy: Yes. Because Rutan is based on the holding of Pickering. It's a natural—you had Pickering in 1968; you then had Elrod—and it's amazing how all of these patronage cases come out of Illinois—but you have Elrod in 1976, where the Democratic candidate wins for sheriff of Cook County and tries to fire all of the Republicans that had worked under Sheriff Ogilvie. And so you had the Elrod decision going up to the US Supreme Court, in which they said: Hey, you can't fire non-policymakers, you can't fire them because of their politics.

DePue: I wonder if we can go back very quickly and look at a picture of you and Michael Shakman sitting in—you know what we haven't even got to yet is the Democratic convention of—excuse me, the constitutional convention. I had planned to talk quite a bit about that, and I don't know if I have enough time to really go into that

today. Maybe we need to hold that off. But let's go ahead and look at that picture of you and Michael Shakman sitting in—somebody's house, I guess, because you're both delegates to the —

Leahy: Well, no, we were running for delegate at that point.

DePue: Okay, running for delegate.

Leahy: He was running from Hyde Park [a south side area of Chicago]; I was running from South Shore. And there were some blocks that literally, one side of the street was in his district and the other side was in my district, and so we would have joint coffees. That was what this was, a coffee.

DePue: Well, the reason I'm mentioning Michael Shakman at this time, obviously, is because I've had a chance to interview him. He was interviewed because he's brought a lawsuit against the Daley machine, taking on the machine about patronage issues, is how it eventually worked out. And you're talking about the same kind of thing, so very much the same kind of work. And the irony is, there you are, both sitting and hoping to be delegates to the constitutional convention in 1970.

Leahy: Yes. And fortunately, I won, and terribly unfortunately, Mike lost. But his lawsuit was an attack on the ability of the Daley machine to force city employees to work against him in the precincts. I mean, that was the real basis of it, that if you want to keep your job, you go work your precinct.

DePue: And you're obviously working your precinct for the slate of delegates that the Daley machine had put up in the first place.

Leahy: That's right.

DePue: Neither you nor Michael Shakman was on that slate of delegates, were you?

Leahy: That's right. It was very interesting in my district—I think there were nine of us in the primary —and four went on, because there were two delegates from each district. And so the two Daley candidates made it through the primary, and I made it through the primary, and John Chico, who was a steelworker, made it through the primary. So then John Chico and I teamed up to run kind of as a team, and combine precinct workers and joint coffees, that type of thing.

DePue: What caused you to decide to run for a delegate seat in the first place?

Leahy: Oh, because this was just—this was 1969; we've experienced all of 1968. Billy Singer won as an independent Democrat for an aldermanic seat in Chicago. And there was just this tremendous feeling that there was this opportunity. In fact, the irony is that Ron Smith, who began by working as treasurer on my campaign, decided he'd run himself, and he got elected, along with Elmer Gertz from his

district. So there's this great feeling among quote "independent Democrats" that maybe this is our chance.

DePue: That after a hundred years of the old constitution, it was time to be changed?

Leahy: Oh, yes, was it time to be changed! In 1870, banks and grain elevators were very bad people, and so there was specific provisions put in the 1870 constitution restricting banks, restricting grain elevators. It was definitely—I mean, banks in those days were issuing their own currency. So, you know, we had come a long way. And our boundaries in the old constitution were wrong, not that that mattered much. But there were lots of things about it that definitely needed to be changed.

DePue: Did Andy flirt with the idea of running?

Leahy: Well, yeah, we talked about that. And he decided, and I decided, it should be me, for two reasons. One, I was working part time and he was working full time, so there would not be the financial impact on our family if I ran. And the other thing was that he wanted to be the organizer. So that was why the decision was made.

DePue: Would you say at that time you were more ambitious, politically? Did you have other aspirations beyond this?

Leahy: I don't think at that time I did. I certainly think that once the convention was over, we both knew we wanted to stay involved.

DePue: Well, I assume that you didn't have deep pockets. How did you raise the money for that campaign?

Leahy: Oh, my goodness. I think the campaign maybe cost \$17,000.

DePue: So pretty close to a shoestring operation.

Leahy: Yeah.

DePue: And what were the things that you were arguing for? The platform, if you will?

Leahy: Well, it was also the beginning of the environmental movement. And I decided to run on that issue, because I was in the Thirtieth Senatorial District. We had all the steel mills, four steel mills at that time, that were going gung-ho. We had the city garbage dump. And so air pollution was a real problem, and nobody was addressing that. So that was my main issue, and I think everybody thought we were crazy. Then we had an air inversion, like ten days before the election. And all of a sudden, "Hey, maybe Mary Lee Leahy's got an idea." It's so bad; the pollution is so bad and so smelly on the South Side, so.

DePue: That's interesting, the way elections can turn on those things. Or snowstorms, or things like that.

Leahy: Michael Bilandic sure knows that.

DePue: Yeah.

Leahy: I think that we also did a real grassroots campaign. I walked precinct after precinct. People said I should not go on the East Side, but I did, and I only lost the East Side by, I think, less than a hundred votes.

DePue: What was the ethnic background and the political background of the East Side at that time?

Leahy: Well, it was Eddie Vrdolyak's ward. I heard that when he heard I won, he threw some chairs. But in any event, it was a very... Well, let me put it this way. I had heard that they voted down a swimming pool on the East Side, and instead, put in a few little hills so people could ski in the winter, because everybody knew that African-Americans didn't like winter sports, but they did like to use swimming pools. The East Siders wanted to keep blacks out. Andy and I were walking a precinct, and we saw about a block and a half ahead of us, a couple of teenagers putting literature in the mailboxes, and so it was just sticking out. So when we got there, we pulled it out. And it was a picture of me shaking hands with Alderman Cousins, who is African-American. And it said, "Is this what you want in your constitutional convention?" Something—words to that effect. It was a very racist piece of literature, with no identification on it as to who issued it. So anyway, it was very exciting. And I met the most wonderful group of people in my whole life, in the constitutional convention.

DePue: I think this might be a good time to stop today, because that will allow us to open up the next session and get much more in detail about the constitutional convention, because there's so much that I'd like to ask you about that. And I know that was an important period of your life as well. And then we can go into the Walker administration after that. So there's still quite a bit to cover here.

Leahy: Be sure you remind me, because there was litigation about the ballot placement for the constitutional convention. I've got to remember to talk about that.

DePue: Okay. I will start with that then.

Leahy: Okay.

DePue: Thank you very much, Mary Lee. We will pick this up in probably about a month or so, but I think you can tell that there is much more we can learn from hearing these stories firsthand from Mary Lee Leahy. Thank you very much.

(End of session 1. Part 2 continues)

Interview with Mary Lee Leahy

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Interview # 2: April 23, 2008

Interviewer: Mark DePue

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DePue: Hello. My name is Mark DePue; I am the Director of Oral History for The Abraham Lincoln Presidential Library. Today is Wednesday, April 23, 2008. It's a gorgeous day outside. I have the pleasure to be with Mary Lee Leahy for our second interview today, to talk about your experiences with the Constitutional Convention, and then your years with the Dan Walker administration. That's our agenda for today. What we want to start with on this gorgeous day is a little bit of background backpedaling over some of the information we talked about before. We especially focused at the end of our conversation last time on the Democratic convention of 1972, and your involvement with that. I know there were one or two things that we needed to clean up on that. I think there's also one slide here that shows the headlines when Daley's delegation was unseated. That might be the incorrect term, but anyway, they weren't accredited once they got to the convention.

Leahy: Well, it started a little bit more complicated than that. Independent Democrats filed a challenge to the Daley delegation on the grounds that it had not been opened up to women and minorities. Then we had a hearing before a hearing officer that came from San Francisco; a recommendation was made to the credentials committee. I believe the challenge delegation, which was headed by Billy Singer and Jesse Jackson, they were seated according to the credentials committee. And then the Daley delegation challenged that on the convention floor. However, Mayor Daley did not appear at that convention in Florida. We had a court proceeding; attorneys Wayne Whalen and John Schmidt were with the challenge delegation in Florida at the convention; Andy and I had a hearing on Saturday morning in court in Cook County. Late that afternoon, Judge Covelli issued an injunction ordering the challenge delegation not to leave the state of Illinois. Well, by that time, the plane had left. So I got on the phone and I read the terms of that injunction to the attorneys at the convention. Then when the challenge delegation returned, contempt was brought against them for having violated the order of Judge Covelli. Eventually, that order and all challenges went to the United States Supreme Court. But by the time those went up, I was working in the Walker administration and

could not participate in the appeals. I handled the contempt trial, but I did not participate in the appeals.

DePue: Would it be fair to say, Mary Lee, that there were some hard feelings about all of that that lingered on for years afterwards?

Leahy: Yes, I certainly think so. Dan Walker had nominated me to be the Director in the Environmental Protection Agency because of the work I had done in the Constitutional Convention on environmental issues. The Senate refused to confirm me. The Daley Democrats in the Senate just simply didn't vote. So I think I had eighteen in my favor and a few against me, but I didn't get to the thirty or thirty-one I needed.

DePue: Well, we are definitely going to talk a little bit more about that particular nomination, and things that occurred in the Walker administration. But I want to turn our attention now to the 1970 Constitutional Convention. I believe where we finished off last time is that you had just been selected, you were elected as a delegate to the Constitutional Convention. So if we could, then, what happened after that? Discuss the early stages of the convention.

Leahy: Well, I'm not sure that we discussed the ballot placement issue. Did we do that the first time around?

DePue: I don't believe so.

Leahy: Okay. Well, you know, in those days, if you were challenging the regulars or the Daley Democrats—both terms were used interchangeably—you had to be very careful that your petitions with the voters' signatures on it were in perfect order, that you didn't have anybody whose name could be struck. So we were very careful about that. Independents ran against the Daley machine candidates throughout Chicago. The Secretary of State's office indicated it would take the petitions beginning like at 8:00 or 9:00 in the morning here in Springfield. So my husband and I drove down to file my petitions. When we got the placement on the ballot in Cook County, all the regular Democrats were one and two on the ballot. At that time, there had been a lot of studies done that ballot placement is worth maybe up to five percent of the vote, so if you really wanted to get an advantage, you would be number one or last. Well, it just struck us as odd, that in every single senatorial district, the regular Democrats were one and two. So we filed suit in Sangamon County, and one of the candidates, Mr. Weisberg, Bernie Weisberg, filed in federal court in Chicago. We had our hearing down here before Judge Chamberlain in the circuit court of Sangamon County. He granted the motion to dismiss; he said we had no due process or other right, in terms of ballot placement. Now, you've got to understand, at that time, the Secretary of State was Paul Powell. And Paul Powell was the one in charge of the ballot placement.

DePue: Well, we need to mention just a little bit of Paul Powell's background: a Democrat from southern Illinois, an ally of the Daley administration?

Leahy: When it was convenient. I mean, he had his own stronghold, I believe. But when he became Secretary of State, he had the right to name, I guess, the ballot placement, that's what we were challenging. And he notoriously –after his death, you remember –all the cash was found in the shoeboxes in his hotel room.

DePue: One of the more colorful stories in Illinois politics.

Leahy: But anyway, Judge Chamberlain dismissed our case. The next day, we read in the newspaper that he had been parliamentarian for Paul Powell when Paul Powell was the Speaker of the House. Judge Chamberlain had disappeared; he went on vacation. So anyway, Bernie Weisberg prevailed in Chicago in federal court, and it was then held that the names of the candidates would be drawn for ballot placement. That was the solution. So everybody would have an equal opportunity for placement on the ballot. So Andy and I again came to Springfield and saw the names being drawn. In fact, Don Ed, who worked in the index division at the Secretary of State's office, got a big coffee can, and he used that –it was empty –to put the names in, and then there'd be the drawing. I have that coffee can; he was going to pitch it in the garbage, and my husband went over and said, "Don," –because we'd gotten friendly during this whole ordeal—“Don, you're going to throw it away; could I have it?" So I've still have the coffee can, and that was the first drawing for placement on the ballot. So it leveled the playing field.

DePue: I know there was an awful lot of what you and most people refer to as “these independent Democrats who are running against the Daley machine.” Was that a concerted effort? Was there some unity of action among all of these independents?

Leahy: To some degree. Ron Smith, who was elected, began as treasurer of my campaign. And then he decided he'd run in his own district. Yes, there was contact, there was some unity, but I had far more unity with the other independent that was running in my district, because two delegates were elected from each district. And so I worked very closely with John Chico.

DePue: Did he win the seat as well? He did not.

Leahy: So I won and one regular won.

DePue: What month and year was this?

Leahy: November 1969.

DePue: When did the convention itself begin?

Leahy: In November of 1969.

DePue: Right after that.

Leahy: November, early December, yes.

DePue: Was the convention's work all in Springfield?

Leahy: Yes. We started out in the House of Representatives. But then they were going to come back in January, and we had to find another home. And they were just completing the renovation of the Old State Capitol. So we met in the House of Representatives in the Old State Capitol.

DePue: Well, nothing like being surrounded by all of the history in that grand old building.

Leahy: We sure learned a lot of history; whether it was fact or fiction, it was very interesting. But I'll tell you what, the room was small, to put all of us in there. I can remember that they measured some of the larger delegates so they could have a bigger chair and a bigger desk. (laughter)

DePue: How many delegates altogether then?

Leahy: 116.

DePue: Okay. So two per—

Leahy: 116, 118.

DePue: Two per senatorial district.

Leahy: That's right.

DePue: How long did the convention meet?

Leahy: We were funded for eight months, and expenses were funded for nine months, and we met the full nine months.

DePue: Monday through Friday?

Leahy: No. It varied. I mean—

DePue: I'm sure a lot of it was committee work.

Leahy: Well, in the beginning, we had time for submitting proposals. First thing was the selection for committee, and if I remember correctly, I'm the only one who put down General Government as my committee selection. It became known as the garbage bag of the convention, because when they didn't know what to do with a proposal, where to send it, they sent it to General Government. So I got to learn about banking and boundaries and the environment, and heaven knows what all. I wanted that committee—I guess I was the only one—because I thought I would learn about a lot of different areas. It was after the election, when the independent Democrats knew who'd been elected, that we really began to work together. We had some meetings before we were sworn in, and then usually we met every night after the convention session ended. Of course, not on the night we were going home. And

we tried in the beginning to get on different committees, so that when we met at night, we could tell each other what had gone on, so we didn't have three or four people on revenue, or three or four people on the legislative committee. That turned out to be really, really good. A lot of us—for example, Dawn Clark Netsch. I believe she was Vice-Chair of the committee. Elmer Gertz was Chairman of the Bill of Rights committee. Wayne Whalen was head of Style and Drafting. So we not only were on committees, but we also had leadership roles.

DePue: Why don't you go through the whole list, if you could? I know you've done your homework here.

Leahy: Well, my problem is that there were nine of us. And if you ask me point blank, I can always come up with eight but not the ninth, and sometimes I forget myself, so that's part of the problem. It was Peter Tomei; he was from Rogers Park, and he was suffrage, the whole thing about voting. He ended up with that very controversial issue: should eighteen-year-olds be allowed to vote? And finally, we put—the miracle of getting this constitution passed was that we took four very controversial articles and put them out separately to vote. And so eighteen-year-old vote, yes or no; Illinois rejected the eighteen-year-old vote, so twenty-one went in the body of the constitution. Elected, appointed judges. Elected prevailed with the populus; that went in the constitution. Single-member districts versus our cumulative voting; that went in the constitution, the cumulative, which later was changed when Lieutenant Governor Pat Quinn—

DePue: The cutback amendment.

Leahy: Yes. Okay, so Peter Tomei was suffrage. Frank Cicero had been a year ahead of me in law school; he ran from Evanston. I've have a funny story about him. When we moved to Evanston, I was ten, and my dad said to my mother: Don't let people know what you are until you have some friends. Well, she became friends with a neighbor of ours, very close friends. We ran without a party label for the Constitutional Convention, so Mom called this friend and said, "Frank Cicero's a great guy; will you vote for him?" And she said, "I have to think about it." And she called back and said, "I just can't pull the lever for a Democrat," even though there's no party label. Ron Smith: he'd gone to undergraduate with my husband at Loyola. Elmer Gertz: the great civil libertarian. Al Raby, who was very involved in bringing Martin Luther King to Chicago and desegregation in Chicago. Wayne Whalen was elected from Galena, but he then moved to Chicago and was working for a big downtown law firm. Peter, myself, Frank; we were all about the same age. Dawn Clark Netsch, who later went on to be the first female statewide office holder. Myself and Bernie Weisberg, who was an attorney in Chicago, and he went on to become a federal magistrate judge.

DePue: I know this group of delegates was a very healthy mixture of some very new blood into politics. And some old hands as well. The group of people that you're talking about here are primarily younger?

Leahy: Primarily, almost overwhelmingly younger, in first office. Then you had people like David Davis, whose grandfather had been the bag man at the Republican Convention in 1860, went on to sit on the Supreme Court, and was very close to Lincoln. You had Elbert Smith, who had served, I believe, as President of the Senate. Those people knew that the convention was their last elected office.

DePue: So that was a wonderful way for them to cap off their careers.

Leahy: I think so. And the marvelous thing about that—I think I've said this before—is that it was the most wonderful group of people that I've ever known of such a mix, a variety of political views and backgrounds, and we all got along so well. I mean, we'd fight on the floor, but then we'd go out and have dinner together. I don't think you can do that in Springfield today.

DePue: No, I think I would agree with you.

Leahy: I mean, I had some wonderful friends that were Republicans: Virginia MacDonald, Nat Mullen. By the way, it was also the first time the number of women had been elected, so that was important.

DePue: Who was the youngest member? Was that you?

Leahy: I was the youngest female. Jim Gierack was the youngest male.

DePue: Okay. Let's talk about the group makeup we discussed. Of your particular group of independents, what would you say were your objectives? Now, you discussed these four things –but maybe on a broader scale –what was the objective of the group?

Leahy: We discussed our positions on issues, the burning issues of the convention. And we would come to a consensus. We honored each other's ability to vote another way. But usually, we were pretty much in consensus. And the interesting thing is, I'm not sure anybody or everybody—I know it wasn't everybody—knew who we were and that we were meeting. And I can remember towards the end of convention when things were getting rough, President Witwer approached Bernie Weisberg and asked to meet with quote "his group." We met with President Witwer at his apartment at Lincoln Towers, and when Sam opened the door, Bernie said, "I'm sorry, Sam, we couldn't get everyone," and we were all there. I mean, we didn't want our numbers to be known for sure. But we did break, I think, a lot of ties in that convention. We had an impact. Then General Government: we had to get rid of a lot of literally garbage things. The boundaries were wrong in the 1870 convention. The boundaries article went out. You can't imagine how many people came to public hearings to keep the boundaries that were wrong.

DePue: The state's boundaries?

Leahy: Yes. The state's boundaries are determined by the federal government and certain treaties, and not by the state. I can remember a delegate from Rockford, and he said, "We're never sure where the Wisconsin/Illinois border is." He said, "Sometimes, if

we find a body close to the border, one state may kick it across and the other state kicks it back."

DePue: Yeah, I thought it was a pretty straight line across the top. Do you recall any particularly tough fights in the midst of the convention?

Leahy: The toughest ones were on the four that we pulled out. Death penalty, election of members to the house, elected or appointed judges, and the eighteen-year-old vote. There were a lot of things that started out being controversial and ended up not controversial. For example, I could not even get, I don't think, all of those eight other independent Democrats to sign my proposal on including a Bill of Rights in regard to the environment.

DePue: A separate Bill of Rights just for the environment itself?

Leahy: Well, we finally included it as a separate Bill of Rights in regard to the environment. I thought I had been elected on that issue. Shortly before the election we had an air inversion on the southeast side of Chicago, and it was terrible. I think it was the worst time for Chicago pollution ever, in that part of the city. And I was the only one out there campaigning on that issue. But by the time it got to the vote at the convention, I had the overwhelming majority of the delegates. I remember the rights of the disabled to go in the Bill of Rights. Richie Daley began—and I should talk about some of the newlywed—Richie Daley, Mike Madigan.

DePue: People who are still around.

Leahy: That's right. And Richie Daley introduced an article protecting the rights of the handicapped. He did not know that the unions were going to object to that, and I think he was very surprised when Jim Kemp, who was usually viewed as the spokesperson for the unions in Chicago, objected to it. He then dropped it and I picked it up. I did not think that was going to be included.

Then we had first reading, where a committee member would present a committee proposal that had been developed out of member proposals to the floor. It was unlimited question and answer of that person. Then, if it passed, it went off to Style and Drafting to get cleaned up language-wise. Came back for second reading. It was second reading where the battles really took place. And then if it passed, it went off onto third reading, which meant the final style and drafting and grammatical changes. But I didn't think the rights of the handicapped were going to make it, and somehow, for third reading, when I walked in, I was astounded. There were people on the floor of the House in wheelchairs, the blind, the deaf; it was overwhelming. I truly think those delegates could not sit there in the presence of those people and say, "I'm going to vote against your having rights."

DePue: Well, that sounds like something that doesn't happen just by accident. Somebody had organized an effort to get the handicapped there.

Leahy: I think the United Way was very involved, yeah.

DePue: So even though you were backing it, you were unaware that that was going on?

Leahy: I knew they were trying to get support for it; I knew they were trying to get people to write their delegates. But I did not expect that.

DePue: And that then ultimately became part of the Bill of Rights.

Leahy: That's correct.

DePue: How about the equal rights amendment, if you will? Or equal rights section of the Bill of Rights?

Leahy: Okay. We had two sections in the Bill of Rights. One was an anti-discrimination provision that dealt with race, color, creed, religion, sex. It was so funny, because someone said to me, "Next thing you know, they're going to want to put age in there," and now we have an age indiscrimination federal act. But then there was a separate one—

DePue: Well, I recall the first one dealt specifically with hiring practices?

Leahy: Yes. That was the broader. And then we had the Equal Rights Amendment which dealt with the rights of women vis-à-vis government. We adopted it—the people of the state of Illinois did—and then when it came to the Illinois legislature to be passed as a federal amendment, [which requires a 2/3 affirmative vote of states] Illinois defeated it. So we had it for the women of Illinois, but denied it to the women in the rest of the country.

DePue: Well, that came several years later. Quite a bit later. Now, this is just my own curiosity, but I recall reading those amendments. What struck me was there wasn't any language about *the legislature will enact no laws infringing et cetera et cetera*, that they were a more open-ended declaration of rights, if you will.

Leahy: And the other thing that distinguished the Illinois constitution from any other in the country at that time was that it created private rights. One person against another person. For example, the anti-discrimination hiring provision. That didn't just apply to the state or public bodies; it applied to private employers as well. As a result of that provision, the Illinois Human Rights Act came into being to implement that constitutional provision. But on the Equal Rights Amendment, ironically, as the case law developed, it truly was men that were being benefited, in a way. There was a law that women could drink at twenty-one years of age and men at eighteen; that got struck down. They treated male juveniles in sentencing more roughly than female juveniles; that got struck down. So it was kind of ironic, the way that amendment ended up being interpreted in later years.

DePue: Well, since we're dealing with this, I have one more curiosity for you, and I might as well take the opportunity to ask you, if I can get to it quickly—of course, I can't find it here. Oh, well.

Leahy: Banking was very controversial.

DePue: Well, while I'm looking for this, why don't you talk a little bit more about the form that the EPA provisions took when it finally got into the constitution itself.

Leahy: It gave to each citizen of Illinois the right to a healthful environment. And then that provision ended up being implemented through the Environmental Protection Act in, I believe, 1971. So these provisions in the Bill of Rights of the Constitution really became—well, they took on another life, because there were statutes specifically adopted to implement them. As a result as an implementation of the constitutional right on a healthful environment, we have the Illinois Pollution Control Board, the Environment Protection Agency and so on.

DePue: Some of these things, and you're talking about EPA, and some of these equal rights issues as well, require the legislature and the governor to take action. Was there any concern that there might be a lot of feet-dragging in that whole process, that that might never happen?

Leahy: I think, at least in my opinion, that an individual could sue based on those constitutional rights without the implementation. Several years later, I was proven wrong on the discrimination provisions, with the court ruling. But I will tell you that it became very bitter and very controversial at the end, and it centered around, I believe, the judges' issue, and the legislative issue. We had a vote, and instead of taking the final, final vote to send the provision that prevailed onto Style and Drafting, we adjourned, because President Witwer was having sort of a goodbye cocktail party. And I remember, I was very angry; my husband had come down for it and our kids, and we'd gotten a babysitter to babysit the kids at the hotel. I said to my husband, "I'm not going to go to that cocktail party. I don't know that I want to drink with everybody that's going to be there." And he persuaded me to go. And then as a result of our going out to dinner, and then a group of us meeting, eventually, the idea was born that night and early morning about putting those four controversial provisions outside of the Constitution. Now, we never could have done that if all of the Daley Democrats had shown up the next morning to vote on sending what they had prevailed on off to Style and Drafting. But amazingly, many of them did not show up the next morning. And I don't think it was a deliberate not showing up. (laughter) I'm choosing my words carefully.

DePue: Yeah, one can jump to some conclusions of why they weren't there the next day.

Leahy: Well, I do think, though, that that was the true reason why the Constitution was passed, in that we pulled out the four most controversial issues, let the voters decide them; however the voters decide, that gets put into the Constitution.

DePue: So when it finally went to the voters, you had the Constitution, and then as separate issues, these other four items?

Leahy: That's right. So you voted whether or not to accept the Constitution; the vote was in December of 1970. Then you went on to vote those four separate issues.

DePue: And the four issues again were...?

Leahy: Single-member districts in the house, versus cumulative voting or three members per district; elected or appointed judges; the death penalty; and eighteen-year-old vote. The irony was that the eighteen-year-old vote—the feds, a few month later—went to the eighteen-year-old vote, and we went along.

DePue: Well, that must have been an amendment that was circulating through the states at that time anyway, wasn't it?

Leahy: Yes.

DePue: Okay. Well, there's the thing that I wanted to ask you about. Again, this is my own curiosity –section seventeen of the Bill of Rights: no discrimination in employment and the sale or rental of property, and as you mentioned, it discussed race, color, creed, national ancestry, sex, in the hiring and promotion practices, et cetera. But here's the caveat that caught my attention: "But the general assembly, by law, may establish reasonable exemptions relating to these rights, and provide additional remedies for their violation." Do you have any background on that particular verbiage?

Leahy: Yes. It brought to mind Mrs. Murphy's boardinghouse. They kept talking about Mrs. Murphy who ran a boardinghouse for five or six people, and if she didn't want women, or she didn't want any men, she should have the right to do that. Mrs. Murphy's boardinghouse came up. And so the compromise was rather than the convention creating the exceptions, it would be the legislature who would do that. And for example, in the Illinois Human Rights Act, most provisions do not apply to an employer unless they have at least 15 employees.

DePue: Okay. When did the convention finally adjourn?

Leahy: I believe it was late August or early September.

DePue: So you took pretty much that whole eight months.

Leahy: We took nine months.

DePue: Nine months. During this time, were you living in Springfield during the week and heading back to Chicago on weekends? How did that work?

Leahy: Yes. At the beginning, you know, you had your deadline to put in member proposals, and then the member proposals were parceled out to committees. Then we had something that was like committees that went around the state and heard whatever testimony people wanted to tell us. So it didn't mean that all of General Government went together, but it was like someone from the Legislative Committee, someone from the Bill of Rights, somebody from General Government, we went around and literally held day-long sessions open to the public so that they could come and talk with us about anything they want to talk with us about.

DePue: Was there anything that struck you, in going out to the people and hearing their versions, of what the new Constitution should be?

Leahy: I can remember being very surprised that people were opposing removing the boundary article. (laughter) I remember that. When we got to southern Illinois, there were proposals regarding guns, ownership of guns, gun rights. We heard an awful lot about banking, because it was branch banking versus anti-branch banking. That came to the General Government Committee, and we decided to remove all banking provisions from the Constitution. That was the committee vote. Many people wanted a prohibition in the Constitution that there be no branch banking. Looking back, I don't know how we would have operated in an economy if a bank couldn't have several branches throughout the city or across the nation. So that was very controversial. I remember two bankers—one on each side, on the General Government Committee—cornered me shortly before the banking proposal was going to hit the floor; they said they didn't think that they should be doing it, because they were in the banking business, and would I present the views of the committee to the floor. And I agreed to do that. But I must say, as the convention wore on, I became convinced that either side of the banking issue was willing to trade any other issue—and I even think I said it on the floor—I was considering putting my money under my mattress.

DePue: Was there some sense, though, that this was an issue that was better wrestled in the Legislature than encoded in the Constitution?

Leahy: Well, you see, in the 1870 Constitutional Convention they put sort of all the bad things—prohibitions as to grain elevators and banks—were in the Constitution. Those institutions had to be regulated. If I remember correctly, banks were even printing their own currency at that time.

DePue: Yes.

Leahy: And so the Constitution had very stringent provisions on certain industries that they considered to be bad, and it had to be regulated. So I think the general mood of the 1970 convention was, we don't know what the future's going to hold. We should not regulate industries in the constitution.

DePue: Those are a couple of issues of exactly why there was a need for a Constitutional Convention in 1970.

Leahy: Yes.

DePue: A hundred-year-old Constitution that flat-out wasn't working for the state.

Leahy: I can remember, I had no problem with this—in fact, all of the independents, I believe, voted with the Daley Democrats on giving Chicago home rule, because until this convention, if the city of Chicago wanted to change the flashing lights on the top of a police car, wanted to change the color, they had to get the permission of the Legislature. And so I think the home rule provisions were very good.

DePue: Well, that's one of the issues that's somewhat controversial today. So, could you explain just a little bit more about the real implications of that home rule provision? Because I know the Daley administration was very strong on that.

Leahy: That's correct. Very, very much. And a lot of other municipalities were very strong on it too. It seems to me that it's worked out very well in the long run. I mean, the people of the city of Chicago, if they want to, can hold the Aldermen and the Mayor responsible for the decisions that are made that deal just with the city itself.

DePue: So it was basically what the term suggests: that the power in a city belongs to the city itself, rather than having those issues elevated to the Legislature.

Leahy: That's right. The thing that has disappointed me: if I remember correctly, we had more units of local government than any other state. I mean, mosquito abatement districts; I mean, I found out that we had units of local government that I'd never even heard of until I got to the convention.

DePue: And they all seem to have their own police force.

Leahy: And they all seem to have their own fiefdom. We wanted to consolidate and eliminate as many of those as we could. Now, we didn't do it directly, but the Constitution does have the provisions whereby that could be done, and it has not been done.

DePue: So Illinois stays the state with, I think, the distinction of having the most independent governing institutions in the United States.

Leahy: That's right.

DePue: You mentioned the disappointments; any other disappointments?

Leahy: Oh, my. I thought it was a pretty good document. I know when we would caucus the group was in favor of appointed judges; now that I live downstate, I wouldn't have voted the same way. But in Chicago, when you would get a ballot with umpteen names of people running for judge, you didn't know any of them. And I'd get phone calls, because people thought that because I was an attorney, I knew all these judges, and I didn't know them. So I was in favor of appointed judges, and we each worked to try to persuade other delegates to join us. I remember particularly Father Lawler, who had run from the southwest side of Chicago; he was an independent, a Roman Catholic priest. We sat in alphabetical order, so Father Lawler sat next to me, and I was trying to persuade Father Lawler about appointed judges. And he voted every way—I mean, the debate went on it seemed forever—and he voted every way on all of these proposed amendments the judicial committees proposed—to appoint judges. He voted against any amendment that would weaken that. We got to the final vote on it; now it's ready to go. We've debated it for three weeks, and Father Lawler stood up and said, "I pass." I could just feel all the independents, these eight other people, turning around and glaring at me, because I thought he'd agreed with me. And he made a speech about quoting

from the Old Testament and how God appointed the judges. When he was finished, you had three minutes that you could use to explain your vote, so when he sat down, I leaned over and I said, "Father, there's no way we can write God appointing the judges into this Constitution." So it goes all the way around to Marty Tuchow, who was a regular Democrat from Chicago—he voted for elected judges—and then he said, "Father Lawler didn't read long enough in the Old Testament. It goes on to read, 'And the people rose up and slew the judges that God appointed.'" So we did have our moments like that. Then Al Raby was really great at pool; he played pool. And there was a pool hall two blocks away from the Old State Capitol. Many times, I was the one—there was a telephone in the back of the room—if they were coming to a roll call vote, I had to get on the phone to that pool hall and get Al. Al would race back, and he never missed it; I don't think he ever missed a roll call vote.

DePue: Those are some great stories that you don't always hear about the convention.

Leahy: Yeah. And Al played Minnesota Fats [a very famous professional pool player] one night. I didn't go, but a lot of delegates went. And Fats won two games out of three, which means Al won one game out of three. So we had a big resolution for him the next morning, congratulating him on beating Minnesota Fats one game.

DePue: Wow. Well, let's go through some of the other things here that are now issues. Maybe just to back up a little, I've gotten the sense in reading a lot of this material on the Constitutional Convention that in the back of everybody's mind was the concern: We need to make sure whatever we have, it's a Constitution that the public of Illinois will accept and actually pass. Was that a concern, an overriding concern of these independents that you worked with as well?

Leahy: Yes. But I think with the exception of only two or three of the total delegates, every single one of us went out and worked to pass that Constitution. I mean, we held coffees; we held press conferences. People walked door to door, encouraging the voters to approve it.

DePue: So giving people the opportunity to come and ask questions and find out what all of these things in the Constitution really mean, the implications? Or just a flat-out, a campaign to promote it?

Leahy: I think both. I can remember being at forums explaining provisions. There'd be a panel of three of us. I remember one, on Lakeshore Drive in Chicago at a synagogue, and all the lights went out. They got candles out, and we completed that forum. So yes, the delegates were very—with a few exceptions, they really worked to get it passed. Of course, there was no money involved in any of that.

DePue: When you had a chance to deal with the public in that respect, what was the feedback you were getting? Was it primarily positive?

Leahy: Yes. And I think particularly because of the home rule provisions in Chicago. I think that really Chicago didn't want to have to go hat in hand begging to the legislature to make a minor change with the city.

DePue: So here was something that both the delegates that had Daley's backing and the independents could agree on?

Leahy: Yes. Oh, yes.

DePue: Okay.

Leahy: I can remember once being at a forum—because we've had some reunions—being at one in which now-Speaker Madigan said that Mayor Daley had told him the worst thing that we had done in the Constitution was changing the governor's election to the off-presidential year. The Democrats tend to turn out for a presidential election; they don't turn out as well for a governor election. So when we switched over, Jim Thompson's first term as governor was a two-year term, in 1976. Then, the next time, in '78, when the Governor ran that was not a presidential year. And it's been that way ever since.

DePue: And perhaps the Democrats have only had cause to rethink that once Blagojevich won the election here in the last few years.

Leahy: (laughter) Maybe.

DePue: I'm going to go through a laundry list here and get your reaction. These now are not necessarily—though some of them are—issues that were certainly addressed in 1970, 1969 and '70, but certainly are being addressed as problems with the Constitution now. School funding.

Leahy: Well, my view then and my view now is that the Legislature can solve that problem if they want to do it. And that that is a topic like the grain elevators and like banking, that I think will change over the years. If the legislature wants to solve school funding, it can do it through legislation. I mean, that's my own personal view.

DePue: Okay. Legislative redistricting.

Leahy: Well, as Dawn Clark Netsch has often said to me, none of us ever dreamt they would go to the tiebreaker. I think if you took—

DePue: (laughter) And that's been the rule rather than the exception.

Leahy: I know. I know. And none of us ever dreamt they would do that, that that tiebreaker, an all-or-nothing, would force them to work it out.

DePue: So now, Illinois districts make those Texas politicians look almost like choir boys in some of those districts that we've drawn over the years. So if you had a chance to rewrite that, would that be something that you'd want to rewrite?

Leahy: That's hard to say. I mean, a lot of people have talked about just feeding it into a computer, let the computer spit out the districts. Not—

DePue: And fairly compact districts, rather than what we've got today?

Leahy: Yes. Well, I mean, I argued in the Illinois Supreme Court on behalf of a couple of voters, challenging a couple of districts this last time around. And I remember—I believe it's Senator Watson's district—that it's just this narrow little thing that winds for miles and miles and miles and miles. To my mind, that was not compact. But the Illinois Supreme Court felt differently.

DePue: How about voter recall, as an issue that's explicitly stated in the Constitution? There really aren't any provisions for it now.

Leahy: Well, except I understand now there's talk of expanding it beyond the constitutional officers. My problem with it would be: what if you do something that's right but not popular? I'd be particularly concerned about judges. We wanted to give judges insulation so they run against their record after they're first elected. Very few judges are recalled; very, very, very few. I mean, they have to get more than fifty percent against them to be recalled, but they don't run against anybody else. I would be very, very concerned if people could be recalled just because they did something that was unpopular. And some judicial decisions are unpopular.

DePue: Would you want to base it on crimes and misdemeanors, as in the US Constitution?

Leahy: Yes. I would not want it just because they made an unpopular decision.

DePue: Well, this kind of gets us in the same area: judicial selection. I think you've stated where you are with that.

Leahy: If I lived in Chicago, I'd be for appointment. Now that I live downstate, I like election.

DePue: Okay. Amendatory veto. That particular item gives the Governor quite a bit of power, more power than in many states.

Leahy: We certainly did not foresee it being used as it has been used, where a whole bill is in a sense—you know, in the legislature, they'll put in a shell bill, which really has nothing in it—because it has to be in by a deadline. But I think with the amendatory veto, sometimes it's not just a veto; it's a whole new creation.

DePue: And I recall reading Walker's interpretation of that. The Constitution was still fairly new when he was Governor. He used that very judiciously.

Leahy: That's right.

DePue: By exception. And that's not always done in today's climate.

Leahy: I think if you asked the delegates, they would not believe that the Governor could enact a program and put it into effect if it had not been passed by the General Assembly and funded.

DePue: Well, that's engendering some of these calls for recall.

Leahy: That's right.

DePue: So that's an abuse of power, at least in their interpretation. Is it how you would interpret that as well?

Leahy: I don't think there is any constitutional authority for the Governor to create a program, fund it, put it into effect, after the General Assembly has refused to pass that program, and refused to fund it. I don't know where that authority comes from.

DePue: Okay. Well, let me put you on the spot then. Would that be cause for a recall to be initiated?

Leahy: I don't know about that. I think it would be a very good lawsuit. I mean, I've had citizens come to me about the fact that we are not passing a budget, that we're operating really in a deficit type of way, and if you look at the plain meaning of the Constitution, plain language, that shouldn't be happening. But when they came to me, I just was not in a position to consider that kind of litigation.

DePue: Putting you on the spot her—I apologize for doing that—but one more. Graduated versus a flat income tax.

Leahy: Oh, I've always been in favor of a graduated one. I don't think I prevailed in that convention.

DePue: No.

Leahy: There was something else I wanted, and it fell short by just a few votes, but a lot of us wanted it. We wanted to split the Attorney General's office, and have an office that would act on behalf of the people of the State of Illinois, and then have an office that would defend the state when it was sued. Do you see what I'm—

DePue: There's a conflict of interest otherwise, you think?

Leahy: That's right. The Attorney General has the obligation to defend state officials and the state when the state is sued. But we wanted somebody to be looking out for the interests of the people of the state of Illinois.

DePue: Something of an ombudsman for the state.

Leahy: Yes. But with the ability to sue.

DePue: Would both of these positions be constitutional offices then?

Leahy: Yes. That's how we had proposed it.

DePue: Okay. Are there any other issues that have come to light over the last forty-some years that the constitution's been enforced, that you now think you'd like to see revisited?

Leahy: It's not what I would like to see revisited so much as I'm concerned that if we had a Constitutional Convention now, and it's going to be on the ballot, [in the November 2008 general election] that we would lose a lot of the good things that we have in the Constitution.

DePue: So in that respect, you would not be in favor of a Constitutional Convention for 2010?

Leahy: No.

DePue: Okay. Let's go ahead and move on then to Dan Walker; I think we'll have the rest of our discussion today about the Walker administration. So let me start with this: you talked about these nine people who were at the Constitutional Convention who were very definitely independents, and they were independent because they were separate from the Daley machine; they had not had the backing. And here you have Dan Walker, who's making his career very much on the same thing as well. What drew you to Dan Walker at first, when you first encountered him?

Leahy: Well, I think it was much more the people that were supporting him. I had known Victor de Grazia for some time. He had helped me, given me advice on running for the Constitutional Convention. Never paid.

DePue: And Victor was Dan's right-hand man.

Leahy: Absolutely. A marvelous man; they called him a renaissance man. I mean, he had tremendous interest in music and art and literature, and he was the most practical politician I've ever known. But so I knew Victor, and I remember when I got elected to Con-Con, Victor called in the next day or two and said, "You'll never hear from me. Just go and do a good job." And that was true.

DePue: How about Abner Mikva? I know he was at a different level of politics, but he also had the reputation for being an independent.

Leahy: He did. And in fact, that was the first political campaign I worked on, was Ab Mikva's in 1968.

DePue: So the convention gets over in I believe 1971. You decided to run for alderman, did you not?

Leahy: That's right. I was in the seventh ward in Chicago, and the incumbent was not going to run again; he'd been alderman for twenty-eight years. He ran as a Republican, but he became part of the Daley machine. His name was Nick Bohling. And I ran; I didn't lose by much. Then a few months later, the Seventh Circuit Court of Appeals, the Federal Court of Appeals, declared that the seventh ward had been

gerrymandered. So there had to be a new election. By the time this whole thing took place, it was a year, '71—I think it was around the beginning of '7—and by that time, I thought the ward, as redrawn, an African-American ought to hold that aldermanic seat. So I did not run. You'll love this; I did work, though, for an independent Democrat for alderman. In the primary, at this one precinct, all of the election judges had been arrested, because when they turned the ballots in at 3:00 in the morning, they had voted more people for one candidate than there were registered voters in the entire precinct. And of course, they threw in votes for the other candidates as well. So they were under indictment when the runoff came around. So I was sent to this precinct; I was going to work as a lawyer, handling calls, troubleshooting. But this was so bad that they had to put me in that precinct; it was at 71st and Jeffrey. I got there at 9:00; they had not even put together the ballot box, so the ballots that had been voted were lying out here on the table, and I mean, anybody could touch them. There was one election judge, and they had appointed the Precinct Captain's wife as the second election judge. They finally got somebody to come in from the north side of Chicago, but she didn't get there to be a third judge until at least 11:00. So first thing I did, I suggested that they put the ballot box together. And then, you know, I had the right to challenge voters, and if they weren't registered, that kind of thing. So it was a very tense day. Very tense. Finally everything was going well. My candidate carried the precinct. The original judge says to the Precinct Captain, "You drive me to headquarters." And so I said, "Well, if she's going, I'm going," because of what had happened before, with the ballots disappearing in the primary. So we didn't go to headquarters, meaning the fire station where this all should have been dropped off. It was at Seventy-Fourth and Exchange, and we'd been by Seventy-Fifth, by Seventy-Sixth, by Seventy-Seventh. And finally I said to the Precinct Captain who was driving, "You know, we've passed Seventy-Fourth Street." He said, "Yeah, I've got to go check in with Democratic Headquarters before I can turn this in." He came back out, and he said, "It's okay, we can turn it all in; our guy's winning." (laughter) I never—

DePue: You were appointed by a judge to go down to this election and oversee it?

Leahy: No, no. Appointed by the campaign. We were called the poll-watchers. You got an official certificate from the county that you are a poll-watcher for x candidate.

DePue: So each candidate has their own poll-watchers, of course.

Leahy: That's right. And the poll-watcher for the regulars would be the Precinct Captain.

DePue: Well, this is just the kind of thing that has earned Chicago some ugly reputations, as far as politics is concerned.

Leahy: I had hoped it had gotten better. When I ran for con-con, I had a housing project in the district. The regular captain was telling the women that if they voted for the regular candidates, they'd get a chicken. And I had to convince them that when you go in that booth, nobody knows how you're going to vote. Come out and say you voted for the regulars and take your chicken, but vote for me when you're in there.

(laughter) I don't know how that sounds now, but I did see, on Seventy-First Street—I don't know how it would happen in the paper ballot days—but the captain would have the ballot marked, and then somebody would come up to him and he'd give him the marked ballot; the guy would put it in his pocket, go in to vote, take the marked ballot when he came out of the booth and put that in the ballot box, while he already had in his pocket another blank one. And then when he got out there, he got paid by the Precinct Captain. The Captain then marked it and gave it to the next voter.

DePue: Well, that was the old school of the way to run an efficient machine, I would think, back in the '50's and '60's. That was just the opinion, was it not?

Leahy: Yes, and that's why Shakman challenged it. I mean, that's what I'm talking about. That's what we saw and observed and heard. But you asked about Dan.

DePue: Yeah.

Leahy: Looking back on it, Paul Simon was Lieutenant Governor during the Constitutional Convention.. Under the old Constitution, we could have a governor of one party and a lieutenant-governor of the other. So Ogilvie was a Republican and Paul Simon was a Democrat. I think it was a fundamental mistake that Paul Simon never reached out to the independent Democrats in the convention, whereas Dan was trying to reach out to us.

DePue: At the Constitutional Convention.

Leahy: Yes. I mean, just trying to reach out, tell us he was running, what he was going to do. It was tentative then. But I don't know of any one of the nine that was ever approached by Simon in that way. I mean, Dawn Clark Nestch had been very close to him, and yet she ended up supporting Dan Walker. So I think that was a part of it, that he wanted independents; he wanted to bring independents to the Democratic Party in Cook County.

DePue: I'm trying to get my dates right. That would have been prior to the time that Walker started his famous walk, correct?

Leahy: That is correct. Because we finished in '70, and I think he was thinking about it then. And then the walk was in '71.

DePue: I would also suspect that at that time, Paul Simon didn't see Dan Walker as any kind of threat whatsoever, because he was practically an unknown, where Simon had won state-level office and had quite a reputation of his own as being a real vote-getter.

Leahy: And an independent.

DePue: That's one of the ironies of that campaign, because Walker certainly ended up painting him as a crony, to a certain extent, of the Daley administration, did he not?

Leahy: Yes.

DePue: What was it that caught Walker's eye for you? Were you supporting him in his campaign then?

Leahy: After he announced, yes. I mean—yes.

DePue: Okay. Why did you support him early on?

Leahy: Because I saw him as a progressive Democrat. I think he had a lot of other views, other than a liberal Democrat or a Daley Democrat. I think he had a lot of what might be termed "populist views." I think his walk was the best thing he ever did, in terms of himself. [Walker famously walked the state from end to end.] It gave him an understanding of people, a very deep understanding. I remember after he lost the primary, being—I think it was at Nancy Philippe's house—and we were doing what they used to call in debate "an agonizing reappraisal." You know, what went wrong?

DePue: This is the primary in '76?

Leahy: Yes.

DePue: Okay.

Leahy: And my husband quoted from the Gospel about, "I know mine and mine know me." I think Walker thought Andy was referring to him, and he said, "No, Dan; I was referring to Mayor Daley. He knows his." And Victor said, "You know that walk? Those were your people." And I think there was a kind of thing that over four years, those people on that walk were not gone back to as much as they should have been.

DePue: How much did his outright challenge to the Daley administration appeal to you at the time? Back in '71, '72.

Leahy: Well, my goodness, you've already got that long history—there was the King assassination, the Kennedy assassination, the riots, the Democratic convention in '68—all of that made us think that we had to do something to open up democracy in Chicago and in Cook County. And so it was just a natural progression then to run for the Constitutional Convention as an independent, to challenge in the aldermanic, and then to support the person challenging that kind of rigidity.

DePue: Okay. Dan Walker obviously saw something, a great amount of promise, in you. And I'm going to put you on the spot: what was it he saw in you?

Leahy: I don't know.

DePue: He must have said something when he was asking you to do some pretty important jobs for him.

Leahy: I don't think Dan really did it quite like that. I became part of his transition team, so I insisted certain departments. We were very serious about that, and I must say, the Ogilvie administration was very, very good from my perspective on that.

DePue: So that—working with you to have—

Leahy: Yes, directors, like I think I had three departments, and meeting with Ogilvie's director, getting up to speed on the budget, so that when—whoever took over that job under Walker, I would have put together a transition booklet. What are the issues that are going to be hot in the legislature that deal with this department? Here's a budget Ogilvie's administration worked up. You know, just a multitude of things. Here are the issues that I see in this department. And the transition team was wonderful.

DePue: Well, it's interesting you say that, because that's not how Governor Walker remembered that transition period. But I also know, and I'm sure—

Leahy: Well, it may have been between him and the governor's office.

DePue: Yeah, that probably was the case. I also know that he had the great disadvantage that Victor de Grazia had serious heart problems at the time, and he was basically out of the picture at that crucial period.

Leahy: Absolutely.

DePue: Who was elevated to de Grazia's position then? Who was kind of pulling the strings? Was the Governor having to do more of that than he should have?

Leahy: Yes. But I also think, I never really had many dealings with Mr. Green, Dave Green. But I admired him greatly. I remember going out in the '76 primary and doing some campaigning, coming back and telling Dave, "I think we're in trouble out there." And if I remember correctly, his figures didn't say that.

DePue: Well, he was somewhat of the human calculator, as far as that campaign was concerned.

Leahy: I mean, he was at the beginning of that whole approach, strategy, whatever, and a real genius at it. Norty Kay was doing the publicity part. Norty had walked with Dan for a lot of the walk.

DePue: Were you on the inner circle, though, as far as helping the campaign make decisions about who all of these important positions—you said there was three particular departments that you had?

Leahy: No.

DePue: Okay.

Leahy: I was surprised when Dan asked me to be head of EPA.

DePue: Why did he make that offer to you?

Leahy: I think because the environment was such a new issue in 1972, and I had gotten this environmental article through at the Constitutional Convention.

DePue: So as much as anybody, you had the credentials for that kind of position.

Leahy: Yes. And I must say that Bill Blazer had been the director of EPA under Governor Ogilvie; he had a marvelous booklet put together for me, as I said, on all of these issues, on the budget. But then he did give me one observation; he said, "We're a brand-new agency, we've got a lot of equipment—don't turn it back in, you may never get the chance again. (laughter) He said if you turn equipment back in, the next year, the legislature won't give you any or will cut you back further, so he said, "Don't ever turn any piece of equipment back in."

DePue: We've already talked about this, but I do want to discuss it a little bit more in detail. And that's your nomination to the EPA, and then the nomination process itself. What were your expectations going into the Legislature, when you went before those hearings? Did you think that it would be a rather straightforward process?

Leahy: Yes. I think I was very naïve. I thought that my credentials were good enough to earn me confirmation. And I mean, it was clearly the challenges to the Daley delegation, all of what I've talked about, that resulted in my not being confirmed.

DePue: Well, reading the newspaper articles from the time, the one name that popped up at the top was the President of the Senate at the time, Cecil Partee. Am I pronouncing that right?

Leahy: Yes.

DePue: A black machine politician of the old school?

Leahy: Mm-hmm.

DePue: Was he, in fact, one of the strong opponents to your nomination?

Leahy: Well, if I remember my hearing, there wasn't much said. The vote was taken, and then I had to go around—Victor wanted me to go around the next day—before it went to the Senate floor, and confront individual senators: look them straight in the eye, and say, "Why is it that you can't confirm me? What's my problem?" And of course, nobody ever said it was the challenges to the Daley delegation. But they did not vote.

DePue: They did not vote pro or con.

Leahy: That's correct. Most of them just sat on their hands.

DePue: Okay. What were your feelings, after all of that?

Leahy: Well, I went from the Senate then down to the governor's office, and I walked in to—my husband was on staff with boards and commissions. By the way, there were only two of them, him and his assistant, that handled appointments to boards and commissions. I can't imagine what it is today. Anyway, I just walked in there, and I said, "Andy, I want a good old Irish wake." So we had a big party that night.

DePue: Celebration, break out the wine?

Leahy: Oh, yeah. Celebration. Well, I mean, an Irish wake is always a celebration. I mean, in a sense, celebrate the dead. I didn't feel very dead, but I guess I was. And then Dan asked me to serve as liaison in the governor's office with all of the environmental agencies, and local government, and then they threw in Revenue. Our Director of Revenue was a very strong personality. And I'm sure this made the papers, but anyway, he used to love to seize tobacco coming in from Indiana into Illinois to avoid the tax, so people would go over there and fill their trunks with cigarettes and bring them back in.

DePue: Who was this?

Leahy: Bob Alphin. I get a phone call from EPA, because I'm now on the governor's staff, and it was like, "What in the name of God is Revenue doing?" And I said, "What do you mean?" "They're burning all the hundreds of cartons, thousands of cartons of cigarettes, and they don't have a permit." (laughter) So anyway, those were little things that I thought were interesting.

DePue: Were you and Bill living in Springfield at this time?

Leahy: You mean Andy?

DePue: Andy, I'm sorry.

Leahy: Yeah. Yes. Oh, yeah, we moved—that was an absolute from the governor. If you were going to serve in the cabinet, you lived in Springfield. This was the state capital.

DePue: Okay. How old were your children at that time?

Leahy: Let's see.

DePue: 1965 and '67, right?

Leahy: First grade and third grade.

DePue: So these are still very young children..

Leahy: Yes.

DePue: What did they think about Mom and Dad being so involved with politics?

Leahy: I think they just accepted it. I mean, the kids walked precincts with me in all the things we've talked about. Anna told me a few years ago that she never realized how rich it was, what she was being exposed to at the dinner table, what people we would have over. Because in those days, oftentimes I would just go through the governor's office and say, hey, who wants to come back for dinner tonight? And then we had a pretty regular hotdog and beer party for the cabinet, and the Governor would be there, and so on. And I mean, the kids thought nothing about that, and now they realize that—they wish they'd been a little bit older, so that they could have absorbed more of it.

DePue: Walker still had some young kids of his own at home at that time.

Leahy: That's right. And I remember Margaret, who was in high school, really had a problem with a state trooper driving her and her date out, sitting in the movie theater behind them, and that kind of thing. (laughter)

DePue: I can't imagine why she'd object to that. Well, did you have to make any compromises or adjustments between you and Andy, and having two very young children and being so active?

Leahy: I don't think so. But probably the compromise would be that I had my family, and I had my work, whether that was practicing law or being involved in politics or serving in state government. But I did not then have a lot of time for women friends, for that type of thing. So I mean, we did things—our friends became those that we, for example, knew in the cabinet. And to this day, those are still some of my best friends. If any one of those people would call me, even if I hadn't heard from them in five years, and say, "Mary Lee, I need you. I need you to do something for me," I'd be there. And I know that they would do that if I called them. It was a very closely knit administration. I do remember—maybe I told you this before—that first Christmas I was working in the governor's office; my dad called and said, "How are all the gifts coming in?" I said, "What gifts, Dad?" He said, "Well, it's Christmastime. Aren't you being flooded with gifts? You work in the governor's office." And Dan had a very strict ban on that. I had to give anything back.

DePue: Well, I think it's one of the great ironies that he came to office and really insisted on cleaning up the ethics of Springfield, if you will. And then of course what happened to him, after he was out of office...

Leahy: It was like a Shakespeare tragedy. But for example, I can remember when he went to efficiency-fueled cars; we weren't going to have the big Lincoln town car like the Director of EPA had that I inherited. We were going to fuel-efficient cars and smaller cars. And I was the one in the governor's office who had to tell Roland Burris to turn in his big car. He did not like that at all, and he kept trying to tell me that in his community, that was a sign of prestige, and that Walker would be hurt if

he were given a small car. And I can remember, Dan got rid of all the gold-embossed stationery for the department heads. When the fuel crisis came along, Dan selected a retired utility head as a volunteer to oversee this fuel crisis, and I remember he wanted gold-embossed stationery, and I had to tell him he couldn't have it. When Dan came in to office, instead of, you know, when you enter the state, the sign read, "The people of the state of Illinois welcome you," because he thought the cost of replacing that every four years or every eight years was outrageous. And now I go to Corrections, and I not only see the governor's picture up when I enter a prison, I see the warden, the assistant wardens, and then eighteen other pictures. And then, you know, they're being transferred around so quickly these days that I can't imagine the cost of redoing that. So lots of little things that Walker wanted to do.

DePue: What kind of a manager was he?

Leahy: He was the hardest-working person I've ever known. He's extraordinarily bright. When I was liaison, and I would go into a meeting with the director of one of the departments I was liaised with, and they would tell me before they went in, "I'm going to tell Dan this, this, and this, and I'm going to get this, this, and this in there." And they'd come out, and Dan would have persuaded them they didn't need this, this, and this. (laughter) He was a great persuader. He had the steeliest eyes I've ever seen, on occasion.

DePue: Well, to a certain extent that comes from being a trial lawyer, doesn't it?

Leahy: I don't know. I guess so, but...

DePue: And his military background, perhaps?

Leahy: Yes, I think that. I think that.

DePue: Was he a very organized man, then, in that respect?

Leahy: Yes. And when I was liaison in the governor's office, if anybody was coming to meet with him on one of the subject matters of a department I had, I had to have a briefing paper for him, usually the night before. What was the meeting going to be about, what were the issues, that type of thing.

DePue: Would you put him in the category of a micro-manager?

Leahy: No, I don't think so. He wanted direction. His head of the Bureau of the Budget, Hal Hovey—we went to a management-by-objective way of operating state government. Now, if I can kind of jump ahead, I did get appointed as Director of the Department of Children and Family services in August of '74, and was confirmed in that position. I had quarterly accounts of everything the department did. I had to say, for the year, what I was going to do, how many kids was I going to move out of the foster system back home with their parents, how many kids was the department going to free up to be adopted, how many kids was I going to move

from institutional care to foster care. We were after trying to get kids home; trying to get in-home services. But I had to give numbers, and every quarter, I had to report. Was I meeting my goal, wasn't I meeting my goal. And that was true of all the departments, so he really tried to have an accountability; we worked out the goals, but after they were worked out, I was free to get them done, in a sense, however I wanted to.

DePue: When you say "we", you mean the governor's office and yourself, in working out the goals?

Leahy: Yes. For example, I had some very severely disturbed children in the system. Very severely disturbed. I wanted mental health to take over their treatment, and I was told by the Director of Mental Health that these kids were too sick for Mental Health to take over. And it never occurred to me that somebody could be too sick for mental health. And so I remember a meeting that I had with the Governor and the Director of the Department of Mental Health. He won, I lost, so we continued to provide the treatment for those kids. Also had a meeting in regard to Corrections, and what services they would provide for kids who were wards of the state. And I think that was worked out. But yeah, so we negotiated it, but once those goals were set, I had to meet them. (laughter)

DePue: Okay. We've already gotten into your role as the director of DCFS. [Department of Children and Family Services] I want to back up and talk about how you got there in the first place, because I think that's an important piece of your overall story. This happened in 1974, correct?

Leahy: Yes. So from April, the end of April was when I was not confirmed in '73, so I was liaison then until August of '74.

DePue: And you entered into what sounds like a pretty troubled department at that time. What was going on with the current department, and especially the first director that Dan Walker appointed? I know he went way out of his way to find quality people, in many cases, and—

Leahy: Yes. [He was] criticized for having a nationwide search for the best people. And ended up with Jerry Miller as head of the Department of Children and Family Services; I think Jerry was from Massachusetts—

DePue: He was Massachusetts, the Director of Corrections for Youth, I think, for Massachusetts.

Leahy: And his ideas and his policy were really good, to try to bring kids back home, to try to straighten things out so kids could be at home. Dan also brought in the Director of the Department of Corrections, if I remember correctly, from out of state. But Jerry angered people. I don't think he thought too highly of the private agencies, and DCFS was contracting out with, like Lutheran welfare, Catholic charities, so that they would provide foster care; they would provide institutions. And I don't think

that Jerry was a very good manager. Great on policy; great on ideas. So yes, the department was very troubled when I took it over.

DePue: I know shortly before you got to that office, there was some pretty nasty things about DCFS that were appearing in the *Chicago Tribune* and other newspapers around the state, things like abuse of some of these children in some of these institutions that the state ran: pregnancies, beatings, drug use, things like that.

Leahy: It has never ceased to amaze me how one department or the other, under Walker, was on the front page of the *Tribune* or the *Sun Times*, it seemed, every day. And yet I haven't seen much about any departments, and I can't believe these same problems aren't going on at DCFS today. I really can't believe it.

DePue: Well, certainly DCFS always has potential for those kinds of things, because the challenges that that particular department has are almost overwhelming, especially with a pretty thin budget, I would expect.

Leahy: There hasn't been a raise in foster care for years.

DePue: There's also a lot of discussion about contracting out a lot of these services to other states, and even to places in Canada, to take care of some of the children.

Leahy: Well, Dan felt very strongly that Illinois ought to be able to take care of Illinois children.

DePue: Had that been the longstanding policy, though, to do that?

Leahy: Yes, yes. It seemed to me like if you got a problem, give it to somebody else. And at the same time, other states were sending kids into Illinois. It's like we were moving these kids around, because if Illinois kids are in Massachusetts, they're not on the front page, and if Massachusetts kids are in Illinois, they're not on the front page in Massachusetts. But I think there was another problem. I think the public perception was that DCFS ought to be able to stop somebody from beating their child tonight. And that's absolutely unrealistic to be the goal. You can try to intervene; you can try to provide the services. But many times, until something happens, you have no way to know what's going to happen. One of the first things I did in DCFS, what I always did: I always read the reports on every death of a child in care, and every serious abuse case. I remember one, I think the baby was about five months old, and put in the clothes dryer, and it broke its neck before it burned. I mean, these are the kinds that stick out. We had areas; I divided the state up into geographical areas, and we had four areas in Chicago. We had a wonderful area administrator there by the name of Ron Jennings, and he called me—Ron was a great big guy—and this kid, sixteen-year-old in foster care, had told his foster father he wanted to go straight; he didn't want any homosexual relationship with the foster father anymore. The foster father threw lye on the kid's face; he lost one eye, and he was terribly disfigured. And Ron had just—was calling me from the hospital, and he was crying on the phone. So the kinds of things that you had to deal with were very difficult. I remember when Norty Kay announced my appointment; he

said, "Mary Lee Leahy, a mother of two," and I was furious. Like that was my top qualification. And I called him six months later, apologized, and said that was the best thing I had going for me, is that I did have kids. We were to bring these kids back from out of state, and I had a team that would go to the out-of-state facilities, make sure that everything was being done right with our kids. So the team was made up of a caseworker, someone from the guardianship office, someone from the financial office to check the books. So it was a three- or four-member team, and they went to a place called Elan in Massachusetts. They called me and said, "This place is abusing our kids." I think we had five or six kids there. And I called the governor's office, my liaison was Al Raby. And I called Al and told him this, and I said, "I've got no choice. I've got to bring those kids home; my team says it's so bad they want to bring them home on the plane with them." So they came home, and I guess Elan went ballistic, because the only other state that I remember that had anybody there, state wards, was Massachusetts, and I contacted Massachusetts, and they were going to pull their kids. And then Elan apparently had a lot of very wealthy parents who had placed their kids there, and they just went up in arms that I would pull the state wards from there, because this was a wonderful place, and it was, in a sense, curing their kids. So we got a terrible publicity bashing on that one. But it made me feel better that the kids were back in Illinois than if anything would have happened to one of those kids there. And at that very time, do you remember the relative of the Kennedy's that has now been convicted for murdering a neighbor? He was a teenager and was placed by his parents at Elan..

DePue: Yeah. That was the eighties?

Leahy: No, seventies—he was placed at Elan. I read that a few years ago. But it was those kinds of things that made it difficult.

DePue: Those allegations that were all over the front page of the *Chicago Tribune* shortly before you were nominated for the position, are you suggesting those weren't true? Or that they were overblown?

Leahy: No, I'm not suggesting they weren't true. I am suggesting that it is such a difficult area. We had a guardianship office. Dick Layman made the decisions that a parent would make. Surgery, no surgery; orthodontics, no orthodontics. He went on vacation, and the deputy guardian called me on a Saturday; there was a little girl at Children's Memorial Hospital that they said was not a candidate for kidney dialysis, because she had so many other physical problems. She was in foster care, and the foster parents were accepting of the fact that this little girl was going to die. And then there was a second medical opinion given, that if you transfer the child to Michael Reese [Hospital], we will give her dialysis. And then Children's Memorial said—and I may have the hospital names wrong, but Children's Memorial said, This child will die in the ambulance trip across town. So the deputy guardian called me, and we went over this every which way. We decided that we'd go into court on Monday morning and ask the judge in juvenile court in Chicago to make the decision, if the little girl is still alive. She was; the Department went into court, judge said, "You're the guardian. You make the decision. I don't make the decision,

because you're the guardian." So the Deputy Guardian made the decision, I believe it was to keep her where she was. Darn if those kidneys didn't start working, and she lived several more years, and in fact, we got her tickets to Bozo's circus. (laughter)

DePue: Any problems in the nomination process this time around?

Leahy: Mm-hmm. Well, I went in in August, and I don't think I was confirmed until almost the end of the session, so that would have been almost a year later. Mike Duncan was legislative liaison for Governor Walker in the Senate, and he told me: Just go over and sit in the front row at that committee, and keep staring at them until they called you up for nomination. (laughter)

DePue: And you were the interim director at this time, correct?

Leahy: Yes, for all that time.

DePue: Did that slow you down, in terms of doing what you thought needed to happen?

Leahy: No.

DePue: What did you encounter when you first walked into the agency, and your assessment of DCFS when you first got there?

Leahy: Well, Jerry Miller did not follow Walker's strong request to move to Springfield. So my first thing was getting an office. The office in Springfield was at Lincoln Towers.[a posh apartment building] (laughter) The two deputies had lovely offices, and when I walked in that day, after being announced as Director, they had found me a broom closet. And, oh, I can't remember the woman's name, and I adored her, she was so good, a lobbyist on children's issues. And she came to see me that afternoon, and literally, her chair was outside the door, the door was open, she's outside in the hallway, and I'm on the other side in this little closet. So we solved that problem. The deputies assumed I would want to move back to Chicago. So I got better office space after a few weeks. The other thing I did was—

DePue: This isn't exactly being welcomed with open arms, was it?

Leahy: No, no, no. And the other thing was, I called back all signature authority. Jerry Miller had delegated signature authority. My calling it back was a wonderful thing, even though it meant I had to stay late at night. I got cramps in my hand; I signed every voucher. So I got to know what the department was doing, whether we were paying for a prom dress for a foster child; whether we were paying an institution so much to handle so many kids. So I did that for about six weeks, eight weeks.

DePue: So that was just a temporary thing to do?

Leahy: Because time wise, it was just impossible. We're talking about thousands of vouchers. But it gave me a good feel of the department on the financial side. And

then I had a wonderful group of area administrators; they were really marvelous. When I became Director and was trying to bring kids home, the area administrator in Quincy challenged the area administrator in Salem—because they had just about the same caseload—as to which one can get more kids back home with support services, like homemakers, helping the mother. And so that really—that became strong competition, and they both exceeded their goals.

DePue: What were your philosophy and your goals, walking into this position?

Leahy: I don't think anybody would realize how difficult it was. I mean, the fact situations. Also, I was criticized for not being a social worker. I like social workers. My main problem was it was difficult for them to make a decision. They wanted a consensus, whereas I wanted, okay, give me all sides; I'll make the decision. I don't want to process this forever. I mean, I can remember being in meetings where they would be discussing a child, and it would go on and on and on, and everybody walked out of the meeting feeling really good, but nothing had happened in regard to what was going to happen with the child. I think social workers tend to talk in the passive voice; attorneys talk in the active voice. I'd travel the state regularly meeting with all the employees in the areas. And I would find that I would have made a decision six months before, three months before, and the workers out there didn't know I'd made it. It's like it got stopped at some middle level of bureaucracy and couldn't get down. That was very frustrating.

DePue: Your intention, Governor Walker's intention, was to get as many of the children in the state out of institutions and into foster care of some type?

Leahy: And then out of foster care, kind of gradual progression back home, with homemaker services, with social worker services, that type of thing. Oh, I want to tell you; there were lots of things happened because of what happened during the Walker years. For example, that foster parent who threw the lye on the foster child; I found out there had been no—we couldn't do criminal background checks on foster parents. So we got a bill passed, because this guy was wanted on a warrant in Michigan for abusing a child. So we got a statute passed criminal background checks for prospective foster parents. So some bad things led to some good things.

DePue: How about the relationship with the legislature? Your particular department's relationship?

Leahy: Well, I—oh, this going to sound terrible. These are just my own opinions. I found that the members of the legislature in budget hearings (I had some wonderful budget people. God, they could answer anything in that committee) —they would focus on some item that was a couple thousand dollars more than their salary. They didn't focus on the really big line items, but if they could find something small, it seemed to me they went after that forever. I think Jerry Miller had not wanted to share information with the legislature; I told our budget people, give them everything and everything they want. I said, "I don't care if you have to take it over in wheelbarrows. Let them get all the information that they want. Jesse White

sponsored a lot of things for the department when he was in the House. Phil Rock, in the Senate, was a tremendous supporter of DCFS. And I remember a hearing—I can't remember what it was on—it was a bill that pertained to DCFS, and Daley was chairman of the committee, and the bill got sent to judiciary committee. In those days, that meant it was going to die. And I remember Phil Rock was just as red as could be; the veins were standing out; he was very angry.

DePue: Is this the budget committee you're talking about, or—?

Leahy: No, no. This was on substantive law. And so we got out in the hall, and Senator Rock said something to the effect: This has nothing to do with you, it has nothing to do with the bill. It is a dispute between me and Senator Daley right now. He later got the bill back out and it passed. He sponsored all the budget bills as well.

DePue: How about Senator (Cecil A.) Partee Was he more supportive once you got into this position?

Leahy: I think it was Senator Rock who got the support of Senator Partee.

DePue: We've already recognized that DCFS is always going to be a target; it's always going to have issues that end up in the newspaper, in the press. What was your relationship with the press like?

Leahy: I enjoyed the press. But I remember—

DePue: I'm not sure Governor Walker could say the same thing.

Leahy: No. I know that. I can remember one reporter—oh, I'm blanking. The one who just retired from the Paul Simon Institute. Lawrence—

DePue: Lawrence, Mike Lawrence.

Leahy: Mike Lawrence. He came to interview me; he left, about a half an hour later. He called me, he said, "I thought I had a great interview with you," he said, "but I don't have a damn thing to write." (laughter) And I said, "That was my desire." Oh, dear.

DePue: By design.

Leahy: Yes. I do think that I had angered Catholic charities, I believe. I went to meet with Cardinal Cody shortly after I was appointed, and it was just a one-on-one meeting at the mansion. He thought my idea—he had already heard about it—of pulling back the signature authority, and he had—when he became Cardinal, he pulled all the parish money downtown, so the parishes couldn't have their own bank accounts, so you had to—if you were a parish, you went downtown to ask for the money. And he had done the same thing, he told me; he pulled back, and he approved, personally signed off on everything. I thought we had a good meeting, I thought we were well on our way to try to repair the problems with Catholic Charities. And I met with him again maybe six weeks later; he did not tell me what the agenda was going to

be, and he had like six or eight people there from the various Catholic Charities around the state who had their own agenda. I would have appreciated it if I had been told what the topics were going to be. Up until I was there, when we like contracted with Lutheran Welfare or Catholic Charities we just gave them a sum of money and they took so many kids. Well, United Way was also contracting with private charitable agencies, and they wanted to produce some accountability in it. And that's the way we went. If I remember correctly, Catholic Charities, Lutheran Welfare, whatever the charity was that were having a contract with us, they had to specify where the money was going, and the administrative costs could not be above a certain percentage. They fought that tooth and nail. "You mean you don't trust us? We're Catholic Charities, we're Lutheran Welfare; just give us the money. We'll handle it okay." And so that became a bone of contention.

DePue: Was there also an issue with the Catholic Charities? I recall a lawsuit that they weren't being paid for their contractual services, or they were being forced to take a certain number of children above what they wanted to do?

Leahy: Yes.

DePue: Was that prior to your time or during?

Leahy: I believe prior.

DePue: But you had to deal with that as well?

Leahy: Yes. And I think we eventually worked it out that we'll pay you the reasonable cost if you do the accounting back to us as where the money went. But that was not very pleasant. And then a day or two after Thompson was elected, he said the first thing he was going to do would be to fire me and the Director of Public Aid. I don't know if Dan Walker is correct, but he told me he called Thompson up and said: I don't think you should do that with one of the most favored people in the cabinet. (laughter) So anyway, later on, they called and asked me if I would stay on for an interim until they selected a director, and I said I would, but only if Governor Thompson himself asked me to. So he did.

DePue: Why, just a day after the election, though, would he make that declaration, that he wanted you out of there?

Leahy: And the Director of Public Aid, and I think it dealt back with this issue with the private agencies. That's just my suspicion; I can't think of anything else that was really that—

DePue: Well, it strikes me as the kind of thing, as you say, because it's also going to be popular politically. It's going to resonate among the public, and that again, DCFS is the kind of agency that generally gets a lot of publicity, and oftentimes it's not good publicity. But I don't want to put words in your mouth or make assumptions I shouldn't there.

Leahy: Well, I think if you look at the management-by-objective result, we did a pretty good job. But that doesn't mean that you're not going to have a tremendous, horrific child abuse story on the front page. I just—that's going to be it.

DePue: Looking back at it, you were offered EPA [Environmental Protection Agency], and had that door closed on you; maybe that's a polite way of saying that. You ended up at DCFS for three years plus?

Leahy: No, it would have been six months in '74, '75, '76, and then—two and a half years.

DePue: Okay. Do you think DCFS was a better match for your abilities, in retrospect?

Leahy: Yes. My life would have been a lot more pleasant at EPA. But I do think that I tried and made a bigger difference there than I could have at EPA.

DePue: Your accomplishments at DCFS that you are proud of?

Leahy: It was the reduction in institutional care: the reduction of kids in group homes; the reduction of kids in foster care; the growth of home support services.

DePue: And your most significant disappointment, walking away from that position?

Leahy: That we never seem to find the way to help the most troubled kids in the case load. There were only—it sounds small—there were maybe sixty, seventy-five really troubled kids. A lot of the private agencies didn't want to try to do anything with them. That was very frustrating.

DePue: And oftentimes, incarceration was the ultimate answer for some of them?

Leahy: Yes, but then I lost jurisdiction, and DOC [Department of Corrections] took it over. We did try to have a program to keep juvenile delinquents out of the actual prison juvenile detention facility, but it was just getting off the ground.

DePue: Let's shift gears here and talk about Dan Walker a little bit more. In 1975, and probably into early 1976, I would guess that Dan had some aspirations, not just at the gubernatorial level, but also at the national level. Were you privy to any of those discussions, or had that sense yourself?

Leahy: Yes, and Hal Hovey was, and his successor at the Bureau of the Budget; they were big supporters of his bypassing the gubernatorial election and going straight for the presidency.

DePue: And if ever there was a year where there was an opportunity, 1976 was it.

Leahy: Yes.

DePue: Would you have been a supporter of that attempt as well?

Leahy: Yes. I think the contra-position was that he'd be stronger going for that if he beat off the Daley machine candidate in the primary.

DePue: Okay.

Leahy: So that's how I remember the two views.

DePue: That he still needed to prove something by beating Daley a second time?

Leahy: Yes.

DePue: Well, that suggests quite a bit. I mean, let's talk a little bit about his continued difficulties with the Daley administration, by extension the legislature, and I think by extension, the press as well. Can you reflect on any of that?

Leahy: There was one, when I was still a liaison in the governor's office with EPA; that was one of my departments. I was home, it was a Friday night, I got a phone call, and Dan said something to the effect, "What the hell is going on on the southeast side of Chicago?" So I got a hold of EPA, and there was some kind of—

DePue: You probably didn't know what was going on. (laughter)

Leahy: No. He said they took off at Meigs [a small airport on the Chicago lakefront] and they had to go straight up; it wasn't very smooth getting to the altitude, to avoid this—it was a hazardous mist that had gotten loose on the southeast side of Chicago. And so I got dressed and went back to the governor's office, and we had EPA people coming out down there, and we had teams from the city of Chicago, they flew in hazardous—what do you call it, clothes, uniforms, whatever these big things look like they were going to the moon—for EPA workers that were going in there, public health workers. I remember that the governor's office placed a phone call to the Fire Commissioner at the city of Chicago so that this could be coordinated. And the phone call wasn't returned for maybe a half an hour, forty-five minutes, and then it was returned collect. (laughter) I don't know what that said, but it broke the tension in the governor's office, a little bit, because I think Mary Parelli Purley(?) took the call, the governor's secretary, and she said, "Governor, it's the Fire Commissioner of the city of Chicago. He's calling collect. Will you accept the charges?" (laughter) Maybe other people won't remember that; I thought that was—maybe that's symbolic of something.

DePue: Well, I've gotten a variety of different opinions on this. A sense that Governor Walker was never willing, and philosophically unable, to make the kind of accommodations with the Daley machine that would have made for a less bumpy administration, a more successful administration, some of the legislative things that he wanted to accomplish. Would you agree with that?

Leahy: Well, it depends on how you define success. I think if you went back and looked at the objectives, and how the departments made those objectives or didn't make them, that to me would be a way of counting success. I think the feeling was so strong that

Daley would not open the party up. And that what Walker was trying to do was to open the party up. We haven't talked about the '74 elections, when Dan Walker helped a lot of candidates downstate and made Democrats be electable from downstate and take pride in the fact they were downstate Democrats.

DePue: And that was done in part so that Walker would have a better base in the Legislature to pass his own initiatives?

Leahy: That's right.

DePue: But that certainly didn't make for a better relationship with the Daley folks in Chicago.

Leahy: No. But what would an accommodation have meant? What would have had to have been given up to accommodate? I'm not sure Daley would ever have accommodated any more than Dan. Now, you see, what's interesting is that I view that Richie Daley [son of Richard A. Daley, later Mayor of Chicago] has brought in a lot of what were then independent Democrats into his administration, and so there was a different approach with Richie.

DePue: So what was the mood during that campaign in 1976 when you're running against, I believe, Michael Howlett?

Leahy: Yes.

DePue: This is the Democratic primary again.

Leahy: Yes.

DePue: That ends up being the more crucial race than the general election, to a certain extent, for '72 and '76. What was the mood at that time? That Walker would prevail?

Leahy: Oh, yes. And that was when I was going out there and talking with people, and talking with my family, who were still in Evanston, and Andy talking with his family on the south side of Chicago, and we began to get some really strong vibes that there's something wrong out there. And I can remember telling that to Dave Green, within the week before the election.

DePue: Something wrong. What did that mean?

Leahy: It meant that there were votes where I thought there would be votes for Walker, they were voicing support for Howlett.

DePue: Was it the old machine able to turn its vote out like it always had before?

Leahy: Absolutely.

DePue: Or was it true sentiment that Walker was not the person to be their Governor?

Leahy: Both. I mean, the machine—never discount it. Never, never. And then of course, the mayor died, and I can remember having to look up statutes to see who appointed the successor. (laughter)

DePue: Well, let's go into that a little bit. I know we need to close up here pretty soon, but we're at the point in time, I wanted to finish with the Walker administration. So talk to me a little bit more about the implications of Mayor Daley dying in the midst of this very contentious campaign?

Leahy: Well, I think—

DePue: No, that was right afterwards, wasn't it?

Leahy: Yes. Wasn't it May?

DePue: I think it was December that—

Leahy: Maybe it was. But anyway, I just know, being called and asked to come to the Governor's office, because how did I interpret the statutes that dealt with this kind of situation. I—how can I put this? This is what people would say about Chicago. We stay down here. But people would say, like in joking, a cab driver in Chicago—you know, when it was the Mayor Daley, you knew who to go to to get it done. Today you don't know who to go to, so you've got to go to a lot of people to make sure it gets done. And I think what they were implying was, you know, you knew that if you bought so many raffle tickets from this ward organization, you got your problem solved. But now you weren't so sure the person to go to, so you had to buy raffle tickets from many different sources. So I think that was one effect it had on the city of Chicago.

DePue: Maybe I'm reading too much into this, but Walker had failed to get things done, at least from the outside perspective. From his perspective, from your perspective, a lot of things good were happening within the various departments and agencies, but not legislatively. So was there a discontent because Walker didn't have the power to make things happen in Springfield as well?

Leahy: You mean in terms of the Legislature? Yes.

DePue: And his relationship with the press?

Leahy: You know, I was just thinking about something. Remember when there was the election for the speaker? Redman? And that went ballot after ballot after ballot, but I think Dan was close to Redman.

DePue: And he fought on his behalf.

Leahy: Yes. And then what was it, the crazy eight in the Senate?

DePue: Well, I don't remember that part.

Leahy: Well, there were some senators that I think people referred to as the crazy seven or the crazy eight. Hynes, Netsch. Several people. And they sometimes were very favorable.

DePue: Favorable of Walker.

Leahy: Yes, to the legislation proposed.

DePue: But they didn't hold center court, so to speak.

Leahy: No.

DePue: Okay. But even through most of this campaign in the primary, were you still hopeful or expectant that Walker would walk away the victor?

Leahy: Yes.

DePue: So what was the reaction when he lost to Howlett?

Leahy: I cried. We immediately were sent a message, I think the next day, that nothing was to change. Walker did not want any of us to leave; he wanted us to fulfill our commitment, to accomplish all of our objectives. In fact, if I remember correctly, he went to some departments and pulled the employees together and told them that.

DePue: Was yours one of those departments?

Leahy: I believe it was.

DePue: Let's move on then. We've talked a little bit about Thompson right after he's elected in November, making the announcement that you and child—

Leahy: Director of Public Aid.

DePue: Public Aid, I'm sorry—were the first two to go? And then had to back off on that, or decided to back off later on, because of Walker's appeals.?

Leahy: I don't know if it was that. I think they were having problems getting somebody to become director of DCFS.

DePue: "You want me to do what?" (laughter) Yeah, I can imagine that.

Leahy: Well, you know, when you talk about that, I was having one of those parties. And Dan said he wanted to see me, so we went out in my backyard. He told me he wanted to appoint me as Director of Children and Family Services, and I said I've got to think about this. Next morning, he called; I said, "You didn't give me very much time." And he said, no, he really wanted me to do this. Oh, and then—there was something else funny happened. That was the time when we were pulling out

of Vietnam when I was Director. And so all—there were pictures on TV of all these kids being lifted out of Vietnam? I cannot tell you the phone calls the department got. I even got phone calls at home of people wanting a Vietnamese child. And I kept saying we weren't in charge of that program, and none of those kids were wards, but I had lots of other kids that were available; but they weren't interested.

DePue: Oh, that's too bad. Well, these were tumultuous times. You know, '68, when you were just getting involved with politics and everything there, the Watergate years, the Vietnam War—there was just a lot going on.

Leahy: You know, that's one thing I should go back to the Constitutional Convention. I think everybody was amazed that given those times, Kent State[a university where some students were killed by National Guard riot control], the riots, that the Illinois constitution Bill of Rights is about the best anywhere. And that it could get through when those things were going on. Just amazing.

DePue: Obviously, that in particular is something you're very proud of.

Leahy: Yes.

DePue: Let's finish off with a little bit of discussion about Walker after he left office. I know shortly after he left office that he and Roberta, his wife of many years, were divorced. Did you know Roberta well?

Leahy: Yes. Oh, yes. Oh, my goodness, yes. In fact, in '72, she and I would do coffees together. She'd be the warm, friendly person, and if issues came up, I was supposed to respond to those. So we worked a lot together, yes.

DePue: What did you think of Roberta?

Leahy: I thought she was a wonderful person. I'm not sure she wanted to be the wife of a governor. She cooperated tremendously, except sometimes she didn't want things to go on at the mansion that maybe the governor's office wanted to go on at the mansion, that she viewed that as her home. When she knew a divorce was pending after Dan left office, she called Andy and me. They had a little place over in Lake Bertinetti, and she asked Andy and me to come over; and she told us then that Dan and she were being divorced.

DePue: Did she go into any details? Are you privy to talk about any of that?

Leahy: Well, later on, we knew there was Roberta II. If I remember correctly, she worked for the epileptic league or society, something with one of those—

DePue: So a charitable organization up in Chicago.

Leahy: And so anyway, Georgie Jones was the liaison in the governor's office with all the health agencies. Roberta II would come and have a meeting with the governor. And

Mary Perelli, the secretary, would call Georgie and say, "Roberta" whatever her last name is, "is on the schedule."

DePue: Roberta Nelson, I think.

Leahy: Okay. "Where's your briefing paper, Georgie?" Georgie would say, "I didn't know she was coming." So then Georgie would sit on pins and needles, waiting for Dan to call her after the meeting with Roberta Nelson, saying, "Georgie, where was my briefing paper?" And the call never came. (laughter) And there were several such meetings. (laughter) But that's only in retrospect.

DePue: We do need to finish up here, and we've got plenty to talk about in the third session, but I do want to finish off with your views of the divorce, and then what happened to Governor Walker after that?

Leahy: I don't know what happened. He tried to put together a statewide law firm. It didn't work.

DePue: Not so much the particulars of it, but just your reaction when you saw what happened to Governor Walker, getting indicted and going to jail, et cetera?

Leahy: I thought it was just tragic. I thought it was absolutely tragic. I had seen him—Victor put together a pig roast every summer for everybody in the administration, so we'd have kind of a reunion. And Dan came to the first few and then didn't come, and then came to the one right before he went off to prison. I hadn't seen him in quite awhile, and it was devastating. It was devastating for him; I think it was devastating for everybody around him.

DePue: We oftentimes hear the phrase tragedy, or a Greek tragedy, for Governor Walker, and especially what happened to him. So what was his fatal flaw?

Leahy: I'm not sure he lost anything really significant early on in his life, and I think the loss in '76 had a profound effect on him. I don't want to use the word ego, but—on that, but maybe to compensate those businesses, those other things.

DePue: He'd always been a man willing to take great risks, and he certainly took great risks in '71 deciding he wanted to be Governor.

Leahy: Yes. But he did have the law practice to fall back on.

DePue: So any final words about your experiences with Governor Walker?

Leahy: I learned a lot. I learned some things I didn't want to know existed when I was at DCFS. But I also think that there was a great benefit in working with him and how he worked and how he made decisions, and how hard-working he was. And I mean, there was a strong feeling, there was a cabinet, there was governance and those members of the cabinet had to report back to the Governor. I don't think that exists

now. I don't even know if there's been a cabinet meeting in the current administration.

DePue: Okay. I think on that note, we have an awful lot to talk about for the next session, and I'm really looking forward to it, Mary Lee. This has been a fascinating discussion just as the first one was, and I want to thank you very much, and thank the audience as well. Thank you.

Leahy: Maybe I said some things I shouldn't say. (laughter)

(End of sessio 2. Part 3 continues)

Interview with Mary Lee Leahy

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Interview # 3: May 27, 2008

Interviewer: Mark DePue

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DePue: Hello. My name is Mark DePue; I am the Director of Oral History with The Abraham Lincoln Presidential Library. Today is Tuesday, May 27, 2008. This is part three of a series of interviews that we've been having with Mary Lee Leahy, who's had a very long and illustrious career in law and in Illinois government. Today we're going to be focusing on the last portion of your life, obviously, Mary Lee. But thank you again for being here and agreeing to do this series with us.

Leahy: It's been great.

DePue: I know we had some unfinished business from last time that you definitely wanted to talk about. This goes back quite a way to, I believe, the 1972 primary [gubernatorial] election for Dan Walker. Is that correct?

Leahy: That's right.

DePue: The first one dealt with your husband, Andy Leahy, and William Goldberg, Bill Goldberg, and their work on behalf of his campaign.

Leahy: Well, it was a lawsuit that was filed challenging what we used to call the twenty-three month rule, and that is that if you voted in a party primary, you were held within that party for twenty-three months. And in 1971, people called the Lakefront Liberals or the Independent Democrats in Chicago had crossed over and voted in the Republican primary for mayor. And that meant that they were not free then, in '72, to come over and vote in the Democratic primary; they were within the twenty-three months. And so that became a very, very important decision. It convened a three-judge federal court in Chicago, because we were challenging the constitutionality of that. Three judges were convened, rather the individual judge, and then it's going to the Seventh Circuit Court of appeals. It was a two-to-one decision that you had the right to associate, to change your party affiliation, at any time. And if I remember, part of the opinion, it pointed out that you could be a Democrat at the local level, a Republican at the state level, and a Democrat at the federal level, that you didn't have to be bound by your party on all the levels of government. So again, it was a freedom of association case.

DePue: Well, for somebody like the two of us, I would imagine, I know this is certainly true for me, watching very carefully this current presidential election season, this obviously has major repercussions.

Leahy: Yes.

DePue: I mean, that's been the entire discussion about the election process between Hillary Clinton and Barack Obama, [the 2008 national primary election] the crossover vote. And there was one other thing; I know William Goldberg was working on another piece of judicial work, if you will.

Leahy: Well, if I remember correctly, the Thursday before the primary—remember, the primary's always on a Tuesday—his secretary or someone in his law firm was going to work as a judge [precinct poll judge]. She talked with Bill about a notice that she had gotten, which in effect, would restrict those people who were watching the polls for Dan Walker. In other words, you couldn't—the restriction on challenging a voter, trying to check out and make sure he was who he said he was, all that type of thing. And so we filed a suit, Andy, Bill, and myself, on a Friday. They took it over to the courthouse, and I believe it was initially assigned to Judge Bauer, who's now on the Seventh Circuit Court of Appeals. And I think he realized that he had been involved in similar litigation at one point before he went on the bench. So it got transferred to Judge Decker. They filed the lawsuit in the morning, and I believe Judge Decker had left, and he lived up in Waukegan. So the clerk suggested we bring the file to him so we could look at it before Monday morning. We drove up, we delivered it, and I just remembered the judge was watching the March Madness, the high school basketball playoffs. He was very cordial and he took the file and he said he appreciated our bringing it. Then he made a comment, something about, "Oh, the file's really thin." So in those days, there was a great fish place up in Waukegan. Bill and Andy and I went out for dinner there. And we're just sitting there; we ordered a drink and we're sitting there, and all three of us looked at each other, and said, "The judge said the file was thin." So we didn't eat. We got in the

car, went back down to Bill's office. I left at midnight, because I had a babysitter that had to be home. But they cranked out a brief, and then took it up to Waukegan. I think every Saturday morning Judge Decker would go to the local court library in Waukegan; they delivered it to him there. And then on Monday, the injunction was issued restricting what the election judges could do in regard to poll-watchers, which was of great benefit to the Walker campaign.

DePue: Why was that a benefit to the Walker campaign? If you could describe the mechanics of that.

Leahy: Well, if I were working my precinct for Governor Walker, I would know who my plus votes were, who my minus votes were, I would know the undecided, and I would be doing everything to get out my plus voters. So I'd be keeping track of who was coming into the polls; there were restrictions on how close you could be, if I remember correctly. And there also were restrictions on challenging a voter. So if you come in, and I don't think you are who you are, I could challenge you. And then the judges were supposed to follow a procedure. So we did not want any stacking. I can remember, I probably said this before, that when I ran for alderman, and then the seventh circuit said the ward was gerrymandered, and another primary was held, I worked that election, I did not run. They voted like nine hundred-some votes in a precinct in the seventh ward, and there was only five to six hundred voters. So you see, that's why you need to challenge; you need to be sure that the person who's coming to vote is the person they say they are, and that they're registered.

DePue: Well, that was the whole gist of what the Walker campaign was about in the first place, that the deck was stacked against him because the party machine could turn out the vote against him.

Leahy: And that's exactly what motivated the Shakman litigation. So yes, there was a long history back then in the late '60s and early '70s of trying to open up the party in Cook County.

DePue: Okay. And you were at the heart of that, in several different ways.

Leahy: Well, I'll tell you, the election day in the primary was really funny, because our main plaintiff was Elliott Epstein; he had sought the injunction. And somehow, they arrested Elliott on election day. (laughter) I was troubleshooting, we had a lot of troubleshooters, and I couldn't leave; I was the one coordinating where everybody was. When they arrested Elliott, he of course got one phone call, just one, and he wanted someone to come get him out right away, and I said, "Elliott, you're just going to have to be patient." (laughter) So I think he was detained for about five or six hours.

DePue: What were the charges? What was the reasoning for—

Leahy: Oh, I'm sure obstructing. Just obstructing an election.

DePue: Okay. Was he close to an election place at one time?

Leahy: Oh, I'm sure. I'm sure he went in.

DePue: Okay. Well, we're going to fast-forward quite a bit now, because we have already talked at great length about your experience throughout the Walker administration. So that takes us up through 1977. And I wanted to start from here; I mean, I'm sure there are going to be some important pieces of your life that I'd be overlooking here, but I did want to ask you about the equal rights amendment fight in Illinois, because this state has the peculiar distinction of being the center of the ERA fight towards the late seventies, and especially in the first couple years of the 1980s. A lot of states had passed the equal rights amendment; it got to Illinois, and Phyllis Schlafly, I guess, because she's a native of Alton, decided Illinois would be the place where the forces that were coalescing against the equal rights amendment would take up the fight. And Illinois was that place. And maybe initially, not the place most people would have suspected. What was your involvement with the equal rights amendment fight?

Leahy: Well, the irony of it was that the 1970 Constitution contained the exact wording of the federal equal rights amendment, so that when the people adopted the 1970 Constitution, they adopted the equal rights amendment. And so there was Illinois having it in effect for its citizens, but depriving the rest of the country of it. I gave legal advice on a lot of different matters, but I remember particularly there were people who were going to go on a hunger strike. I represented several of those women.

DePue: Okay. Was that the Grassroots Group of Second-Class Citizens? Was that what they called the group?

Leahy: Oh, there were lots of different groups, including the League of Women Voters, who was very involved in passing that. But at that time, it was really Representative George Ryan, who later became Governor, that led the opposition in the Legislature.

DePue: I know not nearly enough about this, in terms of the particulars, but I do know that there was one important decision, in terms of whether this would be a three-fifths vote or a majority vote. Do you recall the specifics of that? I think Ryan was right at the heart of that as well.

Leahy: I think that related back to the Illinois Constitution, and when we had imposed the three-fifths requirement, and the interpretation of that clause.

DePue: For amendments.

Leahy: Yes.

DePue: Okay. And so the argument was that that didn't apply in this case?

Leahy: Well, the argument was that the constitutional requirement of the Illinois Constitution did not deal with amending the federal constitution, so that we could

amend the Illinois constitution under certain circumstances, putting the amendment out to the vote of the people. And that required an extraordinary majority..

DePue: Why was George Ryan's role critical in this case?

Leahy: Well, he was in leadership in the Legislature. And of course, by having a higher than fifty-percent-plus-one-majority made it much more difficult to pass.

DePue: Okay. Anything else that you'd want to mention about the equal rights amendment struggle?

Leahy: You know, I thought it was a no-brainer, because we already had it. But it became *the* issue. Demonstrations in the capitol—

DePue: It was one of those things that took on a life of its own, didn't it?

Leahy: Yes.

DePue: And your feelings, your emotions about that at the time?

Leahy: Well, again, I mean, I was of the view where we've already got it; nothing disastrous has happened to Illinois because we have it. In fact, I did an article for SIU Law Journal, and I talked about the impact. Quite frankly, it seemed to me that men had gained a lot, in a sense, under the equal rights amendment. For example, in those days it was presumed that the woman would be the custodial parent. Well, that's all changed; that presumption went away with the equal rights amendment. There were differences in sentencing, particularly—if I remember correctly—for juveniles, that you could sentence a juvenile male much stiffer than with a juvenile female, and that went out. So that when I looked at the judicial decisions, it seemed to me that it helped men a lot more than it helped women.

DePue: Okay. Let's move on to something we're going to spend quite a bit of time talking about, and what you are probably most known for in Illinois today, and that's the Rutan case, or more officially, *Cynthia Rutan et al v the Republican Party of Illinois*, which went all the way up to the US Supreme Court. Now I know that, in your looking back on your life, there are lots of other things that you could point to with great pride. But the Rutan case, at least right now, seems to be what people remember you for. So if you could, please, give us a little bit of the background for that. And maybe, take an even broader historical perspective, if I can put you on the spot a bit.

Leahy: Well, in 1976, the US Supreme Court had decided *Elrod*; that was the case coming out of Cook County. Ogilvie had become governor in '68, but prior to that, he had been the Sheriff of Cook County. When Dick Elrod came in, who was a Democrat—Ogilvie had been a Republican—Elrod moved to fire office workers, dispatchers, and so on. Eventually, four years later, the United States Supreme Court said that you could not fire non-policy-making people based on political grounds. So that was the first one. That was in 1976; then in 1980, the US Supreme

Court again decided a firing case, and that was within the Office of Public Defender.

DePue: Is this the *Branti v Finkle* case?

Leahy: Yes. That's Branti. And in that case, which did not come out of Illinois, the court held that the public defender serves the public, and that there would be no need to have a Democrat or a Republican defending indigent criminals. That was not a job for which you needed political affiliation. If I remember correctly, and in *Elrod*, the court said: The basketball coach at a state university is a policymaker, in a sense. But he doesn't have to be a Democrat or a Republican to be a good coach. On the other hand, an election judge should be affiliated with the party, because you have Republicans and Democrats in the same precinct as election judges. So they drew examples of when it would be appropriate or not appropriate in *Elrod*. Then in *Branti*, they went on and more clearly defined "policymaker," and defined it as not just that you made policy, and that's where the role of the coach comes in, not only that you made policy, but that political affiliation was a requisite for that policymaking position.

DePue: Now, when you say "they," you mean the US Supreme Court in this case.

Leahy: Yes.

DePue: In your own terms, then, how would you explain that line between where the old-fashioned way of doing patronage is appropriate, and where it does not become appropriate?

Leahy: Well, after the court decided *Rutan*, the Edgar administration retained a consulting firm who did two things. One, they came up with ways to hire based on merit, and two, they came up with the exempt list. And that would be the policymakers for whom political affiliation is appropriate. I think at that time there were about 63,000-65,000 employees under the jurisdiction of the governor, and I think about 3,500 were exempt. Those numbers seemed right with me. I certainly think you've got the directors, your deputy directors, assistant deputy directors, your legislative liaison in each department, the head of the budget—I mean, those are key jobs, and you've got to have people in those jobs who agree with the administration. They should serve at the will of the Governor.

DePue: To carry out the philosophy of that particular governor and his administration.

Leahy: Yes.

DePue: And then everything else—

Leahy: Is protected. And you can support a candidate or not support a candidate; you can give money or not give money; you can work your precinct or not work your precinct. But that's your decision to make on a very personal basis.

DePue: Let's start talking some of the specifics for the *Rutan* case, because I know there were several litigants, and Cynthia Rutan is the one who has her name attached to it. Tell me a little bit about her, and her particular case.

Leahy: Well, she was an extremely good employee in the Department of Rehabilitation Services. She applied for a supervisor position; in other words, to move up. She did not get it. She made inquiry, and was told, "Well, we really wanted to select you, but the Governor's office checked your voting records."

DePue: Now, maybe I should back up here a little bit. I apologize for interrupting, but I think this was 1983, when she was applying for these positions, maybe earlier. Governor Jim Thompson was in office at the time, and as I understand, he had placed a hiring freeze?

Leahy: That's right. He was elected in 1976, and that was when we were switching, so that the governor's race would not be in the same year as the presidential race. So there was a two-year term he served and then a four-year term. In 1980, he imposed a hiring freeze, and what that meant was, in order for any department or commission under his jurisdiction, that position had to be approved by the governor's office.

DePue: What was the rationale for the governor's office being so involved in the hiring practice?

Leahy: Well, the rationale had nothing to do with patronage. The articulated reason was economic, so that they could be sure that there was money in the budget for the position they wanted to fill.

DePue: Okay. But that's obviously not the way it worked out in the eyes of most people.

Leahy: That's correct. These people, the five plaintiffs, came to me in December of '84 or January of '85. None of them knew each other; they were from different parts of the state of Illinois. In fact, the first time they all got together was after they won in the US Supreme Court.

DePue: Well, that begs the question as well: Why you? Why Mary Lee Leahy, of all people, that all of these people independently found their ways to?

Leahy: Well, I was doing a lot from '77 up through that time; I was doing a lot of employment litigation and First Amendment litigation, and quite frankly, there weren't many people in Springfield who were representing plaintiffs in employment cases. Cynthia, when she had found out that she didn't get the job, and found out they checked her voting records, went to Republican headquarters here in Springfield, and got a form to fill out. There was one form, I think, if you already had a state job and you wanted another one, or a form if you were not employed by the state but you wanted to be. And you know, it asked what job she had, what job she wanted, was she willing to contribute, was she willing to work for the party. And then the question that really got me was, how did you vote in the primary, '78, '80, '82, and '84. And then it said, if you weren't old enough to vote in the primary

in those years, how did your parents vote? So we attached that form to our complaint and reprinted it in every document we filed, every brief that we filed along the way. James Moore, who was the hiring plaintiff, was down in Southern Illinois; he was a nurse, he was a veteran, and he couldn't get hired. You know, we're talking about mid-'80s, in southern Illinois—jobs were very, very precious, and a state job was very precious. If I remember correctly, he got a letter from his state rep telling him, "Well, I can't submit your name to Springfield until you get your county chairman's endorsement," and we included that in the briefs as well.

DePue: Franklin Taylor: do you remember the specifics in his case?

Leahy: Well, he was very much like Cynthia. He'd applied for a promotion; he worked for IDOT. [Illinois Department of Transportation] He was a highway maintainer, and I think he wanted the lead worker position, and he didn't get it. He also wanted a transfer, though. He was working outside of his county, and he encountered this problem of the two county chairmen being in a dispute. If the job got transferred to the county in which he resided, the county chairman in the county where he was working would lose a job to fill. And so he wouldn't let that job go to the county in which Franklin Taylor resided.

DePue: So that doesn't necessarily fit the classic definition of party patronage, though.

Leahy: Well, you know, Mr. Taylor was going to retire in a few years, and if it was being filled along those lines—he would have gotten a transfer otherwise.

DePue: Okay. The next name I have, and I'll probably mispronounce this, Ricky Standefor...

Leahy: Standefor, yes. Ricky had been a temporary worker in the state garage, and he got laid off, as did other temporary workers, and then they all the others got rehired. And when he tried to find out why he didn't get rehired, it was again: The governor's office checked your voting records.

DePue: Was that somewhat the same kind of case with Dan O'Brian?

Leahy: Dan O'Brian had been laid off from a civil service position, in dietary, and he had recall rights for two years. Toward the end of the two years, he got a phone call, and they said, "You're being recalled." Then a few days later, he got a phone call that said, "We're not going to restore your position until after the two years runs." Again, "Your voting records have been checked." Interestingly enough, while the case was on appeal, Mr. O'Brian called me and said something to the effect, "I did what I had to do; I've got a job now with the state." So he found out what he had to do.

DePue: In some of these cases, was there an expectation that you were going to contribute money to the party as well?

Leahy: Oh, yes. You mean the form that Cynthia got? Yes, that.

DePue: Was there some expectation of how much they were supposed to contribute?

Leahy: Well, I didn't pick that up with these five plaintiffs. But while Rutan was pending, two women from northern Illinois asked to meet with me in Peoria on a Saturday. They told me that they had been in a situation where the job and the contribution that was required, that they had seen that written down. So the different jobs had different contribution levels. I never, ever got in to discover to see if that were true.

DePue: To see an actual document where that was in black and white.

Leahy: That's right. But the two women were very credible. They were coming because they were angry; they were supervisors and they were having to interview to fill positions. They felt they were overworked, and why did they have to spend half an hour to forty-five minutes interviewing each of ten people when it was already marked down who they were supposed to hire. So that was their beef: "We're overworked, and we don't have time for these sham interviews."

DePue: And you got all of these things referred to you in the space of just a couple of months?

Leahy: Yes. I don't know what it was, but all of a sudden, it was like they were fed up. We waited until July first of '85 to file the suit.

DePue: About two years after these first came to your attention?

Leahy: No, they came in December of '84—I'm sorry, I think I have the dates right. But we waited until the Legislature went home. (laughter) In those days, they used to go to the end of June. So we did it the next day. And then we filed a motion for an injunction asking that the state be ordered to keep any and all documents related to this system. Judge Baker came over from Champaign, and the State took the position that they didn't have enough room to keep the documents. Judge Baker said, "I don't care; the state can find the room." And he said, "You don't have to keep these documents in any order," he said. "Just a little slip of paper with a phone message on it; just throw it in a big box. And if we ever get through this case..." (laughter) "Mr. and Mrs. Leahy can see it." So we did get an order that they were to preserve documents. Then we had a meeting again before Judge Baker; it was a status call, and I went alone, and there were attorneys from the governor's office, from the attorney general's office, and from Jenner and Block in Chicago. Judge Baker said something like: To what do I owe this occasion? (laughter) He said, "I thought this was a status call." I found out later on, they weren't sure who was going to represent the defendants.

DePue: Jenner and Block? What was their involvement then?

Leahy: They were then appointed Special Assistant Attorneys General, and they defended the case.

DePue: Okay. What was the essence of your constitutional argument, let me put it that way.

Leahy: That the state cannot deprive you of a benefit for associating or not associating, and the association is with the party. You affiliate with the party, you associate with it, you associate with their ideas. So it was the First Amendment claim, freedom of speech, freedom of association. There had been other cases that didn't deal with employment, but dealt with, like the state depriving you of a license for unconstitutional reasons. So there were other types of cases, but not jobs. The closest thing I can think of was getting a license.

DePue: But *Elrod* and *Branti* were both decided based on this First Amendment right issue as well?

Leahy: That's right. They were firing, and the state defendants filed a motion to dismiss, and Judge Baker eventually granted it.

DePue: At this point, though, you're just now getting into the judicial system; it hasn't gone before the Seventh Circuit or anything like that.

Leahy: Oh, no, no.

DePue: What's your sense of likelihood of victory or failure in this, if you will? Of your success?

Leahy: Let me back up. I should say something, that at one point, my husband became ill in '81; he was given two weeks to live, and he ended up living almost five years. And at one point, he wasn't doing very well, sort of toward February of '85, and I said, "Andy, I don't think I can do this. I don't think we can take this on now." I remember he thought a long while, and he said, "But if you don't do it, who else is going to?" So what can you say? So anyway, Judge Baker dismissed the case in the early summer, I believe, of '86.

DePue: And that is at what level?

Leahy: That's the trial court level. US District Court Judge. Judge Ackerman had died here in Springfield; Judge Baker was over in Urbana, and he came over and covered Judge Ackerman's—he kept the case.

DePue: On what grounds did he dismiss the case?

Leahy: On the grounds that he was not going to extend the theory of *Elrod* and *Branti* to promotion, transfer, recall from layoff, or hiring. And I believe he almost put it as bluntly as to say, "Only the US Supreme Court can do that."

DePue: That was my next question. He didn't feel that he had the judicial authority to make that kind of a leap?

Leahy: That's right.

DePue: Okay. So where does it go—

Leahy: By the way, he's one of my favorite jurists so I didn't have any—the problem I had was that Andy was in the hospital then. Andy thought Judge Baker would let us do some discovery to find out if this system really existed, and then might rule against us, but he thought that we would at least get some discovery as to the facts of this system. I think that was one of the hardest days of my life, when I had to go back to the hospital and tell him Judge Baker dismissed it. I couldn't figure out what to say, all the way coming back from Urbana. I had called the office, just to make sure he was okay, and of course, he was so smart, he called the office; he knew that Judge Baker had dismissed it before I got to the hospital. So I walked in his room and before I could open my mouth, he said, "Well, have you got your notice of appeal filed yet?"

DePue: That was a relief then.

Leahy: Yes. It was. But he could have relieved me a lot earlier (laughter) without having that ride back.

DePue: So what you had up to this point was basically anecdotal information from the plaintiffs themselves?

Leahy: Well, we did a very detailed complaint, and when you file a motion to dismiss, as the state defendants did, they are accepting everything is true that's in the complaint, and saying, "Even if it's all true, you don't have a cause of action." So then we filed the notice of appeal.

DePue: At the point in appeal then, do you have that recourse to discovery as well? I mean, that process goes forward?

Leahy: No. Court of Appeals accepted everything that we alleged in the complaint as being true. In the Court of Appeals, you have a three-judge panel. All three said that maybe Standefor, who didn't get recalled, and all his other temporary workers were reinstated. And maybe O'Brian, because he didn't get recalled within that two years, maybe those two cases fall under *Elrod* and *Branti*, so you can go back to the trial court and get the facts on those situations. We asked the court to reconsider, and to convene the entire Seventh Circuit en banc, which means all the judges on the Seventh Circuit would hear the case. And that was granted.

DePue: That's rather exceptional in its own merit, is it not?

Leahy: Yes.

DePue: That suggests the merit of the case in the first place, the scale of the implications involved with this.

Leahy: Yes. And—I should say this: of the panel of three, the three agreed on the recall issues, for those two, that I can go back down, see if that really was related to firing. On the other three, it was two-to-one against me. Judge Ripple dissented, and found in my favor for all of the plaintiffs. The court granted the motion, reconvened en

banc. I believe that two judges did not sit, so I think there were eleven, so nine sat on the panel that day. I can only speculate as to why the two—but I think, for example, Judge Bauer, he had worked for Jim Thompson in the US District Attorney's office, and Thompson was named as a defendant. Judge Harlington Wood—I never was sure. But in any event, argued it; Judge Ripple picked up one judge, Judge Cudahy, on the promotion and transfer issue, but Judge Ripple was the lone dissenter on hiring. This has taken a long time now, but I'll tell you, the first time I went and argued, I just went to the Seventh Circuit. I swear, almost the entire firm Jenner and Block, it seemed to me, was there on the other side. So the courtroom was filled on one side, and there was me on the other side. (laughter) So when we did it en banc I took some friends along for the argument.

DePue: It strikes me that this many years after all of this that you remember the justices in particular, and which way they went on this. And maybe this is your life, this is what you're focused on. Is it a process by which you very much are trying to understand the frame of mind of each one of the individual justices, and tailor your arguments in that respect as well?

Leahy: Well, the Seventh Circuit doesn't let you know who's going to be on the panel until the morning when you arrive for argument. I think all the other circuits, you know in advance who's going to hear the case, and you can do that. But in the Seventh Circuit, you can't do that, because you don't know who's going to be there. Now, when they all convened, then you know everybody that's on there. I remember, Tom Sullivan of Jenner and Block argued it for the defendants. After the argument was over, I remember his saying to me: We're all convinced the US Supreme Court has to take this case. And that was before the judges came out with their decision. You're judges on the 7th Circuit level; you're justices on the Supreme Court level.

DePue: Well, regardless of what the Seventh District is going to do, that has to make you feel very good about it, that both sides of the argument recognize the merits and the importance of the case.

Leahy: But the US Supreme Court taking a case is so slim, those chances are so very slim.

DePue: What was the essence of the argument that Jenner and Block made?

Leahy: That the patronage system serves a vital governmental interest; that if the person knows that they're being appointed politically, they will then carry out the wishes of the party, they will be more efficient, that type of thing.

DePue: So there was no trying to deny this was patronage behind this; it was the merits of the patronage concept in the first place.

Leahy: That's right. And that we've had it since Andrew Jackson was President. But you know, that same argument really then didn't have much merit, because most of the positions under the Governor were merit-comp, or unionized. And therefore, once you served your six-month probationary period, you were in there. It's not like in the city of Chicago, where everybody was temporary, and you knew that if you

didn't toe the line, you'd be fired. But what happened in the state was that you got your position after those six months.

DePue: Well, let's talk about that next level then. How and when did you find out that the US Supreme Court had agreed to take the case?

Leahy: I believe they ruled the first day they convened in October of 1989. It was kind of ironic, too, because the letter that they sent me saying that they had taken the case was addressed to "Mr. Mary Lee Leahy," and that had been a joke in the Constitutional Convention. I mean, I got shivers up and down my spine with that. At one point, because my husband had been dead then for, what, four years. I In Con-Con one day it was very, very tense. Albert Smith was in the chair; he was the first vice-president. My husband came from Chicago and just walked in up at the balcony to spend a couple of days at the convention. To break up the tension, Albert Smith slammed the gavel and said, "Mr. Mary Lee Leahy's arrived," and it just broke everybody up, and whatever tension was going on on the floor broke up. I mean, it was very tense; I think people were about to come to blows. So that became an in-house joke at my house. When the letter came addressed like that in October, I said, "Oh, boy."

DePue: This was something good in this letter, then.

Leahy: Oh, I think so. But I think it was sort of the Irish superstition kind of thing that was going.

DePue: It wasn't just by accident that they had addressed it that way, though.

Leahy: I'm sure it was.

DePue: Okay. What happened then after that?

Leahy: Well, we're given a briefing schedule. And I can remember working on the brief on Christmas Day. I believe that was the reply, but I know working on it over the Christmas holidays. So we had our brief due, the other side's brief due, and then a reply brief. We argued it, I believe, the day after the Martin Luther King birthday holiday.

DePue: And it was the same law firm that argued the other side?

Leahy: Yes.

DePue: Tell me a little bit about your team then.

Leahy: Well, there were two associates in my office, Cheryl Jansen and Catherine Eisenhart. And I certainly had advice and help from some of the attorneys that had worked on Mike Shakman's case, including Mike.

DePue: I wonder if we can get that picture up. We've got a picture of the group—there it is. You can go from left to right real quick here—

Leahy: That's Catherine Eisenhart, and Cheryl Jansen, and then Cynthia Rutan is behind me, and that's myself, Mike Berz, an attorney from Kankakee, and Dick Johnson. Dick had been very involved in the *Shakman* litigation.

DePue: So that's a good team to walk in there with. And only Cynthia Rutan, of the group of five, was there in person? For the oral argument?

Leahy: That's right. She and her husband and her children. Each attorney that argues gets four tickets for the visitor's gallery. And so I had my sister and my two daughters. And Cynthia –I think I've told you –without my knowing it, wrote the Clerk of the Court, and he thought it was so marvelous that she wanted to bring her teenage sons that he gave her four seats in his section of the Supreme Court gallery.

DePue: Well, it is quite a distinction to have a case that you're involved with go all the way up to the US Supreme Court. I mean, that's something to remember for the rest of your life, I'm sure.

Leahy: They give you a quill, you know, when they used to use a quill to write. And so when you argue there, it's in front of you when you sit down.

DePue: How long was this particular case argued?

Leahy: The full amount of time, an hour.

DePue: Just one hour?

Leahy: Yes. The court hears argument at 10:00, at 11:00, breaks for lunch, reconvenes, at 1:00 and 2:00. What I was scared about is that if the 10:00 and 11:00 didn't use all of their time, then I would have had to start my argument and then break in the middle of it, because 12:00, they adjourn for lunch. And so I might have gotten ten minutes of my argument in, have to go to lunch, and come back. And I thought that would lose the momentum. But fortunately, the 10:00 and the 11:00 took their full amount of time.

DePue: Okay. Not having seen this or experienced this myself, when you say the 10:00 and the 11:00, both sides are given one hour—?

Leahy: No, no, no, no. There was another case at 10:00; there was another case at 11:00; *Rutan* was at 1:00; and there was another case after *Rutan* at 2:00.

DePue: And that's it. The whole case has one hour for both sides to make their case.

Leahy: Yes. We split the hour.

DePue: That seems very rushed to me.

Leahy: Well, I had done a very good thing. I can't remember who suggested it to me, but I went out and watched the court for two or three days a couple of weeks before. It made me feel very comfortable with the court, it made me feel comfortable with the room. I really picked up that Justice O'Connor would be the first one to ask questions; they were always factual. She let you get about two to three minutes into your argument before she started the questioning. And then, you know, you could forget the rest of your argument. (laughter)

DePue: The flood gates were open?

Leahy: That's right. And I had three mock sessions. I had attorneys in Springfield pretend they were justices and question me. When I went out to watch the court, there was a group of attorneys in DC that got together and acted like they were the court and asked me questions. And then the ones who had worked on the *Shakman* case as well as Mike, they asked me questions. And I must say that the court did not ask me a single question that had not been asked during one of those three mock sessions.

DePue: Well, that's superb preparation.

Leahy: Oh, it was the attorneys who asked me the questions.

DePue: Was this a different experience, different kind of experience than the *Pickering* case for you?

Leahy: Well, because I didn't argue. I was there, but I couldn't argue *Pickering*. I wasn't even admitted long enough to be admitted to the Supreme Court bar. You have to be admitted three years to your state bar to be admitted to the US Supreme Court bar.

DePue: For the *Pickering* case, that is.

Leahy: Yeah.

DePue: Okay. So this was very different for you.

Leahy: Well, it also was different in the fact that I think the Supreme Court cafeteria has just great meals, and a lot of attorneys—I may have said this before—but a lot of attorneys don't eat when they're in trial or heated argument in the appellate process. I'm just the opposite; I get very hungry. So we all had breakfast in the Supreme Court cafeteria the day of the argument; went up and watched the one at 10:00, the one at 11:00. Went back to the cafeteria. But while I was eating breakfast, I remembered a case, *Marbury v Madison*. Now, I had not thought of that case since law school. It was a midnight appointment at the turnover of the presidency of the United States. The US Supreme Court used *Marbury v Madison* to establish their role as the court. But I mean, I had forgotten all about it. Yeah, it established the jurisdiction of the Supreme Court and its relationship with the other branches of government.

DePue: And it dealt with patronage.

Leahy: Yes. A midnight appointment. All of the sudden—I don't know how that entered my head sitting there in the cafeteria—so Cheryl and Catherine and I raced upstairs in the Supreme Court to the library, and we're pulling off volumes—I knew it was the early 1800s—and trying to find *Marbury v Madison*. Found it. I sat down, I read it, I made some notes about it, but the court never asked me a thing about it.

DePue: Do you remember any of the specific questions or line of questioning from any particular justice? Anything that strikes you?

Leahy: Well, the mock sessions had indicated that Justice Brennan hadn't asked a thing for a very long time, so don't expect a question from him. I do remember what I learned in those two weeks was, if the question calls for yes or no, tell the court yes or no. Don't equivocate. Don't try to dance on the head of a pin. I believe one of the justices asked Mr. Sullivan, "Isn't this system coercive?" And he didn't answer yes or no. And then another justice picked up on it, and they went back and forth. At one point, one said, "Well, if it wasn't coercive, it wouldn't be working." (laughter) Implying that you're forcing the person to do the work for the candidate in order to get the job. But I had the time of my life, and you never know how you're going to feel for something like that. I don't think I was ever calmer; I don't think I enjoyed anything more than that argument.

DePue: So when you walked out of the room after that one hour, you were thinking, "We've won the case"?

Leahy: Oh, no. The only time I've ever felt that way in my whole career, I felt it twice, and both times, it was a loss.

DePue: You knew you were going to lose?

Leahy: No, no. I didn't know what the Supreme Court was going to do in *Rutan*. I knew that we had done the best job we could do.

DePue: Okay. When—the two times you were certain—

Leahy: Was into two other cases.

DePue: So you didn't feel certain walking away from *Pickering*, and you didn't feel certain in this case.

Leahy: No.

DePue: What were other people telling you?

Leahy: That I'd done a very good argument, but nobody had any idea which way it was going to go. I mean, we knew that there were a couple of ones that could swing either way. I remember Dick Johnson called the court and ordered the transcript of

the argument, and he went over that with a fine-tooth comb. It didn't indicate which justice had asked what question, but he put initials, because he remembered. And we talked about who could be a swing on this one.

DePue: Do you recall the names of the ones you thought would be swing votes?

Leahy: I think Kennedy, and that's turned out to be true today. So we argued, and then all the months went by until the last week of the court in June.

DePue: And how many months is that?

Leahy: February.

DePue: That's a long time to wait.

Leahy: Yes. But they do save a lot of their decisions for in the end of June.

DePue: Are the more important decisions the ones they tend to save towards the end of the session?

Leahy: I thought that way then. I'm not so sure that's true today.

DePue: Okay. Again, going back to the constitutional argument: between these two sides of this argument, this discussion, the merits of both sides, if you could try to lay that out for us one more time.

Leahy: Well, we were taking the position that a state job is a benefit, and that the state cannot deprive you of a benefit based on unconstitutional grounds; they can't deny you that benefit because you're a Republican or because you're a Democrat. They can't deny that to you.

DePue: Because to do that is to violate your freedom of speech?

Leahy: Freedom of association. It's forcing you to associate with a party that you really don't want to associate with. You have the right to associate with either party or with no party. But you can't be forced—I mean, the incentive there, particularly in the mid-'80s, a state job was very valuable. And if you've got a family and you've got kids and you think you have to walk your precinct or go to those Lincoln dinners or contribute the money, you're going to do it.

DePue: Okay. Now, here's the tough part, Mary Lee. You have to put yourself in the position of the other side and argue their case.

Leahy: They argued that patronage served a very important governmental function, that patronage made public employees more efficient, and they more followed the will and direction of the administration. I can tell you one thing, like when I was at DCFSS, sometimes I would feel frustrated, that I had made a decision, and I'd go out in the field six months later and found that somehow a middle layer of bureaucracy,

it hadn't gotten down there to the field. And that's the kind of argument they were saying, that those in that middle level would be sure that your rulings got down and were followed.

DePue: Was there an argument made also that this wasn't something that the US Constitution addressed one way or another, that it was something that should be addressed at the legislative branch rather than the judicial branch?

Leahy: I think that was mentioned. But what they went on was the *Pickering* rule, that public employees have First Amendment rights. Second prong of the *Pickering*, the state can limit those rights if it has a legitimate, compelling reason. And that's what they were hooking their argument on, that patronage served state government, and therefore we do have a compelling reason, enough to override the constitutional rights.

DePue: And then I'd imagine you get into lengthy discussions about what's legitimate and what's compelling.

Leahy: That's right.

DePue: Okay. (laughter) So let's jump forward again at the moment that you finally hear the decision. Tell me about that.

Leahy: Well, I knew it was going to be that last week in June. And so the prior week I had cancelled plans to go to a convention, because I thought it was important that I be in Illinois when the decision came down, particularly if it were bad. So I got a call—it was about 9:20, 9:30 in the morning—and I believe this woman said, "This is Sandy in the clerk's office at the US Supreme Court. The court has issued its ruling in *Rutan v Republic Party*; it was a five-to-four decision, it was reversed in part and affirmed in part."

DePue: And that's it?

Leahy: That's right. So if they affirmed what I had lost in the Seventh Circuit, and reversed what I had won—remember the two layoffs—then it was a total loss. If they had affirmed as to the two layoffs and reversed as to hiring transfer and promotion, it was a total win.

DePue: And so you were still completely in the dark. (laughter)

Leahy: I think it was ten or fifteen minutes later that Associated Press called, and then I knew. Then I had to go off to court on an order of protection for a client of mine in a divorce case, and by the time—I was really shaking. I wasn't like this at all the day of the argument. But I get over to the old courthouse here in Sangamon County, and I'm thinking, "Oh, my God, I've got to pull myself together to get this woman protected." I walked in, and the husband's attorney said, "We'll agree to the order of protection." I was never so thankful in my whole life. (laughter)

DePue: Your mind was someplace else, perhaps, that day.

Leahy: Then it was quite a day. It was quite a day.

DePue: So you totally won.

Leahy: Yes.

DePue: By five-to-four vote.

Leahy: Yes.

DePue: Do you recall the justices and how they lined up?

Leahy: Justice Brennan, Justice Marshall, Kennedy—it was Scalia wrote the dissent.

DePue: Here's what I found, just doing some background here: the five who decided in your favor were Brennan, John Paul Stevens, Byron White, Thurgood Marshall, and Harry Blackman.

Leahy: That's right. But what's interesting about that is that—well, go on and finish.

DePue: And the ones then dissenting were Rehnquist, Antonin Scalia, which probably wasn't a surprise; those two weren't a surprise, I would suspect. Anthony Kennedy, one you had mentioned as a swing vote, and Sandra Day O'Connor.

Leahy: Yes.

DePue: Did the way any of those ended up surprise you?

Leahy: No. Well, “Whizzer”_White was another one we thought could go either way. I believe he's the one that asked the "Isn't this coercive?" question. A few years later, after Justice Marshall had died—he was the first justice to donate all his papers before every other justice on the court had died. There was this longstanding, I guess, non-written-down rule, that until all the other justices you'd served with had died, you didn't donate your papers to become public. But Justice Marshall broke that, and willed his papers to the National Archives. I was in DC for another reason and got his papers from that term. It was really something to hold the law memo his law clerk had done on the case, and then to see his scribblings in the margins. So it was very interesting.

DePue: Do you remember anything specific about the scribblings he had?

Leahy: Well, I don't even know if we have them anymore. It was in one of those pencils that's blue at one end and red at the other, and rather thick lead. And there were red and there were blue, but I couldn't figure out whether it was just the way he picked up the pencil or whether the red and blue meant something. (laughter)

DePue: Yeah, that's just the kind of thing you obsess over when you look at it, I'm sure.

Leahy: I mean, I think Justice Scalia was then, and still is, a very affable person, and what I observed whenever I've been to the court is that he slips the knife in so well that in a sense, you don't know you're dead until after he takes it out. (laughter) He's very, very, very clever with his questioning.

DePue: Yeah. I remember the reaction after the *Pickering* case, the celebration that was very—

Leahy: Delayed.

DePue: —delayed. What was the celebration like in this case?

Leahy: Well, number one, I can't—my receptionist stopped keeping count of the phone calls that were coming in from media, all over the place. Then that night, we went to the Great Wall, which was our favorite Chinese restaurant; it used to be on MacArthur. Then, if I remember correctly, I went on Channel 20, here, on the 10:00 news. So we had quite a nice celebration, then went to the television station.

DePue: Well, from what you're talking about here, it sounds that there was much more of a reaction to this decision than there was to the *Pickering* case.

Leahy: Well, I think that's because what I learned about celebrating when the good things happen right away. But I mean, I also think that John Lightenburg in *Pickering*, well, he was just a very subdued man, and I just wasn't in his—he wasn't Irish. (laughter) I loved him dearly.

DePue: But I mean, the medias' reaction to it.

Leahy: Yes. Oh, yes, I agree with that.

DePue: Why was that? Because you've said yourself you thought the *Pickering* case had more implications in the long term.

Leahy: Yes. And in fact, *Rutan* built off of the principles of *Pickering*. I just think, you know, it was sort of like, well, a schoolteacher gets fired, and—sort of so what, a letter to the editor. But on this one, it was just so much—it was political, and *Pickering* was not a political case.

DePue: So you didn't draw the national attention in the *Pickering* case?

Leahy: No.

DePue: And you did in the *Rutan* case.

Leahy: Yes. If you're talking about immediate media attention. Now, if you're talking about attention of attorneys, the citations to *Pickering* are just legion.

- DePue: Okay. Now you've got this important *Rutan* decision, and it has to be implemented. How closely have you followed the way the state has implemented the *Rutan* decision?
- Leahy: Well, I've had litigation since then on it. We came back down, now we go into some kind of discovery, and eventually, in '92, we settled. The primary thing that my clients wanted was the definition of who is protected and who isn't. And so the consulting firm had come up with the criteria and a list of positions, as I said, about 3,000, 3,500 of them. That became the *Rutan*-exempt list. And throughout the Edgar administration, when that list was updated, Chief Counsel in the governor's office would give me a copy.
- DePue: Was there a tendency for the governor's office to try to expand the list of those jobs that were exempted?
- Leahy: No, I don't think through that administration—I mean, one job might become protected, and another unprotected. But the number stayed relatively the same. And the reason it was helpful to me, if somebody came in and they were pretty high up on the echelon in a department, I'd go look at the list, and I'd say, "Hey, you're in an exempt position, and I just don't want to litigate that issue. Maybe another lawyer will, but I don't want to do that."
- DePue: So it was your sense that they drew that line between the exempt and the non-exempt pretty well?
- Leahy: Yes. But then I never got a copy of the list under the Ryan administration or under the Blagojevich administration, at least not to date. And in fact, I don't know if there is a list. We wanted it available publicly, and I don't know whether CMS [Central Management Services] has such a list today.
- DePue: You've requested that information, or others have requested that?
- Leahy: I don't think it's publicly available right now.
- DePue: Even under Freedom of Information Act?
- Leahy: Because it deals with personnel matters.
- DePue: Okay.
- Leahy: But I think we—don't get me wrong. This list didn't have any names of people on it; it just had the position. Like Deputy Director of the Department of Revenue, or bureau chief over—whatever.
- DePue: How about the way that the *Rutan* decision was implemented in terms of hiring procedures? Have you gotten involved with that, or do you know much about the way that has worked out?

Leahy: Yes. Or selection for a job, like a promotion. Initially, when we settled a case, the procedure was, three people would do the interviewing; usually, they had knowledge of what the job that they were going to fill did. And there were criteria to be considered. All the candidates had to be asked the same questions. The questions had to be related to what was needed to do the job. That type of thing. I can remember seeing one case, which I thought it was an excellent approach to it—it was a promotion at corrections; I think it was over at the Jacksonville Correctional Center. They considered prior performance evaluations, record of absences, record of any discipline, the answers to the questions, the comments of the employees' prior supervisors. So it seemed to me they were doing a very broad balancing. But over the years, it has come down to one person doing the interviews, and that person usually is not familiar with the job itself that's being filled. Usually that person comes out of a unit in the bigger departments, like a bureau of selection and recruitment. There are no correct answers for the interview questions, and I had a case where it was to fill a position at a prison, but it was in the electrical generating plant. And I've still never understood why the state doesn't buy its electricity for all of its facilities, but at some they have a plant. And you know, this job very menial work, and the question was asked, "Are you willing to work overtime?" One guy says, "Yes;" the other guy says, "Sure, did it last week." One got an eight or nine; the other got a six. And you know, that leads you to have serious questions. But the Seventh Circuit Court of Appeals in that case I think said, "We're not around to make the perfect personnel system." I can remember being told by the man who was involved in interviewing back in the nineties, "You know, you can give the best interview in the world, but if I don't write it down as the best interview in the world, it's not the best interview in the world." And so I think a lot of it goes into what you want to do with the system.

DePue: Did you have a direct hand in developing the process?

Leahy: Oh, no.

DePue: That was strictly CMS and the state government.

Leahy: That's right. And the consulting firm. What I guess I'm saying is that it's changed a lot over the years.

DePue: So to begin with, you were relatively satisfied with the way the philosophy or the decision of *Rutan* was applied to the state hiring and the promotion process?

Leahy: I think there was a genuine good faith effort to comply.

DePue: And that over time, it's lost some of its punch, if you will?

Leahy: I think it's lost some of the protection, for example, by having the people doing the interviewing not knowing what the job does. I think by having three interviewers to separately score is a check and balance. I think it would be helpful if answers to questions like, "Are you willing to work overtime," that the correct answer is yes,

and it gets a ten out of ten. You know, I don't know how a "yes" and a "sure" can get you different numbers.

DePue: Well, one of the criticisms, if you don't mind, that I have heard about the *Rutan* hiring process is that the role of things like résumés, or if somebody was to be hired for a specific position that was relatively unique, and they brought in some writing, they brought evidence of their work, that those things are not supposed to be considered by the panel that's enjoined to make the decisions.

Leahy: They were as devised back in 1993 by that consulting firm. But now they have come to the point where the only thing that matters are the answers you give in the interview. So nothing else matters. Because to get an interview, you've got to have an A grade. And I think the scoring process over at CMS has changed over the years. So if you've got everybody with an A grade, that says they're equally qualified, so therefore you don't have to look at résumés or whatever. Another problem I have is that I think some people don't interview well, but they're magnificent employees. If you had talked to their supervisors and gotten a feel, but some people just plain don't interview well.

DePue: So you're less than totally satisfied, at least, with the way *Rutan* has worked itself out in the current state of affairs, if you will.

Leahy: That's right. I mean, I think that system I described back in '93 or '94 at the Jacksonville Correctional Center, where for a promotion, they took all those things into account, I think that was a much better system.

DePue: And yet looking back at your involvement with litigating the *Rutan* case, going all the way up to the Supreme Court, what's your impression of how successful it has been, and how proud you might be in terms of the accomplishment?

Leahy: Well, I would hope that state officials genuinely follow the Constitution. They took an oath to uphold the Constitution, so I would hope that they do that. One aspect of this is that it wasn't just limited to Illinois. The decision covers every public employee throughout the country, and I think for that reason, it's had a great deal of significance.

DePue: I don't want to put words in your mouth, but here's what I think I hear you saying. If the people who are sitting on these panels to make these important hiring and promotion decisions understand the philosophy behind the *Rutan* decision are making their decisions based on what they think is the best merit involved, and not for patronage or political positions, then your work has been successful?

Leahy: Absolutely.

DePue: And it doesn't always perfectly work out that way?

Leahy: Well, I mean, we have the *Shakman* example in the city of Chicago, where the city attorneys are going in and telling Judge Anderson they're totally in compliance with

the Shkman consent decree, and therefore it's been so long since that went into effect, remove us from the burden of this decree. And then in a sense, all hell broke loose with criminal indictments of people filling jobs—

DePue: This trucking company that was getting lots of lucrative bids—

Leahy: You mean the O'Hare trucking case?

DePue: Yeah. There you go.

Leahy: Well, that was a later Supreme Court case in which many people thought that because the composition of the court had changed, that now Scalia's people would be in the majority, and Rehnquist was still there, Kennedy was still there, O'Connor was still there. Marshall was gone; Brennan was gone. In *O'Hare*—and again it came out of Illinois, in the northern part of the state—they had towing companies that would tow your car if it was parked illegally; they did it on a rotating basis. Like they had the towing companies on a roller, and they just would do that, picking them in rotation. But somebody dropped by for a local campaign, and the owner of O'Hare trucking said, "Well, I'm not going to contribute this year; I'm supporting the other guy," and they had the other candidate's picture up in the business. All of the sudden, they're taken off the Rolodex, and they get no more towing business. So that went to the US Supreme Court, and it was very interesting; Scalia's dissent is almost like, "Hey, wait a minute. I should be in the majority now. What happened to you guys?" (laughter) Because Rehnquist went over to the other side. I've often wondered how that could be, but people have said that Justice Rehnquist thought once an issue was decided, it's decided, and we don't stir it up every five or ten years. We can't have that kind of chaos in the law.

DePue: Okay. Any final words you want to say about the *Rutan* case?

Leahy: No. I just was very grateful that I had it. Oh, I would like to say something. They were the five best clients I've ever had. I mean, I've been blessed with wonderful clients, but I kept them informed. Sometimes you have clients that call you several times a day, and nothing has changed. So I kept them advised, but they weren't like on the phone.

DePue: Well, this might be prying—

Leahy: They were great people.

DePue: This might be prying, but I'll ask you anyway. I wouldn't imagine that any of these five people had a lot of money to be able to pay for a case that takes years and years to evolve. I assume you didn't get rich doing this case.

Leahy: Well, when we settled it, I got my attorney fees. The cost would have been out of my pocket. They contributed some. But see, we weren't into the real expensive part of litigation, because we couldn't do any discovery. The real cost was the printing of the briefs that you have to do at the US Supreme Court level. But your briefs are

just copied on your office copy machine for the Seventh Circuit. But we didn't get into depositions or production of documents or all that, because it went up on the motion to dismiss. So it wasn't really—when we came back down, we would have been facing a lot of expenses.

DePue: That would have been a much greater burden on everybody involved, had that been the case.

Leahy: Sure, because once we started to take depositions, that would run up court reporter costs.

DePue: I know that another case that you did want to talk about—I certainly think it's significant—is preferential hiring, or hiring practices, if you will, for veterans to state positions. Can you talk about how you got into that?

Leahy: Well, the plaintiff, Steve Denton, came to me, and he talked about the problems that veterans were having. He said, "Look, there's this statute that says that veterans get preference."

DePue: This is a state statute.

Leahy: State statute. I looked into it, and it seemed to me he was absolutely right, it couldn't have been any clearer. So if you had a veteran and a non-veteran, both of whom had the A grade from Central Management Services, the veteran got the job. I did a lot of research; these veterans' preference statutes were adopted after the Civil War. They had evolved over the years; some states not only gave the preference to the veteran, but to the spouse of a veteran. They were pretty well established. The US Supreme Court had considered such a law in Massachusetts, and said there that preference serves an important state issue, rewarding those people who have sacrificed to serve the country.

DePue: So this Massachusetts case was well before the cases you were working on?

Leahy: Yes.

DePue: So the US Supreme Court had decided on the concept of preferential hiring practices for veterans.

Leahy: Yes. I mean, our statute read differently than the Massachusetts statute, but I thought that the thrust was the same. Then we went up the ladder to the Illinois Supreme Court on that one, and they ruled in the veterans' favor. I think at that time, the administration was trying to work things out, like hiring one veteran for every non-veteran—they'd work something out with some veterans' organizations. But it wasn't the absolute preference. So that's what the Illinois Supreme Court said; and basically they said, "If you don't like it, go to the Legislature and have them change the veterans' preference law." But it's still on the books today.

DePue: This is the George Ryan administration when this occurred?

Leahy: No, that was under Edgar, I believe.

DePue: Still under Edgar. Okay. Now, this is just my own curiosity. Was the argument—maybe this would more apply to this case with Massachusetts going up to the US Supreme Court—but did the argument that this is a violation of equal protection under the law come up?

Leahy: Yes. It came up in the context that going back to when Massachusetts' statute was interpreted by the US Supreme Court. At that time, most veterans were men, and so the women's rights movement was just starting, and was very involved in that and saying this veteran's preference statute is denying women equal rights. Yet it was—again, the *Pickering* analysis—that you can trump those rights if the state has an overwhelming legitimate state interest.

DePue: So what is the compelling interest in that particular case?

Leahy: To encourage the military, to encourage people to serve in the military, and to be appreciative to them after they have served.

DePue: Okay. Any other comments as far as that case is concerned?

Leahy: No. It's still in effect. (laughter)

DePue: I think for the rest of the time here, Mary Lee, we need to take a couple of steps back and look at your life in a broader perspective. You're certainly welcome to get into some specifics as we do this as well. Much of your life has been spent, or a portion of that life, in the political arena. Obviously, once you got out of the public area, the political arena, you were still very much in the public eye. What have you been doing since the late nineties?

Leahy: Well, I've been doing a lot of public employment litigation. And I've also been doing a lot of discrimination litigation against private employers. For example, in 19—I think it was '86—we won the *Savage* decision at the Human Rights Commission, and that went up; that was the first case in Illinois in which the comments weren't made directly to the woman—there were a couple of comments made to her—but it was more comments about women in general, and whether or not that could be sexual harassment. Or, you know, a woman walks by and a man makes a comment about her, she can't hear it, but the female employee in the office can hear it. And so it was whether that atmosphere in the office, even though it's not directed toward the particular woman, whether that atmosphere of and by itself constitutes sexual harassment. And the court said yes.

DePue: And the court at what level?

Leahy: The Fourth District Appellate Court in the state of Illinois. So that was a significant thing; it had been addressed elsewhere, but it was the first time it was addressed under the Illinois Human Rights Act.

DePue: So it's fair to say that you are still very much a working lawyer.

Leahy: Yes, but now I have the luxury that I can take cases that interest me. I sort of think of it like you get in a rowboat with your client when you do plaintiff's employment work, because you really are only going to get a recovery if you prevail, if you win. And so you get in there with your client, and in the last few years, I've seen some people, and I think, maybe you have a good case, but I'm not sure I want to get in that rowboat with you for the next two or three years. I didn't always have that luxury. But now it's got to be something that I'm really interested in.

DePue: Have you continued to work on teacher tenure issues? I know that's where you started in your career.

Leahy: No, I have not. But I do some arbitrations for the Illinois Federation of Teachers. That's a whole different ballgame, because there you don't get discovery. And so the hearings are very interesting, because sometimes you just have to bite the bullet and go with it, and you're not sure what the answer's going to be.

DePue: Well, tell me a little bit more about that.

Leahy: Well,—maybe I mentioned this before: a case against the postal service that was sexual harassment?

DePue: I think you did mention that to me.

Leahy: And so you don't know what the answer's going to be, and sometimes in arbitration, you don't know the answer. Because you can have an arbitration that interprets the clause of the collective bargaining agreement, or you can have an arbitration where an employee in the unit's been disciplined, and you're either trying to get the discipline reduced or wiped out entirely. So it's a different ballgame, you have to kind of be really on your toes in an arbitration.

DePue: Again, let's take a couple steps back, and I want to ask you similar questions for both teacher tenure kinds of issues and patronage issues. In general, was your involvement with teacher tenure working with people in the unions, I would assume?.

Leahy: That's correct.

DePue: In teachers' unions. Looking back, was much of this work in the late sixties, early seventies?

Leahy: That's right. Again, the cases we were taking were the breakthrough kind of cases. We were testing all sorts of principles.

DePue: So a lot has happened in that time, and a lot has happened in terms of the state of American education. How do you think what you were doing in the sixties and seventies has impacted on the state of American education today?

Leahy: Well, I would hope it's had a good impact. I know I probably said this, but in the Depression, my mother had to get sponsorship to get a job in the Chicago public school system as a teacher aide. We ought to be looking for merit, and one thing the tenure system has done is to remove the patronage from that system.

DePue: Any reflections on American education as it exists today?

Leahy: Well, the reflections I've got, a lot come through my daughter, who's a professor. When my kids went away to college, I thought I was lucky if I heard from them once a week, even though they were here in Galesburg, in Illinois. But my daughter says that some of these college kids call their parents eight, ten times a day; I think the articles I've read, it's about the helicopter generation, that the parents hover over the kids. So I would hope that that's not as true as what I've read.

DePue: But in general, you'd be satisfied looking at where American education is today, and your role in teacher tenure issues forty years ago?

Leahy: Yes. But I also think that back when I worked on those issues, that was breaking new ground. And now that whole field is just a very cut and dried area of the law.

DePue: Maybe not as interesting as when you were doing it?

Leahy: That's right, because you're trying something new. You bounce ideas back and forth; will this work, will that work? How should we approach it? And that's sort of what I like.

DePue: And then patronage: another big portion of your life. Much of the litigation you've done has been involved with patronage issues. And looking at where we are today with that particular struggle?

Leahy: I hope that in Illinois *Rutan* is being followed. I do think that the principles that have been established for public employees: that they have the right to speak freely, unless it's disruptive; that they have the right to join the union, not join the union; stay out of politics, work for a candidate they like—I mean, yes. I think that's alive and well.

DePue: What would you say was your most exhilarating moment over a very long career?

Leahy: The argument. The argument in *Rutan*.

DePue: Didn't take long to decide that at all.

Leahy: No. It was just such an exhilarating experience, and you just don't—you don't know until you go through it.

DePue: It wasn't the moment when you found out the decision?

Leahy: No.

DePue: It was the argument itself?

Leahy: Well, to me, and it goes back to—I think we talked about this—in debating, you know. You could be the better debater and you lose. And that's certainly what I learned in high school and college. The issue for me is, did I do the very best job I could do? And when I got through with that argument, I thought that was the best I could do.

DePue: How about the most disappointing failure?

Leahy: I would think it's been some of the post-*Rutan* decisions of the Seventh Circuit. Seemed to me, when I took the Hall case, I thought I had enough circumstantial evidence in that case to get to the jury; the Seventh Circuit said that the circumstances might raise eyebrows, but it wasn't enough to get me to the jury. I'll just give you a couple of circumstances. Mr. Hall worked in the business office of the IDOT district. The next job that would have been a promotion for him opened up. He'd been working there. He'd been active in the Republican Party: Precinct Committeeman, I think he'd been treasurer of the county party, and then he got—he just lost—he didn't want to be involved anymore. And so he resigned as treasurer of the county party and then didn't run again for Precinct Committeeman the following time. He applied for the job. A man who'd been a highway maintainer for sixteen years filling potholes beat him out. I thought that—just that alone raised serious questions. It turned out that the person who'd been doing the potholes for sixteen years was active in the party, and my plaintiff is not active any longer. Then the final thing that I thought I could go to the jury on was that they had brought this highway maintainer over to the business office in the weeks before the interview and shown him all the manuals and all that type of thing. And I had just never heard of that before: you would kind of give the person a chance to learn about the job that he had already applied for. But the seventh circuit said, "No, Mrs. Leahy, you don't have enough evidence. It could raise eyebrows, but it's not enough to get you to the jury." So I think that was my biggest disappointment.

DePue: This might be a little bit difficult, but I did want to ask you. During so much of your early career, it wasn't just you; it was Andy and Mary Lee Leahy.

Leahy: Yes.

DePue: How difficult was it when he passed away and you had to continue on without him?

Leahy: Well, I think the fact that I loved the law so much, and particularly *Rutan*, that was—it got dismissed by Judge Baker, and then Andy died a few weeks later. That was very helpful to me, that I had something—not just that case, but other cases—that helped me deal with his loss. That I had something that I was enthusiastic about, and I wanted to do it, and it helped. It helped to have all that law.

DePue: It helped to know that's what he wanted you to do?

Leahy: Oh, absolutely. But more that there are attorneys who dearly love the practice of law, and they see it as a profession. I don't know what the breed of us it is that you want to change the law and move the law and push the law and pull the law; if you've got that love, then it's a tremendous asset. I mean, I've been so thankful that I became a lawyer. Somebody wanted me to get a PhD in mathematics and teach trigonometry. (laughter) Thank God I did not do that.

DePue: How do you think you personally, or your views, maybe, have evolved over forty-plus years, fifty years of law?

Leahy: Forty years. I think—I don't know what word to use, but my love of the First Amendment has not diminished in any way. And my belief that it's one of the strongest things this country has going for it. That's not diminished at all. In fact, if anything, it's grown. I think we've come a long way; the anti-discrimination statutes brought us a long way. I see far less discrimination cases in hiring or promotion. I think equal pay is still an issue that's hanging out there. And I think sexual harassment is still an issue. But in so many of the other areas, there's been great progress.

DePue: Equal pay in terms of men and women being paid in equal ways for the same job?

Leahy: That's right.

DePue: Do you have any particular examples you could provide for that?

Leahy: Yes. Lost it. It was a case in which the woman was hired to be an abuse investigator at a state mental health facility at \$2,400 a month. Within a few weeks, a man was hired for the same job at \$5,100 a month. Eventually the Seventh Circuit Court of Appeals ruled that that was not based on sex; it was because the state based your salary, when you came to work for the state, at ten percent more than your prior job. My client had been an undercover policeman in a drug operation in southern Illinois. The man who got the job was very high up in his police department. The qualifications were the same, the duties were the same, but they said, well, you know, it was her prior salary drove her salary, not the fact that she was a woman. So we're back to that whatever percentage women make per hour, as opposed to men, and that kind of system of ten percent more than you were earning before, I think that really still needs to be looked at.

DePue: Of all the accomplishments, of all the many things that you've done, what would you like to be remembered for?

Leahy: Well, I guess for my daughters. After that, for the First Amendment litigation. No question in my mind.

DePue: And that includes *Rutan* and *Pickering*.

Leahy: *Rutan*, *Pickering*, and the whole progeny of cases that fell out of that.

DePue: And closing comments: if you could offer up some wisdom to future lawyers, and to your daughters.

Leahy: Well, I think as to lawyers, we've started to do this in this county. Judge Mills, the federal judge here, founded Inns of Court; attorneys who actually litigate meet once a month, not during the summer, and we have an hour of education, and then socialize over dinner, because the promotion of civility is very important. Now, I know the attorneys, or a lot of them, that go into court here. I know I'm going to be up against them again; they know they're going to be up against me again. So your word has to be good, and you've got to treat each other nicely. But I get some phone calls from some young attorneys in Chicago, and I can't believe the level of their rudeness. They don't know me, I don't know them. I'm just astounded by it. A couple of years ago, I remember a young attorney from Chicago saying to me, "Hey, it's not a profession any longer. Where have you been? It's a business, and all we've got to do is just crank the dollars." Well, that's the difference. I think there's great concern among the profession about the lack of civility: how we treat each other, how we treat our clients. If you're in a big law firm in Chicago, you have to bill a definite amount of hours per year; those quotas now, I believe, are impossible, unless you're packing the hours—I don't want to say falsifying—but there is no reason for attorneys to think they have to work eighty hours a week. They can't have a life; this has now become a big concern for the profession, that you can't become an attorney and have a family life, have a social life, be active in the community volunteering. That's what it was like forty years when I became a lawyer, but I think the stress put on young lawyers in these big firms isn't worth it.

DePue: So is the decision a few years back to advertise another symptom of the same disease?

Leahy: I think so. I mean, I think that when I made my decision to become a lawyer versus get a PhD in history or political science, when I made that decision, I thought the salaries were relatively comparable. Now, a PhD teaching at a university can't begin to touch what a lawyer's going to make, if you do business law. But there's a big price to be paid.

DePue: How about advice for your two daughters and for the public in general, if you will?

Leahy: Well, they're grown and they're doing well. They're very secure in who they are; they know who they are and they're comfortable with that. And they're very, very different. Very, very different. A poet and a lobbyist. (laughter) But they're lots of fun to be with too. And sometimes I wondered whether they—when they were little—whether I'd like them when they grew up. But I do. (laughter)

DePue: Well, any final comments then?

Leahy: Oh, I did want to make a final comment. Justice Brennan wrote the opinion in *Rutan*, and a few years after he died, I read a biography of him. His father had been the police chief in Newark, New Jersey. When he ran for re-election, his main point

was that he had gotten rid of patronage in the police department. (laughter) So what that taught me is that somehow—and I think they said Justice Brennan was like nine or ten years old and would go around campaigning with his dad—so he heard his father saying these things. I often wonder how deep down that was in his psyche when he wrote the opinion in *Rutan*. So you're a product of everything that happens to you; it builds on the product of what you are.

DePue: It can't help but have a big impact in the way he heard that case. In all of the patronage cases –because that wasn't the only case that—I think he was there for *Pickering* as well, wasn't he?

Leahy: That's right.

DePue: Okay. This has been a real delight for me.

Leahy: Oh, I've loved it. (laughter)

DePue: Well, I'm glad to hear that. I think it's an important interview, because there's so much of importance in what your life has touched on. And I've certainly learned a lot, so I want to thank you for that, and for the privilege of having interviewed you.

Leahy: Thank you.

DePue: And that completes the series of three interviews. Thank you very much.

(End of recording)