

YOUNGSTOWN STATE UNIVERSITY

ORAL HISTORY PROGRAM

Judges

Personal Experience

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JOHN M. STUARD

Interviewed

by

Michael Graham

on

December 10, 1991

JOHN M. STUARD

John Mason Stuard of Burghill, Ohio was born on March 26, 1939. He is the son of Mr. Carl M. Stuard and Violet V. Richards Stuard. Judge Stuard's father worked at Westinghouse Electric Company, and unknowingly worked on the creation of the first nuclear bomb.

Judge Stuard attended school in western Pennsylvania and graduated from Sharon High School in Sharon, Pennsylvania. He attended the Ohio State University for a time and subsequently transferred to Thiel College.

Upon completion of his bachelor's degree, Judge Stuard tried his hand at teaching in Fulton County, Pennsylvania. It is while teaching that Stuard met his future wife, the former Linda Lou Breakall. The two were married on August 4, 1962. Judge Stuard quickly realized that teaching was not for him, and he entered the University of Kentucky Law School. Judge Stuard received his Juris Doctor degree from the University of Kentucky in 1965.

Judge Stuard was a private attorney until 1982 when he ran for and was successfully elected to the Trumbull County Court. In 1991, Judge Stuard was appointed by the Governor to the Court of Common Pleas where he now sits.

Judge Stuard and his wife Linda have two children: Elizabeth Ann, age 25; and John M. Jr., age 23. They also have two grandchildren. Mr. Stuard is a member of the Burghill Baptist Church, and he belongs to the Hartford Optimists [as well as] the Ohio State and the Trumbull County Bar Associations.

Judge Stuard is extremely interested in American Civil War Artillery. [He] has built and fires his own Civil War replica Cannon in competition at the North-South Skirmish Association in Winchester, Virginia. He is also interested in military history, and he collects antique firearms.

-Michael Graham

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INTERVIEWEE: JOHN M. STUARD

INTERVIEWER: Michael Graham

SUBJECT: childhood, parents, education, teaching,  
judgeship, emotions, duties, criminals

DATE: December 10, 1991

G: This is an interview with Judge John M. Stuard, for the Youngstown State University Oral History Program, for the Judges project, by Michael Graham, at Warren, Ohio, on December 10, 1991, at 10:00.

Why don't you tell me a little bit about your childhood.

S: I was born in Sharon, Pennsylvania. [I was born] March 26, 1939, to a very nice set of parents. My father was of Scotch-Irish descent, primarily, with a grandmother who was German. He was from Kentucky, around Georgetown, near Sadieville. There are four generations before him buried in a little place called Porter, Kentucky, going back to Abraham Stuard, who was a Civil War Veteran, 4th Kentucky Mounted Infantry. My mother was first generation to this country. She was born here. Her mother, having come from a place called Treccastle, near Brecon, Wales. Her father was also first generation born here, from parents who had also immigrated from Wales, and that was right around the turn of the century, 1900. My father, at the time when he married my mother, he was working at Westinghouse

Electric Company in Sharon, Pennsylvania, making twenty-one dollars a week; which, at that time, was not really poor wages. It was reasonable. And, having been born in 1939, at the end of the Depression, I have no memories of those hard times, as my parents would have.

I lived in Sharon until 1943. My mother and father purchased fifty-four acres in Hartford Township, Trumbull County, Ohio. They paid fifty-four hundred dollars for a house, barn, a couple out buildings, and fifty-four acres. Land was relatively inexpensive at that time. Within a year, land prices, because of war. . . . Everyone saw that the war would be ending, [so the land prices] started to escalate. Probably a year after he purchased the farm, he couldn't have touched it for twice or three times that amount. He subsequently purchased eighty-four more acres a couple years later, and he paid about twice the amount per acre he had bought the original farm for. It was just vacant land.

Hartford is a rural area, and I grew up in a very rural environment. Back then, Route 609--where I have lived most of my life--was a dirt road. There were no children probably within three miles of where my home was, other than three sisters, who were younger than I, who lived across the road. So, most of my early childhood memories are of roaming the woods with one or more of the many dogs we always had. We also had several horses. My dad had cows, pigs, chickens; the whole thing. He continued to work at Westinghouse and farm on the side.

Now, at that period of our history in that area, this county was covered with farms where, people, because of the war, primarily, I suspect, got jobs in the factories--the ones who did not join the service. Now, my father was born in 1905, so he was on the upper end of that age group that would be called to service. He also worked at Westinghouse, as I said. They worked on the Manhattan Project. They didn't know it at the time. Sharon Plant, Westinghouse built various components of the first atomic bomb. He found that out after the war. They also made torpedoes in there. Most of the men who worked at Westinghouse were exempt from the draft. As I say, they didn't know that at the time. But, he, at the age he was at that time, probably would not have been called to the service anyway, unless the war had drug on, probably another three or four years.

I began school in 1945, which was the year the war ended. Now, I have recollections of the war, the Second World War, and particularly of V.E. Day; the day

that the Germans capitulated. That was vividly engraved in my mind because. . . . We didn't go to town very often. When we went to town, it was to Sharon, which was only eight miles away. But that was . . . you just didn't go to town very often. Usually, the only time you would go to town would be to get school clothes, which was once a year. You'd get two pairs of overalls, two shirts. If your jacket was good from the previous year, you used that until it didn't fit anymore. You had one pair of shoes, some socks, and some underwear. I was no different from my classmates. One interesting thing, having come from town, my mother, having grown up in town--she remembered the 1930's when the kids wore knickers. Do you know what knickers are?

G: Yes.

S: One other young fellow in my first grade class and myself were the only two that showed up with knickers. All the other boys had bib-overalls, which was the costume at that time. So, he and I, for the first two or three weeks, were in constant fist fights, because we were strange and different with our knickers. It took me a lot of persuading at home to have my mother finally go out and buy me a couple pairs of bib-overalls, so that I was one of the guys. I started school at Vernon Township. Back then, each township had its own school district. They had very excellent schools. [They had] basic education: reading, writing, arithmetic. I went through that type of school system up until the eleventh grade. Anyway, I went to Hartford in the fourth grade. Now, to show you how things have changed. . . . At that time, in order to get to Vernon, the school bus crossed a railroad track in Burghill. That always worried my father, so in fourth grade, he put me on the school bus for Hartford, which didn't have to cross any tracks. We actually lived in Hartford, but because of some fight that occurred with people on the north side of Route 609, which bordered Vernon Township back around the late 1800's, there was a JSV School District for Vernon in Hartford. So, anyway, I went to Hartford then, from my fourth through tenth grade. [There were] twenty-one [kids] in my class. Because my father always wished that I would become a medical doctor. . . . They didn't have Latin at Hartford. My grandparents lived in Sharon, and I moved in for my junior and senior year. [I] lived with them and graduated from Sharon High School in 1957.

Sharon, at that time, was a booming place because of the steel mills. Sharon Steel . . . they were part of the Steel Valley, Shenango Valley. Sharon had a character of its own, at that period of time. The ethnic composition of Sharon was . . . part of my background of Scotch-Irish, who had been the early settlers in

that region of Pennsylvania. [There] were Welsh. There were Italians, mid-Europeans, and Slavik cultures. It was a real melting pot-type society. In school, you had every ethnic name you could think of. The graduating class that year, I think, was around two hundred. [There were] Jewish, some African-Americans, but most Blacks lived in Farrell, Pennsylvania. It was often times referred to as South Sharon, and there was a big rivalry over the football and basketball teams. In 1957, Sharon was State Champion in basketball and football. That was a big thing, particularly the football. Sharon was under the Pennsylvania Educational System. In part, I'm sure, because of the larger school with more money available, it was just an excellent place to get an education. But, the education I had received through the first ten years, put me in good stead when I went into Sharon. I was an industrious student. I was on the honor role the entire junior year and most of my senior year. As I got closer to graduation, I started becoming interested in other things and my grades suffered somewhat, but they were still decent that last portion of the senior year.

G: What were you interested in?

S: Well, I was becoming a young man, I guess. My mind was getting off my studies, to a degree. So, I graduated and enrolled in Ohio State in the Pre-Medical program. I was a kid who had grown up on a farm. I found it difficult to go into, even, a small place such as Sharon. It was a very traumatic social transition for me. When I went to Ohio State, I was totally lost. I had, literally, never been more than, probably, twenty miles from home, my entire life. And, here I was . . . this huge city, which I thought, was probably the largest city in the world. [I had] very little money. I lasted two quarters there. I'll never forget [this]. I was going to a German Class, which I really enjoyed, on a nice spring morning. I was walking across the commons. I got the smell of spring, the new earth, what have you. It was like somebody stuck a knife in my heart. I was so homesick that I hitchhiked home. [That was] one of the few times in my life I can remember that my father was truly angry with me. He was not a man that got angered at many things. I suspect he was greatly disappointed, which I didn't understand at the time. So, he took me back to Columbus. I picked up what things I had in the room I had rented, and I came home. He didn't say much for some time.

Then, during the course of the summer, he said, "Well, they have this college, Thiel, over in Greenville, Pennsylvania," which was about eleven miles from where I lived. He said, "Are you up to having one more go at

it? If you don't like it, that's fine." So, I enrolled in Thiel. I drove back and forth between there and home. I commuted. I changed my major to English, my last year. I wasn't cut out to be a doctor. I've never regretted that. I had most of the basic requirements for Pre-Med, but it would not have been a good profession for me. I graduated in 1961, with a mind to join the Army. I talked to the recruiter, had taken some tests. I was to go up to Cleveland to take my physical. Back then, if you remember, everyone went into the service. You were drafted at some point in time.

I was to go up to Cleveland on a Tuesday, and that Sunday before, I got a call from my favorite professor of English, up at Thiel. He said, "What are you doing?" I said, "Well, I'm joining the Army." He said, "They need an English Teacher down in Southern Pennsylvania." I said, "I have no teaching credentials." He said, "I believe they will probably waive those. They just need an English Teacher. It's a very small rural district in Fulton County, near Hancock, Maryland." So, I drove down that Monday and was hired as a school teacher. I think my wages for the year were about thirty-four hundred dollars. So, I drove home and bought an old 1956 Chevy for transportation. I think, at the time, I paid five hundred dollars for the car, or something like that. I found a place to live where I was going to teach, a boarding house. My room cost me a dollar a day, and I ate on probably a dollar and a half a day. I starved to death that year.

Those were slave wages, even then. I had very few clothes: one suit, one sport jacket, a couple pair of good pants, and one pair of shoes. During the course of that year, I was able to buy one pair of good slacks. I think I paid twelve dollars for those. [They were] a good pair of wool pants. The first day, I wore them to class, I sat down on my chair, and there was a piece of gum on the seat. Now, you have to remember that I was twenty-three years old and the students were four or five years younger than I. I immediately knew who had done it. I had one student who had given me and every other teacher problems. So, I was out of my chair and at the back of the room and had this kid pinned against the wall. I finally came to my senses as he was starting to turn blue. So, I figured right then and there, very early on in my career, that I wasn't cut out to be a teacher.

I started applying to different law schools. I had had a half brother who was killed some years before, who was just a few weeks from graduating from law school, back in Pennsylvania. My dad had been married early in life. My dad was thirty-three when he married my



mother. He had a son from that marriage. Like I said, he [my half brother] was killed in an automobile accident. I didn't see much future in teaching, so I thought I'd try law school. I applied to four or five universities. At that time, you had to take the LSAT, as you do now. I scored rather well on that. So, I had the choice of several universities--no big names, because even back then, particularly back then, there was no money given to you to assist with the cost of college. They didn't have many grants and aids, or anything. You paid your way. So, I chose the University of Kentucky, primarily since my father was from there.

I always liked Kentucky. We spent summers down there, at times, for vacations. I had relatives. . . . And, if I ever had a place where I felt I had roots, it was in Kentucky. I had a student that, after graduation, I contacted during the course of the summer, and started dating. She is four years younger than I, and I ended up marrying her. I'm still married to her. [It will be] thirty years coming up. [That was] one of the few smart things in my life I did. She has made a good wife and a good mother, and now we're grandparents of a granddaughter, Margaret Elizabeth Nicopolis; and a grandson, Mason Hamilton Stuard. They are both honies.

G: Congratulations.

S: Thank you. I had a daughter born in 1966 and a son born in 1968. They are both living.

Law school was difficult financially. My wife worked in a hospital as a bookkeeper and at various jobs. A dollar and a half an hour was her income. After my first year, I got a job working for United Telephone of Kentucky, in Lexington, as janitor at a dollar and a half an hour. I was the only White who worked with eight Blacks. The foreman was a real gentleman. He was an older fellow. The rest of the crew were all young Blacks. That's when the civil rights movement was just getting started. Being the only white, when the foreman wasn't directly involved in every job that was assigned--which he wasn't, I was the recipient of reverse discrimination, so to speak. At the time--even, at the time, I found humorous from the standpoint I would always get left with the job of cleaning the phone booths. You had to take a truck and drive around to different little towns around Lexington. What people do in phone booths would amaze you. It was a nasty job. [I had the job of] cleaning the toilets and all that, but, it was money. I needed it. So, we got through law school. We ate. I had time to study. I had fairly decent grades. I think I was twelfth in a class of eighty-four, as far as grades.

It's not the top, but I earned my grades. Studying never came easy to me. So, I graduated in 1965 and came back home to Hartford. I had written to a couple of law firms in Warren. My decision was to stay in Kentucky. There was a town where Abe Lincoln was born, Elizabethtown, Kentucky, I think where I met an old lawyer. There were only three lawyers in the town. One was a prosecutor. One was a judge. And, [there was] this old fellow. He was retiring. He offered me his practice. I often wonder how much different my life would be had I taken that. I think in some ways that would have been a pleasant life. In the smaller, rural districts of Kentucky, you had people of very similar ethnic backgrounds, and religious backgrounds, and it was a nice way of life. Even into today. I'm sure that will change, as all things do.

I interviewed with several law firms up here and decided to go with Battan, Downey, McKay. My starting salary was three hundred dollars a month, plus twenty-five percent of any collection accounts. By working those, I would probably bring in \$100 or \$125 a month extra. I was living with my parents, because economically, I was just not able to even think of getting a place. My wife became pregnant, and my first child was born while I lived with my parents. I couldn't live on that amount of income, and I had no resources to start my own office.

A position opened for a prosecutor in the city of Warren. Bill McLain, the Law Director, hired me. I worked there about two years. I received a lot of courtroom experience. I think my salary was something like seventy-six hundred dollars a year, which made me think I was in heaven. We had to move into Warren, which was part of the requirements of the job, so my wife and I took an apartment. Our second child was born while we lived in Warren. Both kids were born in Greenville, Pennsylvania, which is the hospital we always use. So were my grandchildren. That is the closest hospital to Hartford.

So, after I left the city, I went with the Downey, DePietro & Brown Law Firm. I was with them for about eight years. I left them and started my own law practice. In 1981, I stood for election to a newly created court up in Cortland, Ohio, the Trumbull County Court. I was elected to that position in the general election of 1981. In 1982, I started the court. I had to start the court from scratch, which was an interesting experience. Judge Ray J. Rice who had been the only other Trumbull County Court Judge out in Brookfield, assisted me. He was very helpful. So, I sat on that bench until January 4, 1991. Judge Robert Nader, who sat in the position that I presently hold, had stood for

election to the 11th District Court of Appeals. He had been elected. So, there was a vacancy. Under the Ohio Law, it's up to the governor to appoint a replacement. Through a very long and interesting process, which was strictly an exercise in politics, I received the appointment. I have to stand for election in the May Primaries 1992. If I get through that, then, there will be the general election in the fall of 1992. Because of the way the terms have fallen, I will have to run again in 1994 if I win in 1992, for a full term of six years. So, I have to, in effect, run two times in three years, which is horrendous, but that's the way it has fallen.

My experience on the county court bench was most interesting because that is, again, in a rural area, the northern part of Trumbull County. The make up of the populace there has changed drastically in the last twenty years. When I was a kid growing up, up through the time I came back from law school, that area hadn't changed very much. Most of the families had lived there for several generations. Some of them [lived there] back to the beginning of the state. But, with the ready availability of automobiles, and general affluence, people now, over the last twenty years, have moved out into the country. An interesting thing is many people move out to the country and want all the amenities of living in the city. Therefore, zoning has sprung up in most of the townships. Sitting on the bench in Cortland, I dealt with the nuts and bolts problems that people have in their daily lives; the daily problems of someone trespassing on somebody's property, someone's cows getting out and doing damage, domestic violence cases, and traffic charges such as drunk driving. It is a total transition to come to the common pleas bench, because up here, you handle felonies and things which have much more impact on people's lives. This has been somewhat of a sobering experience up here for the year that I've been here.

G: How do you deal with that?

S: Well, it's always difficult, I think, for anyone to sit in judgment. We all judge other people in our thoughts and criticize. But, when you are called upon to sit and decide whether somebody is going to do two years in jail or eight years in jail, or somebody has done something that the law mandates they should be sent to prison; and you have a crying wife and two or three kids crying, it is not so easy. You know the fellow is going to lose his job, which may be a very good job he'll never get back. That's difficult, I think, for me or for anyone, to sit and make those judgments. But, somebody has to make those judgments. The law is not and never will be a thing where you can put it into

a computer. If you do that, then you are going to lose the very essence of what the law is about; that is, human judgment. Every case is different to some degree.

It's an interesting thing on the way the law is going with mandatory penalties. I'm not saying I'm necessarily opposed to mandatory penalties. There is one mandatory penalty concerning anyone who misuses a firearm during commission of a felony. It has a three-year mandatory sentence which must be imposed. The judge has no power to waive that. That's one of the few things that the judge has not the power to set aside. Now, the prosecutor, through plea bargaining, does various things to get around that, but my opinion is that it is not a proper thing. If the firearm is misused, a three year sentence has to apply. I feel very strongly about firearms and the misuse of firearms, and that is based on my firm belief in the Second Amendment, being an individual right.

If you want to get into some political philosophy, this country is founded on, of course, our Constitutional Bill of Rights. That is based on Western Civilization, Western Philosophy. It's based on an honor code going back to the knights and chivalry. The men who brought this country into being were a minority of the American colonists. Probably, only one-third had any direct participation in giving this country birth. All of those men, almost without exception, other than perhaps Ben Franklin, were rather young men in their thirties, many of them younger. There is one thing that is underlying the entire concept. That is a belief in a supreme being. That is acknowledged in the Constitution Preamble and the Declaration of Independence. [There are] God-given rights. It doesn't mean you have to be a Christian or a Jew. You can be a Buddhist, as long as you believe that there is some supreme being. You can say it's an ethic. I think it's more than that. I think that there has to be a recognition of something greater than man. Somehow during our history, we've gotten into an age of relativism where we look at man as being the supreme, all-knowing, arbitrary decision maker. That doesn't square with the Constitution.

But, the Bill of Rights, as of George Mason, Thomas Jefferson, and to some degree, Patrick Henry of Virginia had to ratify the Constitution or it would not have become the Constitution. They only recommended that Virginia ratify on the assurance by Madison that a Bill of Rights would be adopted. Those men knew their history, and they knew that all governments, if given unlimited power, will abuse that power at some point. The Englishman, Lord Acton--you've heard this--I'm

sure. "Power corrupts. Absolute power corrupts absolutely." Hamilton, the Federalist, believed that if the power wasn't given to the government, you didn't have to worry about it because the government didn't have the power to use it. Well, we all know that doesn't work out, because the government always usurps power. It feeds on itself.

So, the Bill of Rights recognizes the philosophical principle that there are limits to government. It is a warning to government that we the people have not given up certain rights, for these rights predate the Constitution itself. One of those, of course, is the First Amendment. The Second Amendment says that every man, woman, or child has the right to bear firearms. You can argue that we've passed that point in our history, but you missed the point if you do that. Because if you do that, you say, I trust my government to protect me and my government to do right. Our government has always been a pretty benevolent government. But, slaves don't own weapons. It's the ultimate right of the people to protect themselves. Our government came into being because of forceful revolution. The people retain, as a God-given right, the right to do so again, if tyranny would ever prevail. That sounds antiquated and silly, because how would you take on the Army? This country is composed of the will of the people. If the people have the means and the will, they are able to change anything they want. We do it peaceably now, through the ballot box, but it is not inconceivable that that whole system could be perverted to the point where it wouldn't be possible to change it peaceably. No government sanctions have the right of revolution. But we have the right, a God-given right, remembering of course that with any right, there is a corollary responsibility. So, the Second Amendment is very important.

An interesting thing about the Second Amendment is, if you are familiar with the Fourteenth Amendment, it passed after the Civil War and is the a fountainhead for all the Civil Rights Movement. It sets forth the principles of Due Process, and Equal Protection of the Law. There were many arguments on the floor of congress before its adoption, because the Forteenth Amendment was not easily passed. There was much opposition, not only by the Southern States, but by many Northerners. Many arguments given during the debate refer to the Second Amendment, and that was one of the reasons that the Forteenth Amendment was proposed. After the Civil War, one of the first things the Southern States did after they started to get control of their states following the reconstruction, was to pass laws that no Black man could be armed. He couldn't own firearms. Many of the arguments given in favor of the Fourteenth

[Amendment] were, as it was taken as an article of faith that no one questioned the fact that everybody had a right to be armed, that laws restricting firearms to Blacks was impermissible. It was in the Bill of Rights. Those who have a different agenda than I see for our country, argue today that it is a militia right, therefore, if you join the National Guard, you have a right to bear arms. It doesn't square with history. It doesn't square with logic. You and I, every person between the ages of fourteen and sixty-two, by Ohio Law and Federal Law, men and women, are members, by law, and by common law, which predates our Constitution of the unorganized militia. There is a law in Ohio that the Government can order you up as part of the unorganized militia. It is a long History, a consistent history that begins with the philosophy of Aristotle.

G: Why don't you tell me what a typical day is like for you. Start in the morning, when you get out of bed, until you go to bed at night.

S: I usually get up about 6:30 or 7:00. I'm in here sometimes at eight o'clock, sometimes a quarter after eight. I drive in myself. It's twenty-two miles from where I live. I usually get here before anybody else, in this office. The days will be composed of. . . . On Monday, we usually have three or four jury trials set. So, many Mondays, one of those will go forward to trial. The trial may last from a day and a half to--the longest was eight days. Now, every day, whether there is a trial set or not, I have pre-trial status calls on other cases, set every fifteen minutes. If that jury trial goes forward, then I will have my bailiff, or the referee, if he's available, hear those motions, or whatever. Some things they can handle, some things they can't. Things that they can't handle have to be rescheduled. On a day when I don't have a jury trial, I handle all those. That takes up the entire day, just [those] motions. There will be trials to the court--a regular trial without a jury--where I sit as finder of fact. Criminal trials, of course, are all jury trials. That, in essence, is of what the entire week is composed. On Thursdays, we have nothing but criminal matters. That may be pleas, pre-trials, sentencings, and I have currently on my docket, cases that I am responsible for, about six hundred seventy cases.

G: What are your duties?

S: Duties are legion. If you get the code out and look at the various responsibilities that a common pleas judge has, it is kind of mind-boggling. Most of them you never perform. But there are all types of appointments

to different boards that come through either myself, individually, or three judges, sitting as a panel. A judge's duties, primarily, are: to see that the case-load, the docket that he is in charge of, is moved along efficiently; that the cases are timely heard; that people have a fair hearing in court; that people's grievances with one another, or between the state and the person are heard in an impartial tribunal. Everybody gets a fair shake. Now, that sounds rather trite, too, to say that. The judge doesn't represent the state. He doesn't represent the individual or any individual. The judge is to be the person that sees that justice is indeed blind. That it is blind to the person's political position in the community, wealth, or lack thereof. But, in the eyes of the law, we are all equal. That's what the Constitution means. It doesn't mean that we are all equal as created by God, because we're not. Some of us are more or less intelligent than others. Some of us are physically able to do things that others aren't. Equality is equal in the eyes of the law in that everybody gets a fair shake, and more importantly, that everybody has an equal opportunity to achieve what they are willing to work towards and able to achieve. That is the only promise our country gives us. Many have been led to believe there is a promise of something more. None of us have the right to expect more. We are entitled to nothing, other than what we are able to achieve. That's what this country is all about. Equal opportunity. It's the only country in the world that has ever been, where you could be born to people in total poverty and end up president, literally; or you could end up a millionaire; or you could end up in the middle class, very comfortable, and be able to provide for yourself and your family. But, government can't give to everybody, for everybody is us. It's something we have to earn. That's where many of us have been sold a bad bill of goods. Until we recognize that single truth, we are going to have many that will not enjoy the fruits of what this country can provide.

G: Two more questions. Well, three. What crops did your dad grow?

S: Wheat, corn, barley, rye, hay.

G: What were his duties in those days?

S: He was a Wireman. That's an interesting thing there. Dad had a fourth grade education. He was an orphan. Pretty much, he taught himself to read and write. He was very good in math, which I never was. My dad was very good. He'd call it ciphering. At Westinghouse, you could apply for other jobs. Of course, if it was a jobless post, you could apply for it. He applied to

become a wireman. Everybody told him, that he didn't have the education and couldn't possibly read the schematic blueprints and all that. The old man had a friend, another Kentuckian who had had some education and was a wireman. He helped my dad, and my dad became one of the best Wiremen--I understand--that Westinghouse had. These are huge transformers, transformers that you have very seldom have seen. They had special flatbed railroad cars built, big enough to haul these things out of the plant. The transformers were wired. The transformers would be tested, and if something went wrong, the wiremen went inside with waders on. Do you know what they were wading in? PCB's. My dad died at the age of 72 from Aplastic Anemia, which is where the body quits producing blood platelets. It's not considered cancer. It's not considered Leukemia. They call it Aplastic Anemia. But, of the other six men in his work group, they had what they call groups, the other five died from some form of cancer. Many of the men that worked in the mills during that period of history, ended up with emphysema. Most of them could not hear very well because of the noise.

I worked two years at General American Tank Corporation while I was in college. The noise was just deafening. I worked in a place where they insulated tank cars. Sunlight would come in. At times, you could see the air was full of pieces of fiberglass floating around. Nobody wore masks, nobody wore hearing protectors. So OSHA, although it has gone to great extremes, there was a need for it.

Under our form of government--you need unions, you need capitalists. There has to be an equilibrium. We seem to be always at some extreme. Only 50 percent of the time are we anywhere near the middle. The rest of the time. . . . You know, we've gone through this liberal thing, and now we've gone through a conservative revival. God knows where we're going now. But, America has always been a land of extremes. That's part of our vitality. To make us all equal . . . I mean virtually, try to make us all equal, and to make each of us safe from the womb to the tomb is going to rob what is America from us. We're going to lose it. We're losing it, I think. We have many different perceptions of what America should be. There are many, some of whom have much political power that think this country should be, I guess, like Russia tried to be. That is where everyone has equal amounts of everything. That's great in theory, but it doesn't work that way.



Capitalism, I heard somebody say, is based on greed. Greed isn't necessarily a bad thing if you equate greed with people wanting to improve their position in life. Call it aspiration, rather than greed. Better yet, call it incentive.

G: Have criminals gotten worse?

S: Yes. Considerably. During my life, it goes back to this whole socioeconomic thing that I allude to here. That is, you have one, possibly two, complete generations now, who have not been taught that there is absolute right and wrong. They don't think about that, I guess. It doesn't matter to them. It doesn't matter to the young as much as it does to the old. Ever. You have a legal system that has not imposed consistent penalties. Because we have those who think the death penalty is bad. We have those who think that anyone who does something evil. . . . First of all, they don't believe that good and evil exist in the abstract. They think that everything is relative. If somebody does something--if someone like Richard Speck goes into a women's dormitory and kills seven people with a knife--slaughters them, they think that there is something medically wrong with him. They have to have some way to justify the act because it is so terrible. It is thought, "He can't be sane, and he can't be responsible for his actions."

My thinking is that there is good, and there is evil. Evil is always with us. You should not ask yourself why is there evil. You should ask yourself why is there good, because evil you can do nothing about. It will always be. [It is] good that man has control over. Man can teach his children right from wrong. You can teach them morality. You can teach them that there is such a thing as a Supreme Being. Perhaps, someday, you will have to stand in torment for anything that you've not done right. So, we have, at least, two generations many of whom have none of the underpinnings that keep a society together. In their mind, there is no rational reason why if they don't have a job paying twenty dollars an hour, they should take a job making four dollars an hour. And, nobody can blame that. There's little reason why they shouldn't get a gun, go out and rob a Seven-Eleven. The morality of it doesn't seem to bother them, and the penalties seem to be little deterrent. They can live with the penalties. If you have a moral society, even if you do away with the criminal law, most people are not going to go out and rob Seven-Elevens, because they don't feel that that is the right thing to do. So, the law is not a deterrent to a moral person. A law is merely a qualification or statement of the morality of the society. No matter what society you examine throughout history,

you will always have criminals. But, where there is no retribution or no sure and swift retribution, there will be more people on the borderline between those who are moral and those who are immoral, or those who have no morality. Those on the borderline are more tempted if they don't think much is going to happen to them. That's one reason you have more criminals.

G: One last question. When you are sentencing somebody, does your attitude towards them and the way they're acting in your court . . . does that influence the way they get sentenced?

S: No. You mean if somebody makes a face at me or something?

G: Something like that.

S: No. I think no judge would be doing a very good job. . . . I'm not going to tell you that I sit up there and don't have any emotions at times. I'm human. But if I had something that actually angered me, I would not act until I had time to reflect on it and to see if. . . . I think every judge tries to. . . . That's like, a judge always has. . . . I know every lawyer in the bar, here. I have friends, some who are acquaintances, and probably a few who I don't particularly care for, personally. That would be just the height of impropriety for any of that to enter into anything that I do by way of sitting as judge. That's where justice has to be blind to things like that. It has to be on the merits of the facts. You will see cases at times, hopefully, not in my court, where it leads you to the belief that, hey, there are politics involved here, or something. But, I think, if every judge, if he takes his oath seriously at all, strenuously tries to keep anything of that nature out. My oath is to uphold the Constitution. Too many of us, as Americans, have no idea of what the Constitution is. We don't have any idea what the Bill of Rights is. Somehow, we've got all these magical rights. To understand it fully, would probably take a person, much more intelligent than myself and the study of a lifetime. It's an amazing instrument. It's a living instrument. But, it is not a relative instrument. It is a set of standards that should apply to all times. For us to say that history has changed. . . .

The Second Amendment--to bring that up--doesn't mean what it says. It means that you can say fifty years from now, when everybody is a Presbyterian or a Buddhist. . . . Well, the First Amendment has changed. The situation has changed. If we have a right to change the First Amendment, then . . . we could pass a law requiring everybody to be a Buddhist. The majority

has the power to do things, but they may not have the moral right to do things. That's what the Constitution protects. It protects the majority, and it protects the individual. There are two layers to it. Many times, those two interests are in dire conflict, but it provides for it. It allows an answer for it. But you have to have judges who follow precedent. You can't have judges who act on what they think is right and wrong. We've had a lot of that in the Supreme Court of the United States over the past thirty years.

G: Okay, sir. Thank you very much.

S: You're welcome.

END OF INTERVIEW