RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY

NEW BRUNSWICK

AN INTERVIEW WITH JAMES HELY

FOR THE

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SHAUN ILLINGWORTH

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TRANSCRIPT BY

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Shaun Illingworth: This begins the second interview session with Judge James Hely on October 14, 2013, in New Brunswick, New Jersey, with Shaun Illingworth. Thank you very much for coming in today.

James Hely: My pleasure.

SI: We left off in the last interview discussing the social and cultural changes of the 1960s and early 1970s at the time you were at Gettysburg College. Can you tell me about the academic side of college?

JH: Well, I would say that the opportunity to go to a small college allows for a lot of contact with the faculty members. At that time, Gettysburg was eighteen hundred students, two-thirds boys, one-third women, which was, as I said the last time we talked, most of the good, small liberal arts colleges were single-sex schools, either girls or boys. There were a smattering of co-ed schools, which allowed for more interaction, normal interaction, with the sexes.

As I was starting to say, you had professors who could keep an eye on you and pull you out, and you could become attracted to a particular professor. Both myself and my wife, who I met at Gettysburg College, had this wonderful experience of a professor who really took a special interest, I would say, in my own academic career. I happened upon, in my sophomore year and really into my junior year, a really wonderful teacher by the name of Dr. [Wade] Hook. He was the chairman of the Sociology Department, and he spotted something in me, as he did in many other students, to pull them out and make them believe in themselves academically.

So, I was fumbling around in my first two years at Gettysburg College academically. I was able to start emerging as a better student and getting more confidence, and that is something that you get the advantage of in a small college. Now, many people view a small college as a little cloister and are attracted to a big university, and I understand that. That debate still goes on, but, in my case, I really benefitted from that small atmosphere, which allowed you to grow as a student, and that's so important to your confidence. As it happened, both my wife and I, as I said, we had Dr. Hook.

We had another professor, Lou Hammann, who was a religion professor, and he was extraordinarily influential and went on to marry my wife and myself, and then, forty years later, married my daughter, because we've maintained our friendships and contacts with these professors, which is another part of a valuable college experience. Not everybody has that. I guess because I met my wife there, we have an enhanced view of our undergraduate years, but that's the experience we had. As I said, my older brother had gone to Gettysburg and, ultimately, was admitted to medical school, and my twin sisters, who were born in 1955, they went to Gettysburg, graduated, and I think have similar feelings about that experience.

SI: Was religion a component in student life at Gettysburg, or was that just something you were interested in?

JH: Well, that's interesting, because Gettysburg College, 150 years ago, was one of two institutions in the small town of Gettysburg, the Lutheran Theological Seminary at Gettysburg

and Gettysburg College, then known as Pennsylvania College. In 1863, 150 years ago, that was the high-water mark of the Civil War for the Confederate troops, and it was all downhill from there, thankfully. Of course, Lincoln gave the Gettysburg Address in November of 1863.

So, Gettysburg College was started by Lutherans. Thaddeus Stevens, who was one of the leaders in the United States Congress, in the House of Representatives, at the time of the Civil War and he was a staunch abolitionist, was also a fervent supporter of education, and he was one of the founders of Gettysburg College. A lot of colleges, particularly in the 1800s and even the 1700s, were founded with religious roots. Gettysburg was connected to the Lutheran Church.

There's a very large and significant chapel on campus that was part of the culture. There were many events held there. It wasn't too many years before we got there that there was mandatory church attendance at these religious schools. That had fallen by the wayside by the time I had gotten to campus, but that was a part of a liberal arts education at many of the religious-affiliated schools. I'm not talking about Catholic schools; I'm talking about Protestant schools. My sister went to Grove City College in Western Pennsylvania, which is still very conservative, and they still may require religious attendance. That had gone by the wayside by the time my family, my siblings, got to Gettysburg College, but, still, the Lutheran Church was a supporter, and still is a supporter, of Gettysburg College.

We can't forget that a lot of higher education was stirred on by various religious denominations. We wouldn't have those colleges had it not been for them. As we talked about, and we can talk about further, there weren't enough colleges to meet the growing needs of an industrial society. In the 1960s, state governments around the country made a commitment to the development of higher education. Specifically in New Jersey, a greater commitment was made to Rutgers to allow it to grow and thrive on a Camden Campus and Newark Campus, in addition to the New Brunswick Campus and all the areas in Piscataway, etc. Also, New Jersey added two new colleges to the state system, Ramapo and Stockton, and then, allowed, as I earlier referred to, the state teachers' colleges, Montclair, Trenton, to grow into more than just teachers' colleges. So, this was a tremendous revolution in our time, the commitment to higher education, which I would say contributed a lot to the economic growth in the United States.

SI: Would you say any religious views were imposed on you at Gettysburg?

JH: Well, I would say it this way, and we've talked about this also, that the fundamental religious value common to virtually every significant religion is, "Do unto others as you would have them do unto you." That reciprocity of living was certainly part of the liberal arts ethos at Gettysburg College and virtually every institution. Most colleges are not built around the notion of, "We are here to let you, the student, go out and be as selfish and make enough money as you individually can make." So, the religious foundation of a school like Gettysburg, and all the other schools around the country, are founded by people who are more interested than just their selves. After all, alumni support at every institution is based upon a concept of giving back to an institution that had an impact on the alum's life.

So, that concept of reciprocity is part of sort of an outlook on life. As we study it and know more about evolutionary biology, we know that there's a selfish aspect of human nature, but

there's also an altruistic aspect of human nature. Just having read a wonderful book by Edward Wilson, *The Social Conquest of the Earth*, it is the species that can act together in an altruistic fashion toward one another that actually survive. Those that are selfish and individualistic, those species don't survive.

SI: Were there other professors at Gettysburg that stand out in your memory as influential or helpful to you?

JH: Again, it's a small place, so, you couldn't go too far out of line without a professor coming to you and saying, "You're not really doing this right." The two professors I named, Lou Hammann and Wade Hook--Lou Hammann's still alive--their impact was so profound on our lives that the others pale by comparison, and, yet, there was many, many other people. See, when you're a small college professor, you know that your life is really a pedagogical life. It's not going to be a research, academic life. Of course, you are expected to do academic research and writing, but, certainly, the most important thing is the student interaction.

At larger schools, a lot of courses are taught by teaching assistants, graduate assistants. That is not done at a small college such as Gettysburg College. We never had that. Now, this, [laughter] some teachers would come to Gettysburg College and they wouldn't like that. They wanted to be studying their subject and pursuing that, and the teaching aspect was a nuisance. Well, those type professors don't last at a small college like that. So, what you have at a small college like Gettysburg College is teachers who are committed to teaching and know that that's their career, and then, thrive on seeing their students grow up, mature, and then, go on to, hopefully, lives that contribute to the world.

I had the wonderful experience of my sociology professor, Dr. Hook, he had a daughter who had two children and died prematurely. That is, Dr. Hook's daughter died, leaving two grandchildren behind as young children. One of those grandchildren, later on, went to college and law school, and then, in 2012 to 2013, became my law clerk at the Union County Courthouse. So, that was an example of direct payback. I was going to help that young law student as much as I could, given what her grandfather had done for me.

SI: Studying sociology at the time, what were you planning to do in the future? Did you have an idea of what you might do with your degree or what you wanted to do in your career?

JH: Sociology exploded as a major in the late '60s and early '70s, because there was a desire on the part of a lot of students to understand the society around them, because it seemed to be falling apart. There was a segment of the student population that wanted to reject corporatism, the study of business and careerism. I'm not saying all, but there was a significant group of people that the question that strikes me is, the phrase "relevance," "What is this relevant to? How is this relevant?"

Now, again, we're in a period where society's in a chaotic, it seemed like a tumble. The Vietnam War continued to drag on insanely, it seemed at the time. Each year went by and we're still there, still losing American soldiers and bombing Vietnamese civilians. A number of Gettysburg College students died in Vietnam and, certainly, a lot of them served in Vietnam. Also, the Civil

Rights issues just seemed to be present. As I said, when I started college, Martin Luther King was shot. There was a lot of animus.

By the way, people don't remember this, but there was a lot of animus towards Dr. King in 1968, because he was still stirring up, in some people's views, stirring up trouble in Chicago and in Memphis. He had taken on the concept of economic issues, not just racial segregation, but economic segregation. Dr. King is remembered now as this great hero, and you see over and over the 1963 speech, but he had a long struggle after that and was not universally loved at the time of his death. [Editor's Note: On April 4, 1968, Dr. Martin Luther King, Jr., was assassinated in Memphis, Tennessee.]

So, that was the interest that people had in sociology as a major. Again, I would say a lot of young people were less careerist at the time, and that's since gone through a cycle. There's a lot less sociology majors now than there were then, but it was just because students wanted answers to questions about the greater society and were less interested in career. I certainly had no good foundation for what path I was going to take following college and did not go to law school for five years after graduating, and that was not that uncommon. By the way, for becoming a lawyer, it's actually a good thing to have some experience in the world after college, not just going right from undergraduate to law school.

SI: The feminist movement and Civil Rights Movement were driving a lot of changes in the study of sociology. With Gettysburg perhaps being a little more of a conservative place, how were those movements viewed in the classroom in sociology? Were they viewed positively, negatively, neutrally?

JH: There was tremendous controversy and debate on all the campuses, not just a small college like Gettysburg College. As I tried to articulate, in that time period, the rules seemed to be breaking down. Nobody knew what the rules were. Faculty was, by and large--certainly by the time I got to school in 1968 and through '72--the faculty were all sympathetic with the insanity of continuing the Vietnam War, but students, a lot of students, just rebelled against all convention. It was an anti-establishment mentality that really resulted in a fracturing.

The President of Gettysburg College at the time was a guy named Arnold Hanson, and he struggled mightily with trying to keep some sense of order out of the chaos of the time and he did a very good job doing that. [Editor's Note: Carl Arnold Hanson served as the President of Gettysburg College from 1961 to 1977.] At the same time--and, Shaun, remember that I was part of jock culture, because I was a member of the football team all through my college career--the jock culture, the football culture, the Athletic Department, was also at war with the president of the college, because they saw athletics getting a smaller, smaller emphasis at a small college.

Arnold Hanson, the President, had to fight for making the college a strong or, I should say, stronger academic institution. The football program and the Athletic Department, they wanted more money going to athletes, so that they could play bigger colleges and get their names promoted. We would play schools four and five times the size of us. At the time I was in college, we were playing the University of Delaware, Temple, in addition to Lafayette, Lehigh

and Bucknell. These were much bigger schools, and we had no business trying to match up with them, but the Athletic Department thought that this was important.

Arnold Hanson ultimately won that battle, because Gettysburg became what became known as NCAA Division III, where there are no athletic scholarships. Right in the middle of my college career, President Hanson succeeded in outlawing any non-financial-aid-based scholarships going to athletes. So, if you didn't have the financial need, you didn't get financial aid. In other words, everybody was judged based on their financial aid application, not based upon, "Well, we'll look at that, but we're going to give more money to a particular football player." That caused a lot of problems and was part of a change. Any time you try to affect change, there's a lot of people that don't like it, and that happened at the college.

SI: Did that have an impact on the success of the team?

JH: Yes.

SI: Okay.

JH: It did. We were a strong team in my sophomore year. That was the year of transition, where the scholarships started to be taken away. Some good athletes dropped out of the program, because they felt, "I was promised a scholarship. I don't have it, and I'm dropping out." The caliber of new players coming in was not as high. So, our record went from 7-2 in 1969 to 4-5 in '70 to 2-6, I think, in 1971, and it all was because we shouldn't have been playing these big schools, because it's the over-emphasis of athletics. Colleges get caught up in this, as you know here at Rutgers University.

First of all, Rutgers played Gettysburg College in basketball into the 1970s, showing that Rutgers wasn't an athletic powerhouse, and, in football, they played mostly Ivy League schools. Of course, that's changed. Now, Rutgers has made a determination to join the Big Ten as possibly a revenue source, but there's an awful lot of academic discussion about this. [Editor's Note: Rutgers University began playing in the Big Ten Conference in 2014.] Some good books have been written about, "Should colleges emphasize and go into this extraordinary expense of trying to make your football or basketball or lacrosse program at the top of the heap, so that you can raise more money?" There's a lot of debate about that subject and should be, because this problem with over-emphasis on sports has gone back all through the century, all through the twentieth century and now into the twenty-first century.

As I think I referenced, the concept of football, in the early 1900s, Teddy Roosevelt, the President, got involved in trying to make football more civilized, and there was talk about eliminating football. Well, obviously, football wasn't eliminated. It's become a bigger and bigger part of people's lives as spectators. Right now, that is in 2013, there's a lot of discussion, debate, about football and concussions, which are so much a part of real life football, which I had many concussions in the course of my football career. Now, the focus is on the NFL, the National Football League, but the focus should be equally on the NCAA.

You have to ask yourself, "What is the importance of a football program? Should kids be physically injured to the point of having permanent problems later on?" Not to mention, permanent problems can develop right on the football field, as happened with a nice young man named Eric LeGrand here at Rutgers. It makes you question, "Do we really need to be playing this game that's very, very violent?" We throw up our hands. [laughter] It's such a popular sport. We can't turn these things around. [Editor's Note: On October 16, 2010, during a football game against Army, Rutgers player Eric LeGrand suffered a spinal cord injury that paralyzed him below the neck.]

SI: Yes.

JH: But, those are issues that any university has to cope with. Swarthmore, for example, had a football program, and it was very controversial for them to terminate football. Actually, in the 1970s, a lot of schools terminated football, some of which have gone back to it. For example, Villanova stopped football, and they had a good program, a high-level program, and they decided that's enough, but it inched back in. That's happened to many schools. Fordham used to have, in the '30s, I think, and in the 1940s, they had a big football program. They terminated it. Now, they're back playing football again. So, this issue keeps alive, let's say.

SI: I wanted to talk a little bit about your football career at Gettysburg. You had been a quarterback in high school.

JH: No.

SI: No.

JH: I played a number of positions in high school. I ended up in my senior year as the center on the …

SI: That is right.

JH: Center on the team and a defensive tackle. By the time I got to college, pretty much, players were not going, what we call, "both ways," playing offense and defense. You were segmented, a defensive player or an offensive player. I ended up at Gettysburg playing essentially defensive line, either defensive end or defensive tackle.

SI: Do any memorable games come to mind?

JH: [laughter] Well, we used to open against the University of Delaware. It was like a practice game for them, pretty much, because they were a much bigger school. In Delaware, the University of Delaware Football Team is a big deal in Delaware. We'd go down there, and there'd be twenty thousand people in the stands. It felt like the whole State of Delaware was there. The idea was, "How long could we hold them off?" I remember when I was a senior, we held them off for the first half, and I think at the end of the half, it was something like 7-6. We were losing 7-6, and we'd held them off on some goal-line stands. I don't know why I should be

talking about this, [laughter] because it's trivial in hindsight. Anyway, they ended up wearing us down and beating us something like 35-7.

I wonder about this in life. The disappointment and struggle of losing a game and the exhilaration of winning a game, and I still debate this with myself, Shaun, about, "Is it essential that you participate in athletics?" because you get that experience, that competitive experience of winning versus losing and, when you lose, picking yourself up. When I was a sophomore, our team actually beat Temple in the last play of the game on a safety. Temple, at that time, had a mediocre program, but for us, to play a school of forty thousand students and we're less than two thousand students, we took a lot of pride in trying to match up. We had an extraordinary comeback against Lehigh one time, where we were down 21-0, as I recall, and then, in the final quarter, just scored four touchdowns and ended up beating them.

I was thinking about this this morning. As a lawyer, if you go try cases, and you've committed yourself to a case and you try your heart out on a case and you lose, it hurts. Well, you have to go back to the office and pick yourself up and do it again and try to do it. So, I definitely had that experience through football. I think you can have that experience in any endeavor you try. Let's say you're trying to be in the theater and you try for a part--you've worked hard to get it, and you don't get the part. Well, that's a setback, and you have to pick yourself up and try for the next part. I guess that's a training that you get in various aspects of life, but it's certainly true [that] you get that from athletics.

SI: I cannot recall if, last time, we talked about how you met your wife.

JH: No, not specifically. I can just tell you a few beautiful stories. My wife was an athlete. She was very much a part of the development of women's sports. Title IX had not just come into play. [Editor's Note: Title IX of the Education Amendments of 1972 is a federal law that provides for equal opportunity for women in athletics.] She had gone to school believing that there was an active lacrosse program at Gettysburg College. She played field hockey and lacrosse and basketball. When she got to the college, she found out there was no lacrosse program. It just had been a very modest, clubby-type thing, but there wasn't really any interscholastic program.

One of her great achievements was to basically have a sit-in, a single sit-in, in the president's office to demand that there be some kind of equal parity between the women's sports and men's sports. Now, the President, as I indicated earlier, the president of the college, was struggling with the Athletic Department. They kept wanting more resources, but only for men. They only wanted men resources. The President used women's sports and my wife, Lois, and her effort to get a lacrosse program started. He funded it, and they got a lacrosse team started, which they've now, over the years, developed one of the strongest Division III lacrosse programs in the country and won the National Championships just a few years ago. Lois is in the hall of fame, Hall of Athletic Honor, it's called at Gettysburg College, for her efforts not only as an athlete, but in starting the lacrosse program.

So, I had my eye on her. The sports in the fall, before everybody got to campus, the football team would go be there for a couple weeks before classes started, so would the field hockey

team, and so, you'd have your eye on--there weren't many kids around--so, you'd have your eye on various people. My wife and I started dating in the end of my sophomore year.

A lot of the Gettysburg College students would go to the Preakness Stakes, which was not too far away in Baltimore. So, my first date with Lois was at the Preakness Stakes in 1970, which was the same spring that I referred to massive demonstrations in Washington. We had a massive demonstration at Dickinson College up the road from us. There was a march on the War College. So, there's all this stuff going around. So, you're involved in these social, global issues. Meanwhile, you're having a personal life, and I'm in the process of falling in love with Lois.

I will just go back to Dr. Hook for a minute. Dr. Hook, the Sociology Department chair, had both Lois and myself in separate classes, so, he knew us each independently. It was a tremendous thrill for him, because he would be driving home to his home off the campus and he would see the two of us embracing outside of her dormitory late at night. This just gave him such a thrill that the two of us were together, that he liked both us, that he'd seen that we got together, and then, of course, got married. We maintained a relationship with that professor all through his life, and I was a pallbearer at his funeral. Those are the kinds of connections you can develop at any campus and you should strive for that, and I certainly strived to have my children try to get that same experience in their undergraduate years, of hooking up with professors, getting to know them, and keeping the connections after you graduated.

SI: You graduated in 1972, and you were dating your wife. You did not get married for another couple of years.

JH: We got married in 1974. We did begin living together. We had made up our minds that we were a couple. This is hard to explain, but, in that time period, to get married, for some, not all, to get married was seen as a cop-out to convention. We didn't think we needed a license to avow ourselves to one another, and we viewed, quote, "getting married" as a cop-out.

Now, that caused generational problems with our parents. Neither set of parents approved of a young couple such as ourselves living together without marriage, and that caused tension. So, for a couple years, we did live together, but we tried to hide it from our parents. Then, ultimately, we decided, "Let's try to break this down and we'll just get married just for them," if you would, not that we had any doubts about our own commitment to one another, but the convention of marriage. As I said, then, we called our beloved professor at Gettysburg and asked him to come up to--we got married in the Poconos.

Career-wise after college, we both thought, "Well, we'll try being teachers," and we started at George Washington University in a master's for teaching program. I did not take to that, meaning it struck me pretty early on that I didn't have the knack for working with young kids. Lois did get her degree. She did teach for several years, about three years, before saying that that wasn't her aspiration, long-term aspiration, either.

SI: Were you living in the Washington, DC, area?

JH: We started in DC. I then gravitated up to the Trenton area and had a series of jobs over the years before going to law school. Now, the concept of going to law school, I think I mentioned that I was not qualified coming out of school to go to law school. I didn't have the grades, and it was only sort of a developing interest and passion.

I'll mention, at that time, Ralph Nader was a very big influence on us. He was someone who challenged the establishment. He wanted what was called "corporate accountability." In other words, the government shouldn't be corrupted by wealthy, well-to-do entities, either individuals or corporations, and corporations were very powerful. This was written a lot about by, also, John Kenneth Galbraith in a book called *The Affluent Society*, where Galbraith pointed out that we had individual wealth, but we didn't have public wealth. Schools weren't being funded, parks weren't being funded, more things that everybody can enjoy. By the way, this stream, this ideological stream, has gone through and still exists, this tension between how much people should be able to rely on themselves versus how much government should there be. This is, of course, the dividing line of politics up to this moment in 2013.

Going back to Nader, Nader demanded that corporations be public citizens and be concerned. A corporation is not really a person. It's an entity. Of course, Nader became famous first with a book called *Unsafe At Any Speed*, where he criticized and exposed the fact that cars were being made that the manufacturers knew were going to kill a certain number of people, and, yet, it was profitable for them to keep making them, both the Ford Pinto and the Chevy Corvair. I certainly got caught up in the desire to challenge the establishment, and that motivated me, I think, to read a lot more and, one day, say, "Maybe I could qualify to go to law school."

So, I had worked. One of the jobs I had in that five-year period was as a school bus driver, where my wife was teaching in Hopewell, New Jersey. That was her first full-time teaching job, and I got a job as a school bus driver in the Hopewell Valley School District and did some public interest stuff, because school bus driving was a part-time job. Then, I wanted to go back home to Westfield. I said, "We're going to settle in Westfield. We know people there, and, if we're going to be involved in trying to, quote, 'change the world,' end quote, I'll go back where people know me." You'll see that come full circle as we discuss this chronologically. Then, I got a job in county government for a period of time, and then, the state government, all before working my way to become admitted to law school.

[Editor's Note: In 1965, thirty-one-year old Ralph Nader wrote *Unsafe At Any Speed*, which brought to public attention unsafe automobile design, particularly of General Motors. Over the past five decades, Nader has worked as a writer, legal analyst, activist and organizer to address a variety of issues, such as consumer protection, congressional reform, food and drug safety, pollution and fair taxation. He helped found the network of Public Interest Research Groups to get students involved in public advocacy.]

SI: You mentioned you were becoming ideologically interested and you were reading. What were some of the more active things you did? You said you did public interest work.

JH: Yes. Well, at the time, Brendan Byrne got elected to the Governorship in 1973, I'm going to say, yes. At that time, the public schools were not being adequately funded, and there was a

tremendous disparity in school funding around the state. This was an issue that really hurt New Jersey. Now, New Jersey has many, many great public school systems, and you're always thankful that we had the advantage of having that.

A lot of the school systems in the urban areas, Newark, Elizabeth, Jersey City, were not being adequately funded, and poor kids were in the urban setting. So, you could have a great school system running in Summit, New Jersey, or Ridgewood, New Jersey, and kids could be well educated. If you were in the City of Newark and going to Central High School, there wasn't as much education going on. The thing is, the City of Newark didn't have the resources to educate all the kids.

So, there was a real effort, and as you're aware, school funding in New Jersey has been an issue since the 1960s, adequate and equitable school funding. We have this constitutional provision in the New Jersey Constitution that every child is entitled to "a thorough and efficient education," and that phrase was interpreted by the courts as saying, "Yes, there has to be some balance in school funding. You can't just rely on local property taxes."

So, it was clear at that time, in the early '70s, early to mid '70s, that there had to be some funding mechanism to give more parity in the public school systems around the state. I was interested at that time in a more equitable distribution of our wealth. So, we didn't have an income tax in New Jersey, and an income tax, if it's done in a progressive fashion, is a more fair way to get wealthier people to contribute. Because they have more money, they can contribute more, and a progressive income tax inches up and gets more of theirs, but they're wealthy enough to be able to afford it.

Again, the progressive income tax is another thing that we've struggled with for more than a century now, and it's still a bugaboo for a lot of people. "Why should we take money from income tax? Why shouldn't we have sales taxes?" So, anyway, Brendan Byrne was in the process of trying to figure out the educational funding formula, and I was trying to get a more, in my little way, trying to urge [that] we have a more equitable system of taxation.

Ultimately, it was a long battle, but New Jersey did pass an income tax, which helped provide a better financial foundation for the public school systems and, also, it was a more equitable tax. We never really solved the problem of high property taxes in New Jersey. We have very, very high property taxes, and that issue just continues to dog us. Hey, as we look back, New Jersey has had a very, by and large, vibrant economic history, although we're still stuck in some of the residues of the 2008-2009 economic collapse. The reason people come to New Jersey is there's jobs here and there's a very diverse economy here. It's a place where a husband and wife can both find jobs, typically, that can put a family together with the economic basis of two incomes.

[Editor's Note: Brendan Byrne served as the Governor of New Jersey from 1974 to 1982. The New Jersey Constitution mandates that the State Legislature provide "thorough and efficient" public education for students in kindergarten through grade twelve. During the 1960s, disparities in educational funding between the state's poorest school districts and the wealthiest school districts came to light. The State Legislature passed the Public School Education Act in 1975 to address these disparities, but the state's failure to finance the law led to the shutdown of schools,

and then, the passage of the state's first income tax. Subsequent court rulings, notably the landmark *Abbott v. Burke* series of cases, found that the state must ensure parity in educational funding between poor school districts and affluent districts.]

SI: What form did your support for the state income tax take? Were you writing letters? Were you going to demonstrations?

JH: Well, New Jersey was one of many places where Nader's influence started …

SI: Let us pause.

[RECORDING PAUSED]

SI: You were saying that Ralph Nader's influence was particularly felt in New Jersey.

JH: Nader had the idea that young people should get involved in what he called public interest. That is to say, as opposed to corporate or private interests, there should be public interest organizations around the country, and he launched this idea. As a result, several states, including New Jersey, started what was called Public Interest Research Groups, PIRGs. So, I got affiliated in 1973 with New Jersey Public Interest Research Group.

By the way, Rutgers students had voted to support New Jersey Public Interest Research Group. Rutgers was a big part of getting that organization launched. So, for, I'd say, not a great deal of time, but about less than two years, I was involved with New Jersey Public Interest Research Group in trying to push for a more equitable funding source for public education. Of course, PIRG was kind of, at that time, was kind of eclectic. What issues are they going to get involved in? It was a little small. It was sort of a Don Quixote-ish type thing. As far as I know, New Jersey PIRG still exists and has been around for almost forty years in trying to improve life in New Jersey, as the organizations have around the country.

So, looking back at Ralph Nader, at the time, he was really highly, highly regarded, particularly by younger people, as doing good work. Some would say Nader has lost his way politically. I'll leave that debate for another time. Nader was also really big on encouraging attorneys to challenge corporate power, and that is the climate in which I went to law school, was interested in applying to law school, and then, practiced law, trying to challenge corporate dominance, which sometimes could be at the expense of particular individuals. So, ultimately, I handled a lot of car safety cases, premises cases, all based upon my early ideological formation of corporate power has to be challenged and that could be done through the court system.

SI: With New Jersey Public Interest Research Group, were you going door to door with literature?

JH: No, the door-to-door solicitation came later, and I wasn't part of that. Actually, I always questioned the funding of New Jersey PIRG. My affiliation wasn't that long of a period of time. There was a little office in Trenton. For most of the time that I was affiliated with New Jersey PIRG, I wasn't on the payroll, I was a volunteer. So, I was driving the school bus in the Trenton

area, in Hopewell, and then, I would go down in the middle of the day and try to do work and write and do newspaper pieces and, essentially, lobby to try to get an equitable funding source. I wouldn't call my contribution in any respect major, but that was what I was doing at the time and I thought was worth doing.

That's why you say, "Well, without an advanced degree, can you really do anything?" I started beginning to see how lawyers could make a difference, but I needed to say, "Okay, I guess I've got to go to law school." At the time, Lois wanted to pursue graduate work, and she did that at the University of Pennsylvania. Therefore, when I was trying to get into law school, I had applied to the schools in the Philadelphia area, and the law schools in the Philadelphia area are Penn [University of Pennsylvania]--I wasn't going to get into Penn--Temple, Villanova, there was a school called Delaware Law School, it's now called Widener, and the other school was Rutgers Law School in Camden.

SI: Let us pause for a second.

[RECORDING PAUSED]

SI: You were looking at law schools in the Philadelphia area.

JH: Yes. Of course, my wife was in grad school. We had some savings, because we had worked, but we didn't have unlimited wealth. We certainly didn't want to go back to our parents and say, "Can you fund us while us dilettantes are going to school?" Then, I was accepted to Rutgers Law School in Camden, and this still is a very prominent memory that I have. I can remember getting the fat envelope in the mailbox. Lois and I lived in an apartment in Westfield at that time in 1977, '76. I got that envelope from Rutgers-Camden, and it had the outline of the finances and what the tuition was. I said, "Oh, my God. This is such a great opportunity."

It caused me to reflect back. So, I was a direct beneficiary of that commitment that the political forces in the 1960s and '70s allowed public higher education to benefit, and it was going to benefit me directly. Now, at the time, my brother had graduated from the College of Medicine and Dentistry of New Jersey, which was a public medical school. That's since evolved into the University of Medicine and Dentistry of New Jersey, and then, now is being taken over by Rutgers. So, now, once again, a bigger commitment, a better commitment to public institutions.

At the same time, that little law school that grew out of the South Jersey Law School became part of Rutgers, that law school is now merging with Rutgers-Newark to be one Rutgers Law School, which will position it to be one of the strongest public law schools in the country, all because people make a commitment to make things a little bit better and the next generation benefits from it, as I benefitted from the chance to go to Rutgers-Camden.

[Editor's Note: In 2013, most of the units of the University of Medicine and Dentistry of New Jersey (UMDNJ) became integrated into Rutgers University. At the time of the interview, plans called for Rutgers to create a single Rutgers School of Law, based on two campuses, but with a single curriculum, set of enrollment standards, faculty and student body, by 2014.]

SI: You had been out of school for a while. Tell me what the transition was like, getting back into an academic environment.

JH: Well, the common experience for everyone entering first year of law school is, "Oh, my gosh, I don't know what's going on." You're in a new area, and it's taught in the Socratic Method, which is the professor's not giving you answers, he's just asking you questions, he or she is asking you questions. That actually was quite hard for me personally, because I was uncertain. I knew that I had not been a great academic success, and I was in school with some--I could see there were some real whiz kids.

For the first semester of law school, and this is typical, though, since you don't know how you're doing, you don't have any grades up until the time you're taking your final exams at the end of the first semester. You don't have any clue. I didn't do anything outside of go to class and study. There was no social life. Friday nights, Saturdays nights, I'm studying virtually every waking hour, and I am not exaggerating, because I wanted to make sure I didn't flunk out of school. In those days, a lot of people did either flunk out or just found the work load too intense and they dropped out. That happened in law school quite a bit. Now, the competition to get into law school is so great that, if you do get into law school, you've probably got the credentials. You're not going to flunk out. In those days, a lot of people just fell by the wayside.

So, what happened was, I was able to succeed. I wasn't at the top of the class, I don't think. We didn't have a class rank. Rutgers eschewed that concept. My grades were solid enough to say, "Okay, I can do this." It gets easier. My son is, at this moment, in his third year of law school at NYU Law School, and he's in his third year. Third year is kind of like, "Well, I understand what's going on now, and I can do it with some kind of planned program and not have it entirely absorb your life." That first year of law school is usually pretty, pretty rough and still is for most people, because you're in sort of unchartered territory.

The transition of being out of school, on one hand, your maturity level is higher. I was out of school for five years before law school. Your maturity level is higher, but maybe your academic and studying skills are rusty. Then, of course, it's the unknown territory, but, obviously, I was able to do it by dint of hard work. That's everybody's story in law school.

Of course, a lot of the kids that I went to law school with--there are three law schools in New Jersey, Rutgers-Camden, Rutgers-Newark and Seton Hall--and the people that I was going to law school with, whether it was any of those three schools, they're now the people who are the legal establishment in New Jersey, the judges at the Supreme Court level, the appellate court level, the trial level, the leaders of the major law firms and the leaders of the small law firms, that they're making a huge contribution. So, it's been fun to see some of my colleagues, who were as nervous as I was going into law school, have successful careers, and, by successful careers, I don't mean money. I mean they've made a living and they've made positive contributions. There's four or five judges from my class of two hundred in law school, 225, and I see them at judicial functions and I'm so proud to know them. They're all very committed people.

SI: I am not an expert in legal history, but I understand at this time, there was a lot of differentiation going on within the profession, environmental law, public interest law. Did the curriculum reflect that?

JH: You had, again, the political breakdown--some professors were conservative, establishment people and some were challenge-the-establishment people. By the way, this continues in the law. There's a phrase, that, "The law must be stable, but it cannot remain the same." So, the law has to be flexible enough to adjust to the times, and, yet, at the same time, the law provides a foundation, a stability. We call that the rule of law, so that everybody knows what the rules are.

So, just to give a couple quick examples, the United States Constitution, when it was adopted, this was a tremendous foundation, but it didn't apply to everybody. There was millions of people in America who the United States Constitution didn't apply to, and that was, of course, the slaves that were brought over against their will to the United States. That led to, for example, one gentleman bringing a lawsuit and his case went all the way to the United States Supreme Court, and his lawsuit was denied. Why? "Because you're black and you're a slave. Your name is Dred Scott."

The *Dred Scott* case led to the Civil War, the Civil War which started out as simply an effort by Abraham Lincoln to hold the country together, because no nation had ever long endured as an elected government with a constitution. It became much more as the war went on, when, to win the war, the Union had to welcome in black troops and that broke the back of the Confederate forces, because, oh, my gosh, they had all these reinforcements now. Then, of course, as the war was coming to a conclusion, slavery was eliminated by constitutional amendment. So, again, that's the concept of, "The law must be stable," and we had a stable constitution, but the law has to be able to change with the times.

[Editor's Note: In 1846, a former slave named Dred Scott sued for his freedom, as he had been living in a free state. The jury found in his favor at the trial level. In *Dred Scott v. Sandford* (1857), the US Supreme Court ruled that African-Americans were not citizens and thus did not have rights granted to citizens, such as bringing a lawsuit. At the conclusion of the Civil War in 1865, the Thirteenth Amendment abolished slavery. In 1868, the Fourteenth Amendment granted citizenship, due process and equal protection to "all persons born or naturalized in the United States," including former slaves. Voting rights were extended to African-American men with the passage of the Fifteenth Amendment in 1870, although voting rights, along with equal protection under the law, would not be fully realized for another century.]

Of course, another good example is, at one point in the 1890s, the Supreme Court of the United States said, "Segregated schools are fine as long as there's parity."

SI: Separate but equal.

JH: That was *Plessy v. Ferguson*, but, of course, that was a joke. *Brown v. The Board of Education* in 1954 changed it and made a change. This issue of, "Is the law just for stability or does the law allow for change?" that's an ongoing ideological debate within the United States Supreme Court, and many of the fault lines on the Supreme Court cases are over those issues of

stability versus flexibility. [Editor's Note: In *Brown v. The Board of Education* (1954), the US Supreme Court overturned the separate but equal precedent established by *Plessy v. Ferguson* (1896) and ruled that state-sponsored segregated schools were unconstitutional.]

SI: Tell me about any professors that had an impact on you when you attended the Rutgers School of Law in Camden.

JH: Well, I would say law school professors are a little different than college professors. At Rutgers Law School, there was pressure to academically produce, in other words, produce these academic papers and theories. I had some, what I consider, evil professors at law school, akin to--there was a book written around the time I was entering law school called *One L*: [*The Turbulent True Story of a First Year at Harvard Law School*] by Scott Turow. It talked about the sort of built-in nastiness that some law school professors approach their students. They're trying to make them look dumb and belittle them and challenge them, and so, I had professors like that. [laughter]

On the other hand, I was talking about undergraduate experience, if you had a professor who saw that in your, like, oral back-and-forth in class, saw that you were articulate and saw that you showed promise, that's exciting for the professor, as well as it's exciting for the student. I had a professor, who I will not name, because I think he descended into alcoholism and did not end well, but, at the time, he was pretty vibrant in the field of constitutional law. I had a good relationship with him. I became a teacher's assistant the following year under him, meaning I was helping first-year students research and write the law.

So, you try to pull the best out of whatever the situation was. Even the professors that I viewed as unnecessarily formalistic and nasty, you get something out of the discipline of saying, "Well, if that's the way he's going to run the class, I guess I've got to be prepared every time, in case he calls on me." That concept of, "I'm going to get called on in class," I don't remember that being a part of elementary school, secondary school or college, but, in law school, there's this big fear like, "Uh-oh, the professor's going to call on me. I better be able to do the debate with the professor in the Socratic Method."

The important thing about Rutgers Law School was the institution itself. That is to say, it started out as a small operation, long before I got there. When I got there, there was a pretty new building that Rutgers had committed to. It's now, over the years, doubled in size in the physical presence. It had to keep up to standards. As you get older, you can appreciate this. Sometimes, it's not one or two people that make a difference--it's the institution that makes a difference. One of my great satisfactions is that, over the years, I've maintained my connection with Rutgers-Camden, just because I know what it did for me in terms of lifting me up. So, I tried to be an active contributor and participant.

For the last, I'm going to say, fifteen years, we've had an outstanding dean named Ray Solomon, who has built the institution, groomed the faculty, and made it so much better. It was he, Ray Solomon, and John Farmer, who's the Dean of Rutgers-Newark Law School, who have the vision to say, "It's time for us to merge the two law schools, so that we can present to the public a single state university law school and make it even better than it has been." [Editor's Note: Rayman

Solomon has served as the Dean of the Rutgers School of Law-Camden since 1998. John J. Farmer, Jr., served as the Dean of the Rutgers School of Law-Newark from 2009 to April 2013.]

So, that's what I would say about my experience at Rutgers Law School in Camden. I'll add that Rutgers Law School in Camden--I think I might've said this in the first interview--is at the foot of the Ben Franklin Bridge. It's still there, and Rutgers-Camden is an anchor within Camden, which is our most deteriorated city, but Rutgers is a beautiful ray of hope there. Now, Rowan has a presence, Rowan University has a presence in Camden as well, and that's something to build on.

SI: You mentioned that your first year was very oriented towards academics. Were you able to get involved in any extracurricular activities, clubs or movements?

JH: Well, your first year, you're pretty immersed, and this is true today. The first year is the intense immersion. By the way, there's a debate that goes on today, "Should law school be two years, as opposed to three years?" because by the time you get to the third year, you really understand the foundations and you're sort of, some would argue, just putting in time. There's a transitional process, whereas by the time you get to your third year, you're really trying to think about how you're going to make a living, what path you're going to take, how you want to try to get summer work, after both the first and second year, and get a variety of experiences.

An important thing for me, after my second year, was, I did what's now called an internship. We didn't use that term then. We called it a summer clerkship. I was able to associate myself with a judge in my home county, for which I would get school credit. I learned so much. That was my first exposure on a day-to-day basis with the Union County Courthouse, where I now sit as a judge thirty years later.

SI: Who was the judge?

JH: The judge was named Cuddie Davidson, and he had the style of a tough guy. I never understood that approach. I try not to be that way myself, although I'm sure there's lawyers that come before me now that think I'm a little bit of a hard guy. The point is, that experience, I didn't agree with him in his approach to many aspects of the law. At the same time, he's the one that gave me the opportunity to get my foot inside the courthouse, so that I could see how a courthouse operates and meet other judges who were more worldly, let's say, or more visionary. I know those people now. That was the start of my career--I wasn't even out of law school yet and I had that experience. So, that was big.

Then, of course, I also was able to get a summer job as a law clerk. I think the rate of pay, if I'm not mistaken, was five dollars per hour. So, I mean, obviously, economics has changed, but, hey, I was happy to get associated with a law firm here in New Brunswick, a guy by the name of Arthur Miller, who was a wonderful, wonderful all-around lawyer. That was my first paying job as a lawyer. Actually, I was still a law student, but that was the first paying job in the law.

Then, upon graduation, I had made up my mind that I would return to my home, where I knew people, and people couldn't say, "Who's this stranger?" I would start my own practice, because I

wanted to have the independence to pick cases and try to make a living in the way I wanted to, not be under the gun of somebody. There's a phrase, "Sometimes, you don't know what you don't know," and I would say I was pretty naïve. A lot of people told me, "You can't start your own practice from nothing." Well, I didn't accept that guidance. There's a lot of things that I say, "I didn't know what I didn't know," but that also allows you to take some chances and risks and take on cases that, if you were employed by somebody in a law firm, you couldn't take, because, "Oh, that's not going to make any sense. That's tilting at windmills." That's what I did.

Then, we had our first child when I was just finishing law school. In December of 1979, our first child was born, and so, my wife and I had to balance her work, my work and raising our first daughter, and then, we had two more children. I opened the office on the front porch of my house on a little street in Westfield and picked up cases from the Public Defender's Office to learn how to try cases, and then, cases would drift in. Then, you'd try to get a reputation for being willing to take on what I call cause cases, again, challenging the establishment. It's seemed to have worked out.

SI: I do not know if you can talk about it, but do any cases from that time period stand out?

JH: Well, six months after I began practicing, a family came to me. A woman had been shot, a twenty-nine-year-old woman had been shot, in Penn Station in Newark, and I knew about Penn Station in Newark. Penn Station had been allowed to deteriorate, to become a den of inequity, of crime. So, this young woman had been shot and was paralyzed. She was shot through the neck, coming out of the women's room.

They wanted to know, "Could you do anything for me? Could you help us? We're going to be devastated. I have three children." I visited this woman at the University of Medicine and Dentistry where she was taken. I looked at the law and I said, "The owners of that station," happened to be Amtrak, "have let that station deteriorate so that people are victims of crime, people are getting killed in there." I knew that because my wife and I would go into New York sometimes and say, "Oh, my God, we can't wait to get out of there." Again, this was a time of great crime. Crime was pretty bad.

We took on that case. I mentioned Art Miller from New Brunswick. I asked him to help me with the case, because I didn't think I could finance the case myself. For the first three-and-a-half years I was in law practice, I worked on that case, and I had the freedom to do it because I was on my own. That case went to trial before Judge Dickinson Debevoise in federal court in Newark in December of 1984. We tried very hard to settle the case. We charged Amtrak had failed in their duty to provide adequate security in the station. The shooting in the case was done by a bizarre schizophrenic woman, but we claimed, in our lawsuit, that if they had adequate security, this shooting never would have occurred.

By the way, we employed as our expert a man who is affiliated with Rutgers, I believe, to this day named George Kelling, who, with James Q. Wilson, wrote a very important article about crime and crime prevention. The title of that article is "Broken Windows: The Police and Neighborhood Safety." The theory of that article was that a neighborhood, if it looks deteriorated, will become an attractive magnet to crime. However, if you fix the broken

windows, if you remove the graffiti, if you make it look like people are paying attention, crime will be reduced. That's a sort of civilizing process.

That theory was very new in the 1980s. Again, it's called "Broken Windows." Well, that's the theory that has been used by police departments all over the country, including New York City, and although we can't really pinpoint the exact causes of the dramatic reduction in crime from 1980 to the present, dramatic change in our life, that theory, "Broken Windows," seems to have been part of that, being able to attack and civilize.

So, back to the case--we wanted desperately to settle the case. We were negotiating, and the jury [Judge Hely knocks on the table] knocked on the door with a verdict. Suddenly, Amtrak stopped talking, and we went in and took the verdict. The verdict was three-and-a-half million dollars in favor of the plaintiffs. That was the highest verdict in the history of New Jersey up to that time, 1984. There weren't many million-dollar verdicts in those days. We had studied how to do it and what are the techniques to try to win a jury over. The jury was very mature, and they found that Amtrak had abandoned their obligation to provide a safe station. [Editor's Note: On December 7, 1984, in *Beatrice Dong v. National Railroad Passenger Corp*, the jury found Amtrak, the station's owner, and Port Authority TransHudson Corporation, operator of the PATH, negligent for their failure to provide adequate security.]

That case was my first big civil case. It also allowed me to have the financial backing to take some more risks. I had a case involving one of Volkswagen's products, the Audi 5000. It seemed to be taking off, what was called "unintended acceleration." Volkswagen blamed the drivers persistently. I took that case with another Westfield attorney I knew growing up, Dave Kervick. It was kind of a Don Quixote-type case, because you're up against this huge corporation and I'm just a little guy on the front porch of my house. People were getting hurt by these things, and it was very hard to prove what it was that was causing those cars to take off. One thing we did know, and that was that the Audi 5000 was having these incidents of unintended acceleration.

[RECORDING PAUSED]

SI: Go ahead.

JH: But, other Audi products and Volkswagen products were not having this problem. So, how does that make sense? Why is the Audi 5000 taking off and none of the other cars are, or why is an Audi with an automatic shift consistently having this problem and Audis with a standard shift were not taking off? So, we had to do a lot of investigation to find out what was making this Audi take off, but we found out that Audi knew that it could solve this problem, but they liked to turn this around, because they didn't want their name tarnished. They liked to turn this around to make it seem like it was driver error.

We tried that case in the Union County Courthouse in, I think, 1987. Although the damage award was not enormous, the jury awarded punitive damages for what they found was Audi and Volkswagen covering up what they knew was the problem, and that verdict was the first Audi 5000 case to go to trial and, also, went all the way to the United States Supreme Court, which

denied what's called *certiorari*, didn't take the case. It was big news. It was on the front page. Every time that there was a decision in the case as we went up to the higher courts, it was published in *The Wall Street Journal*, sometimes on the front page. So, again, this was the Nader influence of trying to demand corporate accountability, and that's how a lot of my career was, on the side of the individual consumer.

Now, at the same time, again, I was back in my hometown and I was interested in political affairs. In 1984, so, four years out of law school, I was asked by the local Democratic Party to run for mayor, and that was seen as kind of another Don Quixote-ish thing, because Westfield had not had a Democratic mayor since 1910, and for most of the century, of the twentieth century, there were no Democratic councilmen. Out of eight councilmen, there were no Democratic seats. Every once in a while, a Democrat would get one or two seats on the eight-member council, but it was quite rare and, usually, their service didn't last that long.

So, in 1984, which, presidentially, that was the year Walter Mondale challenged Ronald Reagan, I ran for mayor. Again, I had the advantage of having grown up in town and my father had delivered a lot of children and he had grown up in town. So, they couldn't call me an outsider or a stranger, which is something that the establishment would attack you on, "Oh, you're just a newcomer. You're an outsider." [Editor's Note: In 1984, former Vice President Walter Mondale challenged President Ronald Reagan's reelection bid and lost by a landslide.]

I didn't win the mayor's race, but we had a greater percentage than previous Democrats. I think we got forty-four percent of the vote, which at that time was like, "Whoa, that's a little something different. That's something to be concerned about." The following year, I ran for council and won, and so, I was on the Town Council of Westfield. I ran six times for the Town Council of Westfield and was elected six times, served for six terms over the course of eleven or twelve years. That was really a wonderful experience, because I got to see, on a day-to-day basis, that the basic people who were serving in government at the town level, and I include in that people who serve on the Board of Education, were very honest, decent, hard-working, committed people to making the world a little bit better.

Most of the time that I was on the Town Council for those years in the 1980s and to 1997, for most of those years, I was the only Democrat out of the mayor and the eight council members. So, one of nine, I was. Sometimes, there'd be another Democrat, but I worked with some great Republican people who were just as interested in trying to make things better as I was, maybe a little differently philosophically on a global sense, but some really talented and dedicated people. It actually takes your breath away when you think about it, how people would come week after week. We weren't getting paid. To be on the Town Council, it was a token amount, a dollar a year, no pension benefits, no benefits of any kind. It's just the willingness to do something for the betterment.

We did accomplish some things, going back to Westfield, on my time on the Town Council. The demographics and the logistics of living in New Jersey were changing. Shopping malls were becoming a big deal, and the local downtowns in the municipalities around New Jersey were deteriorating and becoming--I don't want to say ghost towns, but much less of a presence. Westfield was not an exception, and we tried to stem that, because people in the town, the old

railroad suburbs, viewed their downtowns as kind of the watering hole, the community watering hole, to go shopping downtown or take care of business downtown.

Things change and not everything stays the same. So, for example, hardware stores, we used to have four or five hardware stores when I was growing up in Westfield, in one town. Well, out on the highway, they had built these big places. First, it was Channel Lumber, and then, it was Rickel's, and, now, it's Home Depot and Lowe's. So, it killed the local merchants' hardware stores, pretty much.

What could we do to foster the stability and growth of the downtown? So, ultimately--and this was a long battle, because how much government should be involved? We knew that shopping malls have a global manager, so that they can manage the whole thing and the whole picture. So, that was something that gave shopping malls an advantage over a downtown commercial district. In a bipartisan way, I certainly supported this, and then, the Republicans agreed to it also, was, we created something in Westfield called the Downtown Westfield Corporation, which the key component is, it creates a special taxing district within the commercial area, a little slightly more taxes if you own property in the downtown area. That has allowed for an executive director to oversee the development and growth of Downtown Westfield.

Westfield has been successful in preserving and giving the community a downtown feel, which not that many places have been successful in doing. So, now, it's a magnet for people from out of town to come, and we have a very successful shopping district. Now, some things weren't as a result of government. Some things are as a result of luck. One of the things that's happened in Westfield is, a lot of the storefronts are now restaurants, because people don't want to cook anymore or as much. You've got a husband and wife both working. They don't want to cook, and this is myself, my own experience. I'm coming through town on the way home, picking up a dinner-to-go or even eating out on a weekday night, which wasn't something you ever did in the 1950s or even 1960s. So, the growth of restaurants in the downtown area was a very important part of that.

Government had a role, and that was the creation of the Downtown Westfield Corporation, which was something done by a group of volunteer service people on the Town Council. You think about that. You run for office. You come into criticism. You might have an opponent in your election running for office. You're putting your own money into your campaign. Why do people do that? Well, they do it for the challenge and the notion that they owe something greater back.

Boy, did I serve with some great Republicans; Rich Bagger, who had a fantastic career, was the Mayor of Westfield I served with. Other great mayors, Ron Fregerio, Ray Stone, Bud Boothe, all very fine people in the global sense. I had many disagreements with them on some issues, but, by and large, I knew we accomplished a lot of things in trying to make sure that taxpayer dollars were spent wisely. So, that was a wonderful part of my experience in the middle part of my career. Meanwhile, I was raising three children with my wife, and they were going through the school system.

SI: What part of Westfield did you live in?

JH: Well, I live on the South Side. The town is divided by railroad tracks, the Central Jersey Railroad tracks. The South Side was, historically, more the working-class, less affluent side. Of course, we joked about that. I live on the South Side of Westfield. I'm only about four blocks from where I grew up. I grew up across the street from Westfield High School; it's also on the South Side. I live in a neighborhood that's almost in Scotch Plains, about two blocks away from Scotch Plains, and it's called the Fourth Ward. There are four wards in Westfield. The Fourth and Third Ward are on the South Side, pretty much, and the First and Second Ward are on the North Side.

One of the great things that was done long before I was on the Town Council was, and I mentioned this, I guess, in our last discussion, the development of the Memorial Pool, which is a public pool that anybody could join. I live very close to that. I also go to that park and play tennis constantly. It's a breathtaking thing. You go out--you want to play tennis, six o'clock in the morning, seven o'clock in the morning? They're there. They're free. You can play tennis for nothing at a place two blocks from my house. Somebody did that. Somebody created that, and it was visionary people who wanted to make life a little bit better and I get the benefit of that. I feel pretty lucky to be doing that.

SI: When was the pool built?

JH: The Memorial Pool, we talked about this a little last time. Swimming pools were developed pretty much as clubs in the 1950s and '60s.

SI: Yes.

JH: The government decided to build the public pool, and it opened for the first time in the Summer of 1970. One of the initial leaders in creating that pool was an African-American who went to high school with my father. He was a funeral parlor owner and served many years on the Westfield Recreation Commission. His name was Hollis Plinton.

SI: Okay.

JH: As I said, it was a controversial thing to do at the time, but, now, it's just been an enormous financial success for the town. It's called Memorial Pool. Think about this--it's called Memorial Pool because it was to memorialize those young citizens of Westfield who had died in the Vietnam War. So, the war wasn't even over and it was realized that we had, at that time, maybe six or seven people from Westfield, some people I knew, who died in the Vietnam War. I believe we can say the war was over in 1975 when Saigon was evacuated. American troops had pretty much pulled out in the '72-'73 area in the Vietnamization process. Well, before that, they decided that, "We'll name this pool Memorial Pool, Memorial Park, and name it after the Vietnam veterans who died."

[Editor's Note: Vietnamization refers to the US policy after 1969 of funding and arming the military of South Vietnam so that it could bear the brunt of the fighting against Communist

North Vietnam. US troops withdrew from Vietnam in 1973. Two years later, in 1975, Saigon, the capital of South Vietnam, fell to North Vietnamese forces.]

SI: You were starting your career just as Ronald Reagan was coming in at the national level, and Republican values were coming back in a new form. How did that affect you in your political career and also in the law profession? That was a time when the deregulation of corporations was occurring in the national government. Did you run into that issue over and over again in your work?

JH: Well, it most manifest itself in one of our most profound pieces of our Constitution, which is the jury system, and jurors, in both criminal cases and civil cases, are the arbiters of what justice is. In civil cases, it frequently is the individual versus the larger institution, whether it be the government or a corporation. The cases that I talked about were individuals who were harmed by actions of a larger institution. You could see the climate change, and these ideological themes are still very much a part of our national politic.

I certainly would say that the Reagan notion that, "Government is not part of the problem--government is the problem," that was an articulation by Reagan, big government certainly creates potential for corruption. That's always going to be a part of the human condition, corruption. We're looking around the world in political affairs, you'll see that people take advantage of power and get in power and they become corrupt. So, there's certainly merit to questioning big government and government corruption.

I recoiled against that notion that government is the enemy, and I still recoil against it. We have to have a balance and a mix, but that is the ultimate question that's playing out as we speak in Washington, "How big? What should government be doing?" Some people today think that government should not be mandating anything with respect to having people have health care; that is now being debated in Washington.

I mentioned in our last interview a demonstration at the Armory in the early '70s, when John Mitchell came to Westfield. In recent times, another event occurred at the Armory in Westfield, and that was when George W. Bush was President and it was about, I'm going to say 2006. When Bush was reelected in 2004, he wanted to take on an issue and they wanted to privatize or change Social Security. They thought that Social Security has gotten untenable. There was an issue that, "Well, we want to let people have their own money, and they can invest in private security accounts." Also, there was questions about Medicare. Well, that brought the issue of, "You're going to touch Social Security? You're going to touch Medicare?" and people recoiled against that.

So, George W. Bush launched this notion, and, again, they had what's euphemistically called "a town meeting" at the Westfield Armory. Well, these are usually cheering sections for one party or the other. A lot of people recoiled against that and wanted to have a demonstration, and there was a demonstration outside the Armory that actually resulted in some arrests and things like that. The notion that Medicare or Social Security would be under assault, you can't touch those things, because a lot of people depend on those. So, again, this is a question of, "How big should government be? How small should it be?" those types of things. Of course, when the economy

collapsed in 2008, as a result of unregulated "cowboy capitalism," it exposed, "What would've happened if we had actually adopted some kind of privatized Social Security system? People would have lost their retirement savings, and there would not be that floor that we have."

Look, I don't have all the answers on these questions, but I guess I come down more on the side of good, clean government is a very important thing to have and I don't view government as the enemy. It can be an enemy. I've seen large government systems really become corrupt, large school systems that become corrupt, and it's always going to be something to fight against, which is corruption.

SI: At the start of this line of thought, you mentioned juries. As you were picking juries, is that where you saw this ideological battle playing out?

JH: Yes, sure. So, again, juries are the conscience of the community, ultimately. To this day, when I'm sitting as a judge and going through the jury selection process, I get to interview with the lawyers individual jurors and you can see everybody comes in with a little bit different perspective. If you have meaningful jury selection, which is you actually try to probe and find out what people's attitudes are, you learn a lot. What you end up with--and I've been doing civil trials as a judge for more than a year now--you end up with an extremely conscientious group of jurors. If somebody displays in the jury selection process a particular, strong ideological bent, one or the other lawyers is going to ask them to be excused, using their preemptory challenges.

So, what you end up winding up with in a typical juror in a civil case today is thoughtful, middle-of-the-road people who aren't there to hand out money and they're not there to let an irresponsible defendant go free or not have to pay the piper. That's a concept, by the way, that goes back to the founding days of our country. When the Constitution, in 1787-'88, was put together and distributed around the country, it was a huge debate, "Wait a minute, where is the Bill of Rights? Where is the bill of individual rights? Oh, we now see, okay, you're adopting something where you'll have a President and a House of Representatives, a Supreme Court. Where's the protection for the individual, to make sure he or she is getting a fair shake?" The insistence in the population when they tried to get the Constitution ratified, "We want those Bill of Rights enumerated." The jury trial is delineated in the Bill of Rights for both criminal and civil cases.

Of course, we're familiar with the freedom of speech, freedom of religion, freedom to be free in your home without unreasonable searches and seizures, freedom in a criminal trial to insist that there be proof beyond a reasonable doubt, and you don't have to take the witness stand. The state has to prove their case; in a civil case, the right to have the matter decided by a jury, not by "the king's appointee" or the governor's appointee. So, the system is built around not having justice in the sole hands of the judge, who might be in the ideological pocket of one side or the other, but in the hands of the jury, the citizens, so that everybody can know they're going to get a fair shake.

When people have a dispute and they bring their case to court, they don't know who the people are that's going to make the decision. That's part of the jury selection. So, if the judge happens to have a bent toward one side or the other, it's not the judge that makes the decision. It's the

jury. So, that's sort of something that lives on as a notion that developed right from our Constitution, that time period. We need to have the juries control what justice is.

I've had the chance to live that, both as a lawyer and now as a judge, and it's a pretty beautiful part of our system. Some interests think that jurors are too stupid to understand things, and so, they want to eliminate the jury system, take power away from them, give more power to the judge, because, "We can influence the judges." This debate continues in the most subtle as well as gross ways, I mean, large and small. I happen to serve on the New Jersey Supreme Court Rules of Evidence Committee, and the issues over judicial power versus jury power keep coming up and keep being addressed and discussed. Some of these ideological issues never go away.

SI: Going back to your time on the Westfield Town Council, are there other things besides the redevelopment corporation--public works, perhaps--that stand out in your memory as important?

JH: Well, I'll go to one of my biggest contributions. Before I discuss this particular involvement that I helped initiate, I want to point out some things that have changed just by little government regulations. When I was a kid, if you walked on the streets in the fall, there would be leaves on the ground, and it was a very common thing to step on a leaf, and then, realize, "Oh, the leaf was covering up dog dirt." It was a constant thing. Every day, you'd have dog dirt on your feet. It would smell, and you'd have to clean your shoes.

So, governments developed something called the pooper-scooper laws, and, when this was adopted, dog owners hated this. They didn't want to do it, but the Town of Westfield, other towns, passed laws and, now, it's just assumed. If you have a dog, you have to pick up the dog's poop and dump it properly. This little quality of life thing, which started out as controversial, is something we now take for granted, and it's a wonderful thing. Now, there are lots of little things like that; just let me follow a few more of those. Another example would be smoking in indoor places.

SI: Yes.

JH: Now, one of the great leaders in making indoor smoking to be a taboo is a United States Senator who died, Frank Lautenberg, and he started, on a national level, the campaign to bar indoor smoking in airplanes. If you went on an airplane in 1970, 1980, you had to sit in an airplane sometimes for however many hours, a plane to California, you'd be sitting in a haze of smoke. It was not only unpleasant, but it was unhealthy. Of course, the people who worked in those airplanes were getting very unhealthy conditions and, sometimes, getting cancer just from second-hand smoke. That's a change that was made.

It started out as a little, small movement. Frank Lautenberg, "I'm going to try to ban smoking on airplanes." In the 1970s--and I worked in a state office building in 1976--people smoked at their desks. Then, smoking in employment places was banned. Smoking in restaurants, you'd go to a restaurant, it was very unpleasant. One of the reasons for the growth of restaurants is because they're clean and people want to go to restaurants. In the old days, a smoky bar, you didn't want to go to. Those are little things that people can change, that government has been able to change.

Seat belts are another great advance. That was done on a national level, again, through the efforts of Ralph Nader.

So, my little initiative was in the 1990s when I was on the Town Council. My children were young, and I knew about product safety from my work as a lawyer and I knew people would get killed by not using, for example, seat belts. Other safety devices were out there, but they weren't being used. I couldn't get my children to wear their bicycle helmets, because nobody wore them. There was a movement in the state to require everybody who used a bicycle to have bicycle helmets. The sporting recreational bicyclists, and there are serious bicyclists, they thought that was an intrusion on their freedom.

Now, meanwhile, I'm watching this play out on a state level. So, that law was going nowhere, a law to require everybody to wear bicycle helmets. Well, I have kids. On the theory that we've got to protect children who can't make their own decisions, "Why don't we have a bicycle helmet law that starts at under fourteen? That way, kids will learn how to use bikes with helmets." I got my colleagues in Westfield to agree that that made sense. So, we passed in Westfield the first bicycle helmet mandatory law as a municipal law for those under fourteen. That triggered publicity, and it was on television. It was in the newspapers, and it got the ball rolling.

The state proponents of the bicycle helmets realized that if they could put an age cutoff, they would reduce the opposition, because it would only be for children. As a result of that law in Westfield, the state law passed and New Jersey became the first state in the United States to have a mandatory bicycle helmet law. Other states followed, and, now, almost two-thirds of the states have mandatory bike helmet laws. The state has now upped the age limit, and this has dramatically, I'd say cut in half, the number of deaths each year from bicycle accidents, and that doesn't even take into account the number of head injuries that resulted in terrible brain trauma.

So, just from a little town council setting, you can make a little change. Now, no one remembers. I'm the only one that remembers this, but it's something that I can say, "Well, I did something. I didn't save the world, we didn't create a utopia, but, as a councilman, I was able to spot something," and then, because I had a good relationship with my Republican colleagues--they knew me, I wasn't some ideological nutcase--and we now have, it's now like the pooper-scooper situation or the anti-indoor smoking, it's now assumed that, if you're a child, you're going to ride a bike, you're going to have a helmet. Even most adults riding bikes, who are not required to use helmets, now do use helmets because of the safety aspect.

So, you make little changes. We didn't change the world as much as we'd hoped, but we tried to make little, incremental improvements.

SI: Do any issues stand out where you really reached an impasse with your Republican colleagues?

JH: Well, when I was in law school, the notion that zoning should not be used to exclude people came out in what's called the *Mount Laurel* case. That made a lot of sense to me, that zoning should not be used as a club to exclude people from a community. The concept of zoning, that a municipality has the power to designate what you can do with your property, that was relatively

new in the early part of the twentieth century, and the United States Supreme Court, for the first time in, I think it's 1928, allowed municipalities to have zoning regulations. If you think about it, a zoning regulation is an interference with an individual's right to do what they want with their own property. They bought the property. Why shouldn't they be able to do what they want?

Well, okay, so, we'll have reasonable zoning. Zoning, of course, should have limits, and what was happening in New Jersey, as the decades of the twentieth century went on, was that some towns were saying, "You can only have one house on an acre of property. That way, we ensure that everybody who came to town--we wouldn't have apartment buildings. We wouldn't have any diversity in housing." All the housing had to be single-acre zoning or something. So, that was the evolution of the *Mount Laurel* decision, and that constitutional background that I've just given is very much something not known.

[Editor's Note: In *Southern Burlington County NAACP v. Township of Mount Laurel* (1975), the New Jersey Supreme Court ruled it unconstitutional for zoning ordinances to exclude low to moderate income families from living in municipalities. In *South Burlington County NAACP v. Township of Mount Laurel* (1983), the New Jersey Supreme Court established a formula by which to measure a municipality's obligation to provide affordable housing. The Fair Housing Act of 1985 created the Council on Affordable Housing (COAH), but issues of fairness and equity in New Jersey housing persist to the present day. In *Village of Euclid v. Ambler Realty Co.* (1926), the US Supreme Court recognized the principle of municipalities having land-use zones. Two years later, in *Nectow v. City of Cambridge*, the US Supreme Court ruled that a municipality's zoning regulations must relate to public health or general welfare and otherwise infringe upon the rights of an individual property owner.]

So, when I went on the Town Council, I just assumed that, hey, Westfield could use a little bit more diversity in its housing stock, because young people couldn't come back to the community, because they couldn't afford to buy a big house in Westfield. Older people who didn't want to maintain their houses and they didn't need as big a property, they weren't raising families anymore, they could use smaller units and not pay as much taxes. So, I felt that the largely single-family zoning, without some mix in housing, had a detrimental effect on the core of Westfield, the town that I live in, and the same thing in every other town.

Man, the town government, in my experience, my colleagues didn't really think the way I thought about that. I thought we should have some more--we set aside certain neighborhoods for some diversity in housing--and they basically fought against that because of the syndrome "not in my backyard." So, anywhere we ever talked about any kind of different housing or different development, the neighbors in that area would say, "We don't want that here. We don't want that here." That's a difficult fight. I would say, by and large, I pretty much lost that battle, and that issue does continue. We still have these debates about how much a municipality has to do in terms of housing, and that's going to continue because that goes to people's property rights.

SI: Let me pause.

[RECORDING PAUSED]

SI: I wanted to get into the nitty-gritty of your job, both your time as a lawyer and time on the council. What did you find yourself doing on a day-to-day basis?

JH: Well, as a lawyer, you're trying to--obviously, you have to make a living, and you have to work on cases that are going to bear fruit. In my case, almost all my work was contingent-fee work. So, I would take on a case thinking, if I was able to get a jury to agree with my side of the case, then, my client would benefit, but I would earn my fee by getting a portion of that recovery. That's called a contingent fee. In effect, that's a bit of an entrepreneurial thing, a capitalist venture, and that's how those product safety cases proceeded.

That's how, by the way, a lot of product improvements have been made and also medical improvements, in the delivery of medical care, has been accomplished by, "If you don't do it right, you're going to pay the consequences." People don't like to talk about that in terms of medical malpractice, but that's been the reality, that legal claims, known as lawsuits, involving medical care and people who didn't get adequate medical care has had the impact of vastly improving quality standards. A lot of doctors do not like to acknowledge that, but that's certainly my point of view, that it has had the same impact in the medical field as the product safety field, also construction safety and things of that nature.

So, I would take cases, what I'll call routine cases, which means people injured in a traffic accident, an automobile collision. That's how I made my living for most of my legal career. The day-to-day work, you're on the phone, you're taking cases, you're talking to people. A lot of times, you talk to somebody on the phone or you have them in the office, [you] say, "No, I don't think that's a good case." Some people, they think they have a case. "No, I don't think I can do that case," not economically feasible.

Then, a lot of time is spent preparing the cases in your office. You might not try a case for months, and then, a case comes up. Then, you try two cases in a month, and you're off for a while. I had a lot of civil jury trials. I did do criminal work in the first few years of my career, but most of my career was spent bringing civil cases. Now, sometimes, you'll have what I'll call downtime, because you'd have to go to the courthouse, you'd be told, "Come into the courthouse for your case," but they weren't quite ready, sort of, "Wait in line." There was times, both here in Middlesex County, where we are, Essex County, where I tried a lot of cases; I tried cases in probably twelve counties all through Central and Northern New Jersey.

One day, I was in the courthouse and waiting for my case to get called, and I had some time. I went up to what was then called the law library. Law libraries are something that now, by computers, are almost obsolete. I said, "Well, I'm on the Town Council of Westfield. Let me look up, let me see what kind of cases the Town of Westfield has been involved in." You could just look up those. Lo and behold, I found an unusual case that reflected upon the history of the world, the United States, and Westfield, in a little case that was decided in 1939, so long before I was born, in the time period leading up to World War II.

The case was called *Town of Westfield v. Morris Milgram*. Morris Milgram had been arrested because he stood in front of then called Roosevelt Junior High School, still existing as Roosevelt Intermediate School, he was standing in front of the building passing out leaflets as people would

come into the adult school, the evening adult school. We still have the Westfield Adult School, but, then, it was at Roosevelt. He was arrested because he didn't have a permit to pass out these leaflets. The leaflets were trying to call attention to religious persecution in Germany, and trying to call attention to the Fascist movement that was taking place in Germany and could it be spreading to America. The leaflet announced that there's going to be a discussion of this down in Elizabeth in a couple of days.

Well, Morris Milgram was not welcomed to do that, and he was arrested for not having a permit and he was thrown in jail. Now, in order to get a permit to simply hand out routine literature, you had to be fingerprinted, photographed. You had to state your address, your age, your height, your weight, your birthplace, your marital status, your length of residence, your employer's name, and the clothing that you were going to be wearing during the time of your canvassing, handing out the leaflets. This was all part of getting a permit to do something simple, what we call free speech.

Westfield decided he should be prosecuted. Now, I guess we won't know, but we can suspect that he was really being prosecuted because he was calling attention to something that was unpleasant, which is, "Oh, there's persecution of Jews in Germany," this issue of, "What did we know in the United States about what was going on in Germany and the Holocaust in those years?" *Kristallnacht*, the famous incident where the Nazis basically opened up against the Jews, took place in 1938. So, obviously, what Morris Milgram was calling attention to was what was going on in Germany, but he was arrested.

[Editor's Note: Known as the "Night of Broken Glass" or *Kristallnacht*, on November 9, 1938, Nazis burned and looted synagogues, businesses and homes and killed over ninety Jews throughout Germany. Over the next six months, thousands of Jews in Germany were sent to concentration camps. During World War II, Nazi Germany carried out the Final Solution, the systematic murder of European Jewry that resulted in the death of over six million Jews and six million others in the Holocaust.]

Fortunately, he challenged that arrest and took it to court, and then, at the courthouse, they found that this requirement that you expose your employer's name, you are fingerprinted, just for handing out leaflets and all the requirements was absurd. The suggestion in the decision by the court in Elizabeth was that this was a very overzealous use of power by the local government. So, again, this issue of individual rights versus the power of the establishment, it will always come up. It came up when the Constitution was founded in the 1700s and will continue to come up. I just thought that was such an interesting story, because, let's say 1939, when that was [happening], my father was in medical school in Philadelphia at the time. He had gone to Roosevelt Junior High School, but that gives some sense of the political waters.

In the 1930s, there was an isolationist movement. Even up until the aerial bombing of Pearl Harbor by the Japanese, there was a strong isolationist movement. Charles Lindbergh, the hero of 1927, was part of that. Philip Roth wrote an excellent book discussing this period of time called *The Plot Against America.* People aren't always visionaries. They don't take the worldview. We tend to want to isolate ourselves, and that was the isolationist movement. That's a good story about a slice of Westfield, a little bit apart from my own legal career.

[Editor's Note: Isolationists urged the United States to refrain from participating in international affairs in the years between World War I and World War II. Charles Lindbergh, who had accomplished the first solo transatlantic flight in 1927, became a spokesperson for the America First Committee, a group that preached the rhetoric of the isolationist movement. Philip Roth's fictional work *The Plot Against America* (2004) delves into what would have happened in America had Lindbergh been elected President and led the US to ally with Nazi Germany.]

SI: Do you happen to know if there was an anti-Communist element to the prosecution? Did the defendant happen to belong to a Communist group?

JH: Well, yes, yes. The name of the group that he was calling people to was called the Workers Defense League of Union County, which you could suspect that that was a Socialist-oriented group. So, there's an anti feeling.

In fact, I later researched who Morris Milgram was and became. I found out that there's a famous picture of Norman Thomas speaking in Jersey City--Norman Thomas was banned from Jersey City by the Mayor, Frank Hague. This was in the 1930s. Norman Thomas was banned. He was thrown out of Jersey City, and they said, "Mayor, you can't do that." That's when Frank Hague, the Mayor of Jersey City, made his famous statement, "I am the law in Jersey City." In other words, "I'm above the law," which, again, that's everything we don't stand for. It's one person deciding what the law is; we don't have that. That's Frank Hague's famous statement.

[Editor's Note: Norman Thomas was a minister, pacifist and Socialist who ran for President six times for the Socialist Party of America. From 1917 to 1947, Frank Hague served as the Jersey City Mayor, a position he used to exert his control as Democratic Party boss. In 1937, Hague used city ordinances to prohibit the labor union Committee for Industrial Organization (CIO) from handing out leaflets and gathering in public in Jersey City. In *Hague v. Committee for Industrial Organization* (1939), the US Supreme Court struck down the city ordinances as unconstitutional on the grounds that the First Amendment guarantees freedom of assembly.]

So, there's a picture of Norman Thomas speaking in Jersey City and someone throwing an egg at Norman Thomas, but it hits in the forehead a guy who's standing in front of Norman Thomas, trying to sort of protect him. That someone was this kid, Morris Milgram. Morris Milgram became a developer of interracial housing all up and down the East Coast. He became very successful. His operation was that he would build housing developments, townhouses, whatever, that he would insist would be multi-racial. So, it was an effort to do what's called integrated housing, which was a big thing in the development of the twentieth century, because housing was very segregated throughout most of my life.

[Editor's Note: Morris Milgram (1916-1997) graduated from the University of Newark (which later became the Rutgers-Newark Campus) in 1939 and began working for the Workers Defense League. Milgram joined his father-in-law's construction firm in 1947 with the intention of developing communities based on social justice principles across the nation. With the aid of allies, such as Quaker investors, his firm built landmark interracial communities such as Concord Park (1954) and Greenbelt Knoll (1955) in the Philadelphia area and eventually created racially-

integrated communities nationwide. His role as a pioneer in the Civil Rights Movement was celebrated in the 1964 television documentary *Seven Who Dared* and through his receiving the first National Human Rights Award from the US Department of Housing and Urban Development. He helped establish the Fund for an OPEN Society in 1975 and served as its first president. He served as a member of the Rutgers Board of Trustees from 1968 to 1974 and was inducted into the Rutgers University Hall of Distinguished Alumni in 1993.]

So, anyway, you'd be sitting around the courthouses, and I'd find something to do. Ultimately, you'd get called, and you'd have to go and be ready to start your case in a very tense environment. Again, I don't know how you learn how to do that, other than just go try doing it and not be afraid to lose, because you'd lose some cases. Sometimes, a jury didn't accept your premise of the case, and that's a tough thing. When you're working on a contingent-fee basis, you take a loss--you've sunk your own money and time into a case.

SI: In general, how many cases would you be dealing with at a given time?

JH: You might have a caseload of, and this varies depending on the type of practice, but I would say I would have a caseload of a hundred. Some cases settle. Some cases, it's not that problematic to determine who caused the accident or who caused the incident and what the level of the injuries were, so, what would be the fair compensation. So, you settled a lot of cases. There would be the bigger cases, where there was a denial of responsibility that frequently went to trial. I think over the course of my career, I tried about a hundred jury trials, some of which settled before the jury ultimately made their determination, but an awful lot of jury trials was part of what I did. Therefore, I trained myself to try to learn everything I could about how to do trial presentations.

I wrote a book in the '90s called *Trustworthiness: A Trial Strategy Manual for the Plaintiff's Injury Case in New Jersey*. It was just for New Jersey lawyers, and I tried to put everything I knew in it, everything I'd found out about what you have to do, what you have to say, how do you present it. The ultimate end is, you have to be trustworthy, because, if a jury thinks that you're misleading them in any way, you're going to lose your case. So, you have to be kind of the boy-next-door type, an honest person, and that's the persona that you want to create.

That book has what I call developed a small cult following. It was published by the Institute for Continuing Legal Education, which is also located here in New Brunswick. I still see lawyers using some of the techniques that were developed in that book and being successful with it. I get calls periodically, "Oh, my gosh, I read this book. It's a really great book, and you helped me and I got a big verdict." That's one of the rewarding things. It is not a famous book. Not that many people know about it. A small group of attorneys latched on to it, and it, as I said, developed a small cult following.

SI: I am curious. Did you make it for New Jersey lawyers because you had to set a scope, that was your area of knowledge? Was there a unique aspect to trying cases in New Jersey that had to be addressed?

JH: Well, both of those things.

SI: Okay.

JH: So, one is that every state has different rules. Each state is like a laboratory of justice. We have things that have developed that are pretty much uniform around the country in every state, but there are nuances to how you have to try a case, what you can do in New Jersey as opposed to New York or Pennsylvania. Now, I only tried cases in New Jersey, so, I knew the New Jersey rules pretty well. Also, when you sit down to write a book, you have to say to yourself, "Who's going to read this book? How is this book going to be marketed?"

I was part of an organization at the time that was called the Association of Trial Lawyers of America, New Jersey Branch. It's now called the Association of Justice of New Jersey. It's the plaintiff's bar, that is, the people who typically represent plaintiffs. I felt, through that and through lectures I had been giving, that there would be some market for this. I had done, and still do, a lot of lecturing in what's called continuing legal education--trial techniques, the rules of evidence and things that I came to learn about.

Then, later on, I wrote another book. Again, it's called *New Jersey Law of Personal Injury*, and that book pulls together all the strands of law that apply to personal injury cases, when people are hurt and they bring a lawsuit. The reason I put that book together was because I got tired of looking up the same things all the time. So, I figured I'd put it all together in one volume, and then, I'll have it myself. That book is published by *The New Jersey Law Journal*, and that book has sold a lot of copies. I'm not allowed to earn income from the proceeds of that book, since I became a judge in 2009. So, all of the proceeds from the book, the author proceeds, go to my beloved law school, Rutgers Law School in Camden. So, that helps scholarships. It's not an enormous amount of money, but it's a nice, steady stream of money that is my little contribution, payback for the wonderful opportunity I had from Rutgers Law School.

So, I want to just comment on public service. Growing up, we talked about in the first interview, "Was my father involved in political affairs or social affairs?" I mentioned that he, because he was a doctor, everything that he did had to be oriented towards that and there wasn't much time for a doctor to be involved in politics. He always pointed out to us, with admiration, people who were involved in the community.

I also referenced, when I was a young boy trick-or-treating, that we went to the Mayor's house, which was a very big house. Everybody knew the Mayor, Emerson Thomas, and he insisted, "Where's your UNICEF box? I don't want to give you candy. I want you raising money for children around the world." I never forgot that, and I knew Emerson Thomas. He stayed around Westfield, and, into his nineties, he was involved. I never forgot that he was a local contributor to public affairs. He was a very successful businessperson in compressed gas, natural gas production. He had a worldview that is, "We're not just a little community. We owe big time." UNICEF, for example, is a wonderful example of something that came out of World War II that really has had a dramatic impact on the improving of lives around the world.

Other people who, when I was a kid, my father would point to, another guy was named Frank Ketcham, wonderful man, served as President of the Board of Education. My father would point

these people out and say, "Look, that's who you want to model yourself after." So, I tried to do that when I was in public service and government, and I got to work with a lot of people of the same caliber and type as contributors. None of these people are famous. They never will be famous. The notion that politicians are corrupt, there are politicians that are corrupt, but there's so many more that are honest people, trying to do better. I think I might've said this in our first interview, but think of, around the state, there's more than five hundred school boards. Nobody who serves on a school board is getting paid. They're doing it for the greater goodness of the group, and that's really out there and that's one of the great things about our civilization.

Let's go off the tape for a second.

[RECORDING PAUSED]

SI: Okay.

JH: I wanted to mention that I said earlier, when I was on the town government, for most of the into twelve years that I served in town government, I was the only Democrat. In my last year of service, which was 1997, was for the first time since 1910, a Democrat was elected to be the Mayor. His name was Tom Jardim. He was a very young guy, and he was fresh. He had a certain appeal, and that appeal was, the establishment party, the Republican Party, had become a little bit smug. Westfield had become more diverse, not much racially, but let's say people, by and large, weren't as ideologically conservative as once had been.

So, for the first time in 1996, Tom Jardim was elected as a Democrat. It hadn't happened since 1910, which was a big, big change. Sort of a refreshing thing happened. He was helped by an extraordinary political tactician by the name of Ken Rotter, who is also a really good person. This created havoc, because the Republican Party had controlled the government in Westfield for a long, long, long time. Tom then ran again in 1998, and people thought, "Oh, that was just a fluke that he got elected the first time," but the town didn't fall apart because Tom Jardim was Mayor. The town kept functioning and kept doing well. People said, "Well, if he wants to run again, let him run again." He won again, and, again, the Republican Party was stunned by this.

I think, as a result, the Republican Party got a little bit more sense, that they had to be less smug, more on-the-ground politically. So, Tom did four years, two terms, four years. The Republicans got strength again, so that now, again, for the last ten, twelve years, Republicans have controlled the Mayor's slot, with some very good people. The Town Council seats have, by and large, gone to Republicans, although there's always been a Democratic presence, one or two councilmen. I think, at one point, we went to five. It was actually a majority, four councilmen and a mayor, but the Republican Party has sort of re-corrected itself.

The politics of town are, basically, the voters want to know, "Who's going to really make an honest contribution?" So, if you go down and campaign and try to get to know people, from either party, you have a shot at becoming elected. It is pretty tough on the North Side of town to be elected as a Democrat. I think it's only happened once or twice in history. On the South Side, I wouldn't say it's Democratic-oriented, but a Democrat can be elected in either the Third or Fourth Ward.

I want to comment, if I can, I mentioned that my father had given an oral history in 1976, and his family had come to town in 1915. I'm now talking about my vantage point, looking back from 2013, so, it's almost a hundred years that my family has been in town. One of the things about being in town for such a long time and staying in the same place is, you can observe things happening that are hard to observe if you're moving around. There's a lot of people who operate with the notion that "the world is going to hell in a handbasket." I would say, from my experience growing up in the town where my father grew up, is that the world has become a much more pleasant, better place, and I'm not talking about just Westfield--I'm talking about New Jersey, I'm talking about the United States and even the world.

I just want to go over a few things that I've observed, change over time in a positive direction. I've mentioned several times the reduction in criminal activity. Criminal activity exploded to a high degree in the 1960s, '70s and '80s, and then, something changed. A civilizing process took place to where you would now have very little fear about being invaded in your home or on the streets. The cities have become much more accessible and pleasant, and places where you'd never even think to live in 1975 are much more livable now. Sociologists are still trying to pinpoint how this has happened, but crime has been dramatically reduced.

I've mentioned the access to public education, particularly higher education, has dramatically increased, so that people have access and can go to college. We see that right in front of us in New Jersey, and kids can go right up the street to Kean University from Westfield. They can go to Union County College. The county college system, which, also, I didn't mention that my wife works at Union County College, the county college system, the construction of that took place essentially in the 1960s, so that virtually in every county, you can start your college education for a very reasonable price at the county college system.

I talked about birth control having a dramatic impact, that people can have a smaller number of children without worrying about that. That's a pretty dramatic effect, and that may have had a contribution to the reduction in crime, people having less children. The concept of corporal punishment and bullying, there's a lot of discussion about bullying now in education. This is a great change, that we are concerned about this, because bullying and fighting was definitely a part of my growing up, and that's not acceptable conduct anymore.

Corporal punishment in schools, teachers would hit you, spank you. We don't accept that anymore. New Jersey has a law that a parent may not engage their children in excessive corporal punishment. The word "excessive" causes some ambiguity there, so, corporal punishment is not totally banned, but it's getting close. People can realize that you don't have to discipline your children in a physical way, and that probably has a positive impact on the children's lives in terms of their approach to violence.

People, of course, are living longer. When I was a young man, men, frequently, first of all, being in their sixties, age sixty was considered old. Most of the men that I was familiar with, fathers of my contemporaries, were mostly in World War II, and most of them died certainly by their early seventies, heart disease, cancer, whatever. So, we dramatically improved longevity, and that's something to appreciate. I certainly hope--I don't have any guarantee--I hope I'm going to be

living longer than my father, who died at seventy. So, that's important. Children, infant mortality, and this is true not only in the United States, but around the world, infant mortality is dramatically improving, so that people who can have children, they can think, "Well, my children are going to survive. I don't have to have five children. I can have two children. I can have three children." That's a dramatic change.

Also, in Westfield, and I think around New Jersey, there is tremendous ethnic diversity. When I was growing up, immigrants were people from Italy. That was the main immigrant population that was present in my childhood, and, sometimes, the kids didn't speak English. We had Cuban immigration because of Fidel Castro coming in in 1959, so, there was the beginning of Hispanic immigration. Now, when I'm picking juries in Union County, it's breathtaking, how many people from so many different countries, from Africa, Nigeria, Liberia, Central America, the island countries in the Caribbean. People still are wanting to come to the United States. By and large, the people I'm seeing in jury selection are hard, hard-working people.

I had an incident in jury selection that I think is very worthwhile. I interview the jurors in what's called the judge's chambers with the lawyers, so that I can get them to talk freely. I had a man who worked at one of the large financial institutions on Wall Street and he was obviously earning a tremendous amount of money. The case was going to go on for four days, and so, I said, "Does anything about that create an economic hardship for you?" He goes, "Oh, yes." I said, "Doesn't your company pay your salary during the time here?" He says, "Yes, they pay my salary, but I won't get my bonuses. If there's a deal made while I'm at jury duty, I won't get my bonuses. So, that's an economic hardship; I'm going to have to pay for my kids to go to college."

Well, that's kind of a frustrating thing as a judge, to see that kind of attitude. It doesn't seem to hold the appreciation of what our democracy is and how important jury service is as part of a citizen's obligation. The next person that I interviewed was an immigrant, I think from Ecuador, and he was making his living as a groundskeeper at a local golf course. He had nothing, he didn't even have a high school education, but he had come to this country and earned his citizenship. He was trying to now making a living as an assistant pro. He'd learned the game of golf. I said to him, "Well, if you have to serve on this jury, you're not going to get paid by your employer." He says, "That's correct. I'm not going to be paid." I said, "Well, wouldn't that be an economic hardship for you?" He says, "Well, it would be, but I know what it means to be a citizen and I want to serve on this jury if I have the chance to do it."

The juxtaposition of those two attitudes just was so poignant. Here's this young immigrant who wants desperately to give up his day's pay, which he needs, and he wants to serve, and I've got a guy from Wall Street who doesn't seem to appreciate that his whole life, his whole being, his ability to make a very good living, depends upon a structure of government that Lincoln talked about in the Gettysburg Address.

A couple of other things that have changed dramatically in the course of my life, of course, are gay rights. Young people, people under thirty, they don't know what all the fuss about gay marriage is. They say, "What's wrong with people getting married?" Now, I understand, because we grew up in a time when to be gay was to be different, "And why would somebody want to do that?" We did not appreciate the genetic components that make somebody's sexual

orientation. I grew up with kids that we considered, "Oh, he must be. He's effeminate," or something, guys. Again, they were subject to tremendous bullying. Well, this is something that's changed dramatically, and that's a wonderful thing, that people who have a sexual orientation different than most people's sexual orientation and the acceptance of that. In schools, at the high school level, I know this was talked about when my kids were going through school. My children, they don't have any anti-gay bias, as we did, I think, generally, growing up.

I've mentioned in the course of my discussions the development of Title IX in women's participation in sports. That's a dramatic change and improvement in the world. My children got the total advantage of that, the girls, both in high school and college. Religious diversity, we have in Westfield, the change in the religious component, people's practicing, including non-practicing, but we have more Jews, many more Catholics, and even, of course, people from India, Pakistan, they might be Islamic. So, the religious diversity is enormous.

So, I come back to, "How did these things come about? How did these improvements happen?" I think of that flag being raised on Iwo Jima. "What were they fighting for?" Fundamentally, they were fighting for the rule of law, that no country can roll over any other country just because they can. Of course, we lived through the time of the Cold War. Out of World War II came two ideological streams. One was a vision of a better world. The United Nations was founded, hope from that. The other stream was, "We have to watch out for ourselves--American exceptionalism. We have to fight against domination by the Soviet Union," which was a very real threat. I'm not minimizing that threat. That was another form of, essentially, a Fascist state, if you will. Those things were tensions coming out of World War II.

Now, the fall of the Berlin Wall in 1989, as the signifying event of the end of the Cold War, has led to very good things, more open, but there is a notion that we are accountable towards a greater morality, that the United States just can't go and invade a country because we don't like the country or the country's got too much oil or something. We can't do that. We're restrained by international norms. We've seen the end result.

When my kids were young, in the 1980s, a potential nuclear war was very, very much a part of our fears, that our kids would be subject to nuclear annihilation. Now, that seems bizarre for me to say that, but that is how my young children grew up. As parents, we were very concerned that saber rattling and threats of nuclear, or limited nuclear war, which, of course, would then evolve into global nuclear war, we feared that. That's totally dissipated. We are faced with a greater problem of terrorism, because one person or a handful of people can cause tremendous damage through germ warfare. So, that's something that we need to be concerned about, fearful of, and we need to keep trying to diminish that.

In terms of deaths, the number of deaths from terrorist acts is miniscule compared to the number of people that can die in a war. Americans, just to use an example, we lost close to sixty thousand young Americans in the Vietnam War. There's been nothing approaching that in any conflagration. The invasion of Iraq, I think, cost four thousand American soldiers' lives. Afghanistan, where we've been now, it seems like fifteen years, maybe I'm off on the number of years, but more than a decade, we've lost about three thousand in Afghanistan. Not to minimize

those sacrifices that soldiers have made, but, in terms of global deaths since World War II, we've had a tremendous run of relative peace.

Just to conclude, and I think I'm in a position where I can just wrap it up, I'm always reading and trying to figure out these issues that we've been talking about. Just within the last year, I came across three really profound books that are very helpful and insightful to me. One is a book by a neuropsychologist named Steven Pinker, who wrote a book called *The Better Angels of Our Nature*: *Why Violence Has Declined*. That's a book that documents that violence has dramatically reduced over the centuries, decades and years, right up to the present and still happening. So, these are positive changes. Why is that? He tries to articulate the civilizing process.

That process is also articulated by a wonderful book by a political thinker named Francis Fukuyama. It's called *The Origins of Political Order*: *From Prehuman Times to the French Revolution*, and he goes back into pre-history, humans getting together, "How did tribes start coming together? How did governments start working?" That development led to the civilization that we know based upon the rule of law, that nobody's bigger than the whole system itself--nobody's above the law. I lived through Watergate, where the President of the United States made a statement similar to Frank Hague, the Mayor of Jersey City in the 1930s, where Frank Hague said, "I am the law." Richard Nixon, as President of the United States, when I'm a young, forming American, said, "If the President does it, it's not illegal." That was essentially the point of his resignation, which is, "Nobody's above the law, including the President."

Another great book that I'll comment about, which goes with these other books, is a book called *The Social Conquest of the Earth* by Edward Wilson, a biologist and, actually, an expert in insects. He talks about the species that survive on Earth are those that are altruistic. We know that from evolution, that people are built to be selfish and self-protective, but humans are also built to be givers, to protect their own families and, also, protect those around them. So, we're in constant tension of our own individual success versus the group success, and this is a tension that goes through politics and that we will always wrestle with.

There's hope, I think, and, if you look at the grand scheme, and I've had the chance to, with my father, look at a hundred years of time in a particular place and see that the world changes and it usually changes for the better, but, sometimes, it's not so easy to see, because you can't see the forest for the trees. I think that's what I have to cover.

SI: We will conclude now. Thank you.

----------END OF INTERVIEW----------

Reviewed by Kathryn Tracy Rizzi 11/21/2014
Reviewed by Shaun Illingworth 4/4/2018
Reviewed by James Hely 4/9/2018