

Commonwealth Court of Pennsylvania
Reminiscences of The Honorable Joseph T. Doyle

May 3rd, 2012
Media, Pennsylvania

MR. SCHUCKERS: Today is May 3rd, 2012, and I'm Dan Schuckers, former Prothonotary of the Commonwealth Court. And I'm in the office of former President Judge Ted Doyle, who was a judge of the Commonwealth Court from 1982 to 2002. And he's been retired for about the past ten years, but he still practices law in the Delaware County/Chester County area.

Judge Doyle, thank you very much for being willing to sit down with me on this. And my job is to get your reminiscences. And what I will do is I'll have them typed up and sent to you. If you would make any sort of corrections or if there are any misprints or anything like that, you can certainly send them back to me. And then I'm going to have your reminiscences posted on the Commonwealth Court Historical Society website.

JUDGE DOYLE: I appreciate the opportunity.

MR. SCHUCKERS: Where and when were you born?

JUDGE DOYLE: 10/6/31. I'm so used to saying this now; October 6th, 1931.

MR. SCHUCKERS: And were you born in Delaware County?

JUDGE DOYLE: Yes, I was. My folks were from Philadelphia, South Philadelphia. That's their origins. And we moved out to the suburbs. And the family -- the extended family thought we were really high-class; you know, we lived in the 'burbs, you know, even though the town and the little community where I grew up, Collingdale, my wife, who was from Yeadon, thought Collingdale was on the other side of the tracks, which it was probably.

MR. SCHUCKERS: So you were raised in Delaware County?

JUDGE DOYLE: Yes.

MR. SCHUCKERS: Where did you go to high school?

JUDGE DOYLE: Well, I went to West Catholic for a year and transferred to St. James in Chester. We had -- St. James was newly opened for other parishes down in the Pike area, we call it. And so I transferred from West then to St. James. So beginning my sophomore year, I spent three years at St. James.

MR. SCHUCKERS: And after you graduated, did you then go immediately to college?

JUDGE DOYLE: Yes. Surprising my family, I was the first person in my family who ever went to college actually. And the choice was kind of easy as to which college to go to because LaSalle gave me a little, partial scholarship, for one thing. And I think, if I recall correctly, it was like \$500 less than tuition in Villanova, and I couldn't afford Villanova.

MR. SCHUCKERS: Okay. And what did you major in at LaSalle?

JUDGE DOYLE: I was an accounting major, and I loved it. I loved accounting. And I went to law school -- back then, it was my intention when I got out to go into the Federal Bureau of Investigation. And back then, you had to be either a lawyer or a CPA. And so the opportunity presented itself that -- well, first, I spent some time in the Army. I spent two years in the Army. I was drafted.

But the opportunity presented itself, and Villanova was just starting out as a law school, newly organized law school. And I received a full scholarship to Villanova, besides having my G.I. Bill benefits. And I was married at the time. So I got out of the Army and started law school the next week and got married soon after that. So I had a full complement right there.

MR. SCHUCKERS: What year did you graduate from Villanova Law School?

JUDGE DOYLE: 1958. I was in the third graduating class.

MR. SCHUCKERS: Now, once you graduated, you didn't go into the FBI.

JUDGE DOYLE: No.

MR. SCHUCKERS: But did you practice here in Delaware County?

JUDGE DOYLE: Yeah. I didn't go into the FBI because it meant travel. And I had met and married my wife in my first year of law school, and, you know, family and my wife prevailed. So I reached out and -- back then, you needed a preceptor. And I didn't know any lawyers. My mother took me in to see my cousin -- I won't mention his name -- who was a lawyer in Philadelphia. He was the only lawyer that we knew and asked him to be my preceptor. So he said yes; he agreed to it, because you needed a preceptor before you to go to law school. You know, it was one of the requirements.

When I graduated from law school, I went to my preceptor and asked him -- he was in Philadelphia -- and asked him if I could work for him. He said, "Yes, you could come in and work for me." I said, "Well, what will my salary be?" He said, "Well, you're not going to receive a salary; I'm not going to pay you." I said, "Well, you know, do I get car fare and lunch money?" He said, "No." And so that settled that.

And I went to Joe Glancy, who I knew as one of the first year law -- first class lawyer -- first class out of Villanova lawyers. And Joe Glancy gave me a job. And I used most of my accounting abilities, and I became the treasurer of General Design. It was an engineering company. And Joe was a lawyer, and Joe McGinnis was a lawyer. So the three of us practiced law at 15th Street, 15th between Chester and Market in Philadelphia, while running the engineering company on the side. So that's how I started out.

MR. SCHUCKERS: This would have been 1958, just after you graduated?

JUDGE DOYLE: And he was very kind to me. And then -- but I didn't like Philadelphia. My roots were in Delaware County. So -- and then Louise came along, our first-born, was born in 1960. And so I looked for a position, a job as an attorney out in Delaware County; and the opportunity there was with Ed McLaughlin, who had an office in Chester. So I found out that he had just -- his -- one of the lawyers in his office had left and he was solo. So I went to him and asked him for employment; and he said, yes, of course. So my magnificent salary was \$70 a week.

MR. SCHUCKERS: 1959, 1960?

JUDGE DOYLE: '60s, yeah. '60.

MR. SCHUCKERS: It was \$70 a week?

JUDGE DOYLE: \$70 a week, yeah. I remember sitting -- the address was 10 -- I don't know -- 10 East Fifth Street, Chester, something like that. But anyway, I pushed up the window and sat on the ledge of the library window and waved to John F. Kennedy as he went by underneath in the motorcade.

MR. SCHUCKERS: This was in the '60 campaign?

JUDGE DOYLE: In the '60 campaign. And, of course, it was John Kennedy that got me interested in politics as well.

MR. SCHUCKERS: So he was an inspiration for you?

JUDGE DOYLE: Yeah. We became energized, you know. Kennedy -- John Kennedy spoke at the dedication of the law school. And when I first went to Villanova Law School, we didn't have a law school building. So we had our classes in the old library, university library. And then at the dedication -- and I believe it was in my second year -- he was one of the speakers and -- along with Earl Warren, I think. And they had many dignitaries there.

But I remember standing in the hallway next to my wife. And as the entourage came out of the Dean's Office and walked down the hallway and then out to the front where they were going to dedicate it and lay the cornerstone, I got punched in the ribs by my wife; and she said, "Who is that; who is that; who is that?" She had set her eyes on John Kennedy. And he had this beautiful tan, you know. He had that impact on people; he really did. And as a result of Kennedy's campaign, I got involved. I became President of the Young Democrats as well as President of the Young Lawyers of Delaware County.

MR. SCHUCKERS: So you were President of the Young Democrats in Delaware County?

JUDGE DOYLE: Delaware County.

MR. SCHUCKERS: So you got involved in politics in 1960s because of John Kennedy?

JUDGE DOYLE: Yeah. And one of the lawyers that worked with me -- and we expanded our little office. And one of the lawyers that worked with me, Ed Sinclair, now deceased, but he was President of the Young Republicans of Delaware County. And we just became really close friends.

And I went to one of his fund-raising affairs, you know. When I walked in the room, there was silence. But he was a good friend. And I enjoyed the camaraderie. And the politics was second. And we brought in our precinct and, therefore, our ward in favor of Richardson Dilworth when he ran for Governor, believe it or not.

MR. SCHUCKERS: That would have been 1962.

JUDGE DOYLE: Yes.

MR. SCHUCKERS: Yeah, against Bill Scranton.

JUDGE DOYLE: Bill Scranton, yeah.

MR. SCHUCKERS: In the 1960s, did you specialize in your practice? You were located in Delaware County. Did you specialize in any particular area or just a general practice?

JUDGE DOYLE: Really just a general practice because Ed McLaughlin did everything really. And then being a young lawyer then, you just felt -- you know, that's what it was. And I remember in Delaware County, we had to practice in court. And every Friday was motions court, and everything was brought before the court on Friday morning. And all the -- almost every lawyer in the county showed up. And they would assign to the different judges the different motions and proceedings. And you were there -- also Judge Sweney was President Judge and then subsequently Judge Diggins.

But if you were there in court, they needed somebody to appoint as counsel for an indigent defendant, and he looked at you, you know -- I had four first-degree murder trials.

MR. SCHUCKERS: Because the judge looked at you.

JUDGE DOYLE: Yeah. "Mr. Doyle, I'm assigning this case to you, first-degree murder." I mean, that's how it was. And none of my clients got the electric chair, thank God. But you -- I mean, oh, my God. I forget what the fee was. I'm sure it wasn't more than \$2,000.

MR. SCHUCKERS: And then the county would pay you?

JUDGE DOYLE: Yeah, the county would pay me.

MR. SCHUCKERS: Did you have many solicitorships back then for the municipalities?

JUDGE DOYLE: No, not back then when I was just getting started in politics. After awhile, you became known. And, you know, I did have -- before I -- well, before long, I

guess you would say that I was a solicitor for the Zoning Hearing Board of Brookhaven Borough.

Now, by this time, I had moved my practice to Media with John Trevaskis, who had a very, very extensive legal practice in land use and zoning and so forth. And we represented the Home Builders Association in Philadelphia and suburbs. So I did a lot of work then in the field of land use and zoning. I became the solicitor for the Brookhaven Zoning Hearing Board. They used to be called the Zoning Board of Adjustment back then.

I also was solicitor for the Borough of Yeadon, when that changed political hands. I was the solicitor for Yeadon for, I would say, five years. Also, I was called upon by the Township of Darby to be a special solicitor for them in a couple of matters and -- involving -- well, I say land use. And I had built up a little reputation then because I was with John Trevaskis.

MR. SCHUCKERS: As I recall, back in the '50s and '60s and even the '70s and '80s, Delaware County was expanding.

JUDGE DOYLE: Oh, considerably.

MR. SCHUCKERS: Considerably.

JUDGE DOYLE: Very much so.

MR. SCHUCKERS: So land use control was always a -- something that was on the front page.

JUDGE DOYLE: And very hotly contested on many occasions. Builders would come in for variances and for approvals. And I remember walking into the township building in Broomall, and it was just -- you couldn't elbow your way up to the front. But I had to; I was the lawyer. But, I mean -- and somebody asked me, when I'd try to push aside, "Well, who are

you?" And I dare not say I'm the lawyer for the developer or builder. Oh, my God; I would have been crucified. But that was fun.

MR. SCHUCKERS: By the late '60s, I take it you started to get involved much more in politics and decided to run for the Legislature.

JUDGE DOYLE: Well, yes. I became -- I was the -- of course, I supported Bob Casey in his runs for the gubernatorial seat and governorship.

Anyway, I was the campaign manager for a very, very fine woman, my political mentor, who had been the mayor of her -- Clifton Heights for something like 20 years. But anyway, Evelyn Hess, she went to run for the seat, the House seat. And I volunteered to be her campaign manager. And she lost.

And then she -- I went to her again next time, two years later, and asked her if she was going to be a candidate again, that I would gladly be her campaign manager. And through that campaign, the first one and losing it, you know, you learn a lot. Okay. So she said no, she would not run, graciously. And she said, "I want you to run."

MR. SCHUCKERS: So this would be 1970 then?

JUDGE DOYLE: Well, 1968 actually, I guess. And I ran and lost.

MR. SCHUCKERS: Oh, in '68?

JUDGE DOYLE: The first time. I ran and lost and learned a great deal more. And so in 1970, I wasn't going to run again, but they came to me and asked. And I decided to run.

MR. SCHUCKERS: And you were victorious in 1970.

JUDGE DOYLE: Oh, yes.

MR. SCHUCKERS: And you ran, I think, three or four other times; and you were in the State House from 1971 to '79, as I recall.

JUDGE DOYLE: Yeah.

MR. SCHUCKERS: Yeah.

JUDGE DOYLE: But that first campaign that I won, there were over 24,000 votes cast. I think my majority was 68.

MR. SCHUCKERS: A landslide.

JUDGE DOYLE: A landslide. The second time, my majority was like 3500, and then it went up. It was 6,000. You learn. You learn.

But anyway, I served four terms in the House, and I think it was a wonderful experience. And then because of family considerations -- we now had two children and -- well, three. Our third child was born in 1965. And I had family obligations. And a four-year term seemed a lot more desirable than a two-year term because you never stop running if you're a two-year term House member.

So anyway, I decided to run for the Senate, State Senate. And the incumbent, Jack Sweeney, who was a Democrat, got elected with everybody in 1974, along with Bob Edgar. And I was a campaign manager in '74. And we won -- out of ten House seats in Delaware County, we won five. And we won the Congressman seat.

MR. SCHUCKERS: That was Bob Edgar.

JUDGE DOYLE: Bob Edgar.

MR. SCHUCKERS: And that was very unusual for the Democrats to win Delaware County like that.

JUDGE DOYLE: Oh, unusual? It was unheard of. I was the first Democrat that had ever been elected in Delaware County in 1970, the first ever.

MR. SCHUCKERS: In 1970, you were first. So you ran for the Senate in '78.

JUDGE DOYLE: And lost to Joe Loeper. And years later, of course, Joe always said we both made out better.

MR. SCHUCKERS: That's right. And so after eight years in the Legislature, you were appointed to head up the Legislative Reference Bureau, as I recall.

JUDGE DOYLE: That's right.

MR. SCHUCKERS: And you did that for two years.

JUDGE DOYLE: Yes. That was by a joint session of the Senate and House. And I headed the Bureau up for three years and learned a lot about the legislation and -- during my term -- eight terms in the House and my experience as director of the Legislative Reference Bureau, you get to know a lot about the Commonwealth Court also. And it was the court to which I aspired. And I think it's the greatest court in the United States.

MR. SCHUCKERS: So in 1981, there was an opening in the --

JUDGE DOYLE: In the Commonwealth Court.

MR. SCHUCKERS: In the Commonwealth Court. So you ran in 1981.

JUDGE DOYLE: Well, let me say there was an opening, but there was a judge in that seat. Madaline Palladino had been appointed to the Court.

MR. SCHUCKERS: By Governor Thornburgh.

JUDGE DOYLE: Yes. I didn't believe that the appointments entitled you to run as a sitting judge. And so I decided to run. And it was through many friends in the General

Assembly, the House, both sides of the aisle, that I was successful. On election night, I was the only Democrat in the statewide race that won.

MR. SCHUCKERS: So you were elected in 1981?

JUDGE DOYLE: '81, yes.

MR. SCHUCKERS: Right. And then you had to run for retention in 1991.

JUDGE DOYLE: '91.

MR. SCHUCKERS: And then you couldn't run for retention in 2001 because you had reached the age of 69 or 70 by that time.

JUDGE DOYLE: 70, right.

MR. SCHUCKERS: Okay. So you had two full ten-year terms on the Commonwealth Court?

JUDGE DOYLE: Yes. Then I stayed for one more year as a senior judge --

MR. SCHUCKERS: Senior judge.

JUDGE DOYLE: -- because -- well, I had work to finish up really.

MR. SCHUCKERS: You were the fifth President Judge of the Commonwealth Court. Looking back on your service in the Commonwealth Court, do you have many memories of some of the judges? There was Judge Crumlish, President Judge; Judge Craig; Judge Colins, who was President Judge; and Judge Mencer perhaps. You had served with him for about a year --

JUDGE DOYLE: Yes.

MR. SCHUCKERS: -- Francis Barry for several years.

JUDGE DOYLE: Yes.

MR. SCHUCKERS: Any memories that come back to you?

JUDGE DOYLE: Many, many memories. I enjoyed my tenure on the Court just immensely. I loved the Court. I still do. To this day, I still lapse when I talk about the Court, I say, "Well, our court does this or our court does that." You know, I still say "our court."

And oh, my Lord, yes. And Ted Rogers. Jim Crumlish was President Judge when I came on the Court and then succeeded by Dave Craig, who was a great, great President Judge. And --

MR. SCHUCKERS: Parenthetically I should add, Judge, that I recently wrote an article dealing with my reminiscences of Judge Craig. And one of the things I said in the article was that I've known two judges -- I've known all the judges of the Commonwealth Court, but I thought there were two judges who just were outstanding and could have served on any court in the United States. And one was Ted Rogers, and the other was David Craig. I thought intellectually they were just real giants in terms of development of Pennsylvania law.

JUDGE DOYLE: Yeah, that's so true. Dave Craig was an engineer at heart, you know. That was his background in the Second World War, I believe, and a navigator. But Ted Rogers, we used to kid because Ted would have the opinion written. Before the oral argument, he would have the opinion written, and he would ask questions from the opinion that he had already authored.

And politics -- it never, never, ever entered into anything that the Court did. You know, Republican, Democrat politics was completely out of the question when dealing with issues. There were judges who were more liberal and others who were more conservative, but it had nothing to do with whether they were Republican or Democrat. Some of the most liberal judges were the Republican judges. And I'm thinking of Ted Rogers as one of them.

MR. SCHUCKERS: My reflection of Ted Rogers was that he was Republican but he was an old-fashioned liberal Republican.

JUDGE DOYLE: Liberal Republican.

MR. SCHUCKERS: If you came to him with a good constitutional argument which favored the claimant, he would rule in their favor.

JUDGE DOYLE: And so during my tenure and up until the time I left the Court, politics played no part in any decision, regardless of what the decision was. As a matter of fact, looking ahead, you know, when you asked me, you know, what -- what opinions that I remember, you know, were significant, one of them was the Jubelirer opinion. But we'll get to that later.

MR. SCHUCKERS: Do you have any memories about Genevieve Blatt, who was on the Court from about 1971 for about 15 years?

JUDGE DOYLE: Yeah, I surely do. She was a gracious lady. And as a matter of fact, I still remember that my very first panel that I sat on was with Gen Blatt. And you just mentioned his name...

MR. SCHUCKERS: Glenn Mencer?

JUDGE DOYLE: Mencer, Glenn Mencer. And I remember one of the cases that was argued was a teacher case. And I forget the issue now; but I do recall saying to counsel, I said, "You want to use this particular statute as a sword instead of the shield that it was meant to be." And because -- I don't know; because I guess by experience in the General Assembly, it just came out. And statutory interpretation is, I guess, 90 percent of what we do.

MR. SCHUCKERS: Crucial.

JUDGE DOYLE: Yeah, it's crucial.

And so when we got -- after the argument session, we went into our conference then. And I remember Gen saying, "Well, apparently we have someone that knows something about the law in this area." And oh, she was a gracious lady. And she got her start under Davey Lawrence.

MR. SCHUCKERS: In Pittsburgh back in the 1930s actually.

JUDGE DOYLE: And was encouraged to run and was the first female elected to a statewide office, I believe.

MR. SCHUCKERS: Yes.

JUDGE DOYLE: Yes. And the other judges, you know, Glenn Mencer, I had the honor of presenting him with a -- oh, I think it was -- it wasn't a trophy, but it was a ball, a Lenox ball.

MR. SCHUCKERS: In 2000, when we had our 30th anniversary of the Commonwealth Court.

JUDGE DOYLE: 30th anniversary, yeah.

MR. SCHUCKERS: Of course, you were with him for about a year. He then went on to serve on the federal bench in Western Pennsylvania.

JUDGE DOYLE: Yes. I treasure my days on the Commonwealth Court; I really do.

MR. SCHUCKERS: Is there anything about the type of cases that the Commonwealth Court has or the type of jurisdiction that it has that you really enjoyed?

JUDGE DOYLE: Well, yes. Because of my experience in the General Assembly, the House, and then also as Director of the Legislative Reference Bureau, I became aware, acutely aware of the importance of the Court. And I wanted to run for a seat on the

Commonwealth Court because of their jurisdiction. It tracked the experiences that I had as an attorney, land use and zoning and municipal law; and it also had a fine reputation. It was created out of the '68 con con.

MR. SCHUCKERS: Constitutional convention.

JUDGE DOYLE: Yeah, constitutional convention.

But they chose -- it's amazing, but they designated and chose the first seven judges on the Court. And it was an amazing feat how that turned out. They made sure that it was one Republican, one Democrat, one Republican, one Democrat. Judge Bowman was designated the first President Judge, and then Judge Crumlish was designated second in seniority so that he would become the next President Judge.

And back then, still to this day today, courts with seven or fewer judges, it goes by seniority, the President Judge. But courts over seven elect. So when I was in the House and I was chairman of the -- I was on the Law and Justice Committee and chairman of the Sub-Committee on Courts and it came up to -- the bill came up and was presented to us, we had a hearing on it to expand the Commonwealth Court by two judges.

And so why was this necessary? Well, at the time, they had -- it was a workers' comp situation where some appeals from the Workers' Compensation, WCAB, Board, rather, went to the Common Pleas Court. So they decided that it would be better if they were sent all to the same court so that what was created was a body of law which was consistent. So that meant that the Commonwealth Court was going to get all these additional cases to hear and decide.

So I was chairman of the Sub-Committee on Courts. Judge Bowman was in the back -- then they allowed visitors to stand in the back of the House. But anyway, judges were not in good standing with or were not liked that much by the General Assembly. And I recall

that I had to get out of my seat and walk up and down the aisle and lean over and persuade some of my colleagues to vote for this bill. So I finally got 102 votes. And the bill passed, and the Commonwealth Court then had nine judges. And little did I believe then that I would one day wind up in one of those slots.

MR. SCHUCKERS: As I recall, that was about 1977 or '78 and Judge Craig and Judge MacPhail were selected to be on the Commonwealth Court. Judge MacPhail served for ten years, and Judge Craig served for about 15 or 16 years, as I recall.

JUDGE DOYLE: Yes. I didn't know who they would appoint. It didn't matter to me who it was.

MR. SCHUCKERS: As I recall, Governor Shapp in 1977 or '78 appointed one Democrat, which was Dave Craig, and one Republican, which was John MacPhail.

Do you remember much about the Commonwealth Court's original jurisdiction? I think it's one of the unique factors in the development of the Commonwealth Court. About 10 percent of the cases are in original jurisdiction, which means that it's a trial court.

JUDGE DOYLE: Tell me about it!

MR. SCHUCKERS: So you had many cases involving the original jurisdiction of the Court?

JUDGE DOYLE: Positively. I'm there right now. You know -- we -- yesterday -- I represent a client, the Chester Community Charter School, and two weeks ago argued before the court en banc in Pittsburgh an original jurisdiction action, 135 MD, Miscellaneous Docket, 2009, and followed by the second case, 632 MD 2011. And yesterday there was another hearing in the Commonwealth Court's original jurisdiction before Judge Pellegrini.

MR. SCHUCKERS: The President Judge.

JUDGE DOYLE: Just yesterday. That was Tuesday. Well, Judge Pellegrini ordered the entire board of school directors to appear before him today in Harrisburg. I'm waiting for the result of that.

MR. SCHUCKERS: So you're obviously familiar with the Commonwealth Court's original jurisdiction. And since you retired in 2002 and after you were senior judge for a year, you practiced and you've had several cases, I believe, in the Commonwealth Court involving the charter schools. Am I correct on that?

JUDGE DOYLE: Yes. That is correct. And we had -- well, we took an appeal in the Walter Palmer Leadership Learning Charter School. That was an appeal from a decision of the Secretary of Ed.

MR. SCHUCKERS: So that would be an appellate jurisdiction matter.

JUDGE DOYLE: Right. It wasn't -- but we went before, in the original jurisdiction, a duty week judge, Judge Quigley. And he ordered that we receive -- my client receive -- I think it was \$770,000. And, of course, PDE took it to the Supreme Court, preliminary injunction; and they reversed on the basis that the wrong standard was used. That's quite a shame. But, yeah, even in the ones I believe that I got -- I was successful in getting \$1.3 million for my client in Leadership Learning.

MR. SCHUCKERS: So you've had cases in the Commonwealth Court in the last eight or nine years both in its original jurisdiction and in its appellate jurisdiction.

JUDGE DOYLE: Yes.

MR. SCHUCKERS: When you were on the bench, did you have many cases involving original jurisdiction of the Court?

JUDGE DOYLE: Well, you take your turn as duty week. And there's a couple that I remember. The one I remember most was the Harrisburg Area School District. They were not deputy sheriffs but parole officers, and they were juvenile parole officers. And it was their job to periodically check up on their clients, we'll call them, and many of whom were in the Harrisburg schools. They had been charged and found guilty as juveniles, but they were nonetheless back in school.

So the probation officers, I guess they were, they wanted to come into the schools. But they carried -- there was a law passed that allowed them to carry sidearms, firearms. So they wanted to come into the schools with their weapons, and the school district said, oh, no. They went back to the court for an order. And the judge, the common pleas court judge in Dauphin County who heard the case, was a former state police officer. And he entered an order, and he said you shall be allowed in.

And then when they appeared to go in, the superintendent of schools and they were on the school steps; and it was reminiscent of something out of the deep south when they would not let the black children into the white schools. So I was -- I kept it. And finally there were changes in the school district; the directors, I believe. But they got new counsel, and the new counsel was Roy Zimmerman.

And so Roy came in representing the school district, and he was the one through the exercise of reason that helped to settle the case. And it was settled on the basis that they were allowed to come in the school with their weapons and they would go right to the superintendent's office and leave their weapons there and that the ammunition for those weapons would be kept in a different place. And so it worked out well.

MR. SCHUCKERS: So you handled that as a duty judge. And you mentioned the duty judge system at the Commonwealth Court, which is essentially that every judge sits for a couple weeks at least every year as a duty judge Monday through Friday. Anything that comes in, the duty judge handles it.

You mentioned that case settled. I think you were instrumental in establishing the mediation program which has been at the Commonwealth Court the last 12 or 13 years.

JUDGE DOYLE: Well, I looked at that as being the accomplishment that I'm most proud of, is that before I became President Judge, I had thought of the mediation program. And Judge Smith came to me and said, "We should do it now." And I then asked Judge Leadbetter to be with us also as an ad hoc committee of three to examine it.

So the three of us, mostly through the hard work of Judge Smith and her finding of facts in the other states what the other states had, what type of mediation programs existed, but we went and studied those statistics. And also we went down to the Third Circuit and talked to the person in charge; I forget his name now. But we also -- the best of it was that we went to Washington and had a conference with the people who ran the mediation program for the appellate -- the appellate court for the -- not District of Columbia -- I guess it is; the D.C. Court of Appeals I think it's called. And they had a mediation program also. And they had lawyers that would be the mediators. So on the way back on the train, the three of us sat and talked. And we decided then. The one thing that we found out, the principle that impressed us most was that the most successful programs of mediation were mandatory programs and not voluntary programs so that the Court would put you -- put the cases into the mediation program and didn't rely on the attorneys volunteering.

So it was on the way back from Washington on the train that we settled it, what we were going to do. And now this is back -- I don't know -- in the summer --

MR. SCHUCKERS: This was about 1999 or 2000. Does that sound about right?

JUDGE DOYLE: Well, it was the year I became President Judge. It was in the spring, 2000. It was in the spring of 2000. And knowing that I was going to become President Judge, you know, I wanted a lot of this stuff in order.

So when I did become President Judge in September of what, '99, that was the first order that I signed. And it's still in our IOPs, Internal Operating Procedures.

MR. SCHUCKERS: It's still an ongoing program and is able to --

JUDGE DOYLE: Very successful.

MR. SCHUCKERS: Very successful. Able to mediate a lot of the cases in various areas, particularly, I think, in workers' compensation. I think a lot of those cases get to the Commonwealth Court --

JUDGE DOYLE: No, that's the one difference. What happens was this -- and we have a -- it continues to this day. The first mediator was Emil Narick, Judge Emil Narick. And, of course, he had been a referee for the independent colleges. He referred the games at Penn State against Notre Dame and so forth. He was a strong individual; I mean, strong-willed but most congenial person. But he could make his wishes known, put it that way, to attorneys.

But anyway, he proceeded to be the first mediator of the Court. And it's to his credit that he did such a magnificent job in establishing the procedures and so forth that we had such a successful program. Back then, I didn't know what to expect. I thought 30 percent success ratio was -- would be pretty good. But we started coming in with 45 percent, 43 percent.

And then when he passed on, there was Judge Mirarchi, who took over. And presently it's Judge Friedman.

MR. SCHUCKERS: Judge Friedman.

JUDGE DOYLE: Yes. And it continues. The success ratio of the mediation program hovers between 45 and 50 percent. Sometimes it gets up to 50 percent.

And what was the question that you asked though?

MR. SCHUCKERS: I was talking about workers' compensation. A lot of workers' compensation cases seem to get mediated, and the success rate is fairly high, I thought, in that area.

JUDGE DOYLE: Well, yes, it was first -- that was the idea. But when I left the Court, I had a call from an insurance company, a big insurance company, and they had in mind of employing me as a mediator before it got to the court. But what happened was that the Workers' Comp Bureau initiated their own mediation program.

MR. SCHUCKERS: And I think some other agencies have done that too.

JUDGE DOYLE: Yes.

MR. SCHUCKERS: That increasingly, administrative agencies recognize that in some of these cases, it would just be cost-effective for everybody to have a mediation program; not just the parties, but the agency itself.

JUDGE DOYLE: Yes. So that's what happened there. I don't know who the mediators are in the workers' comp, whether they switch off and take turns or not; I don't know. But in any event, I think it's successful. I'm not sure -- I haven't looked at the statistics -- exactly what percentages today the mediation program for the Commonwealth Court has with regard to the different types of cases which come before it. I don't know.

MR. SCHUCKERS: Judge, one of the things I wanted to ask you about is something I think you're very proud of and that is that you spent I think two summers down in Virginia at the University of Virginia Law School getting an LL.M.

JUDGE DOYLE: Yes.

MR. SCHUCKERS: Can you elaborate on what that program involved?

JUDGE DOYLE: It was, oh, incredibly instructive and a happy experience. There are 30 -- the program consists of the -- you file an application first. But it was a program for appellate judges throughout the United States, including the federal court. Once in a while, for whatever reason, there was a trial judge involved, but the vast majority of judges in the program were appellate court judges from all over the United States. And I got to know some of them very, very well. As a matter of fact, one of them was the judge who was shot and killed in Arizona, Judge John Roll.

MR. SCHUCKERS: Just about 16 months ago, I think.

JUDGE DOYLE: Yes. And we became very close. His roots were in Pittsburgh, believe it or not. They went to -- his parents went to Arizona because of health reasons. And I felt so sorry for Maureen.

But anyway, the two years we spent -- two summers, rather, we spent in classes down at the UVA, we were, first of all, housed in the football players' dormitories, which were exceedingly nice. (Laughter.) They were not sumptuous, but they had, like, two bedrooms and a kitchen and a dining area and so forth. And they enabled us to bring our families down, so during the summer, you didn't have to miss your families. And my wife, Betty, and Becky, our daughter, came down and stayed with me in the dorms and got to know the other kids from the other judges. And it was a most pleasant experience.

But during the day, the instructors were from the university mostly. But then they had -- for instance, in comparative law, we had a judge, an appellate court judge from England, who explained the British system. And that was really interesting. This guy was sort of authentic; he was a fighter pilot in the Battle of Britain. And most interesting. Then we had comparative law with Russian law too, and that was most interesting.

And then after the two years, we had to submit a paper, a thesis. And I remembered how my thesis was one of our opinions and Judge Craig was on the other side. And it involved -- the factual situation involved the Philadelphia Electric Company taking water from the upper reaches of the Delaware River and piping it over to a lake in Bucks County or Montgomery County and increasing the volume in the lake and then extracting the water from a pipe at the bottom of the lake and taking that water over land by pipe and discharging it into the upper reaches of the creek above Graterford, not -- Perkiomen Creek.

The issue was the people downstream who had riparian rights on either side of the creek. And one was a farmer who owned land on both sides of the creek; and he said this water increased water flow, he couldn't get his horse and wagons across the creek. And here we have -- oh, the reason why the Philadelphia Electric Company wanted to -- needed this extra water was to send it down the creek to the nuclear generating station.

MR. SCHUCKERS: At Limerick?

JUDGE DOYLE: At Limerick. So you looked at the law of riparian rights, and Pennsylvania grew out of an agrarian economy. All the law that was in existence was from that era, and never did anyone envision that the water would be needed to cool down the towers in a nuclear generating facility.

So anyway, it -- I forget the other judge, but we had -- I wrote the majority, and one concurring opinion and one dissenting opinion, and that was Judge Craig. And the three of us, between the three of us, we really laid it out, what the law was, where it came from. But that was very interesting for me. So that was the basis of my thesis.

MR. SCHUCKERS: So while you were at Virginia, you were able to expand upon that decision, I take it.

JUDGE DOYLE: Well, I was able to get my LL.M. anyway.

MR. SCHUCKERS: Riparian rights is something you don't hear much discussed in Pennsylvania these days. But it's something -- you usually think about water rights out west. But you're right that the early riparian rights cases, some of them do come out of Pennsylvania back a hundred, hundred and fifty years ago.

JUDGE DOYLE: Yes. Anyway, that was the experience down in Virginia. You lose contact -- since the program has been disbanded, you kind of lose contact with your buddies that were in the program. And one of them became -- one of them -- it was Bob Benham, and he became the Chief Justice of the Georgia Supreme Court. And another one, who was a judge from Maine who was on the Supreme Court of Maine, he went on the federal bench. And -- well, no sense going into that. But I'm looking a picture directly across from me now with the picture of the group.

MR. SCHUCKERS: You have very fond memories of that program.

JUDGE DOYLE: Oh, yes. Oh, yes.

MR. SCHUCKERS: Judge, you mentioned the riparian rights case which was in front of you. Any other cases that come to mind during your 20-year stay at the Commonwealth Court?

JUDGE DOYLE: Well, I went -- try to go back, I suppose, and recollect some of the more important -- what I think is interesting, sometimes important, but sometimes more interesting. And I guess one of the most -- I think the most important case that I ever wrote was the Devlin decision.

And this was the case where the City of Philadelphia, being a home rule charter community, passed a series of ordinances which gave rights to life partners by allowing partners, members of the same sex, male or female, members of the same sex to register in the municipality in City Hall. And they also allowed them -- exempted them from payment of the real estate transfer tax the same as would be the situation if two people were husband and wife, along with other benefits.

MR. SCHUCKERS: So this was done by city ordinance. Is that right?

JUDGE DOYLE: This was done by city ordinance or three or four city ordinances and in spite of the fact that state law stated that the Defense of Marriage Act stated it is hereby declared the strong and longstanding public policy of this Commonwealth that marriage shall be between one man and one woman, a marriage between persons of the same sex which was entered into in another state or foreign jurisdiction, even if valid where entered into, shall be void in this Commonwealth. This is the state law.

MR. SCHUCKERS: Now, did this come to the Commonwealth Court by appellate jurisdiction or by original jurisdiction?

JUDGE DOYLE: Appellate. I'm certain it was before the court en banc. And I was President Judge when it was argued; I was a senior judge when I wrote and published the opinion. But we struck down the ordinances because they -- the state had preempted --

MR. SCHUCKERS: Preemption issue.

JUDGE DOYLE: Preemption issue.

MR. SCHUCKERS: Yes.

JUDGE DOYLE: As well as on other grounds. But the Supreme Court and our Court -- you know, it's the one opinion that I'm most proud of. And Judge Colins wrote a concurring opinion, which I agreed with. He said, well, you're discriminating against heterosexual couples; if a -- if a woman and a man go and cohabit together, live together, you're not giving them the same rights that you're giving to men or to women. And he was right. And I pointed that out; I don't disagree with that. But that was never an issue. It was never brought up as an issue, so we didn't address it. We have the doctrine of waiver.

MR. SCHUCKERS: And what did the Supreme Court do with it?

JUDGE DOYLE: Well, I think that they essentially copped out. They upheld most of it.

MR. SCHUCKERS: Most of the ordinance or most of the decision?

JUDGE DOYLE: No, most of the decision. Ultimately we conclude only the employee benefit provisions can survive this inquiry. So they really, instead of grabbing the real issue of whether or not it was preemption, they just backed out --

MR. SCHUCKERS: Sidestepped the whole thing?

JUDGE DOYLE: Yeah. I really take issue with the Supreme Court over this opinion. But for the most part, the Supreme Court said that it was not a marriage, even though the ordinance said it was a marriage. Life partners had the definition of marital status to merely supplement the terms single, divorced, widowed, and so forth. It was the Supreme Court's order. While we acknowledged certain special similarities between marriage and life partnership, we simply do not agree there are sufficient -- they are sufficient to establish that the city has

legislated in the area of marriage here, which I take offense at. I really do. Everybody knew what they were doing. Everybody there who argued the case realized what it was about. But, for me, I mean, Devlin was, I think, a very important case.

MR. SCHUCKERS: The most important case that you had in your 20 years?

JUDGE DOYLE: Yeah.

MR. SCHUCKERS: Any others that jump out at you?

JUDGE DOYLE: Well, some fun ones. When Bob Jubelirer, who was the President Pro Tempore of the Senate, was appointed or by operation of law became the Lieutenant Governor when the Governor went to Washington, it was --

MR. SCHUCKERS: Governor Ridge.

JUDGE DOYLE: Governor Ridge went to Washington as head of Homeland Security. And then I think it was Schweiker --

MR. SCHUCKERS: Schweiker. Lieutenant Governor Schweiker --

JUDGE DOYLE: Became Governor.

MR. SCHUCKERS: -- became Governor.

JUDGE DOYLE: And then according to the Constitution, the President Pro Tempore of the Senate would move into the position of Lieutenant Governor. Well, that was challenged. And it was challenged. One of the challenges was by Senator Fumo. I think Senator Fumo, he was there as -- filed an amicus brief; I'm not sure.

But anyway, what we held was -- it was an en banc court. What we held was that there's no prohibition in the Constitution for the same person to be at the same time Lieutenant Governor and President Pro Tempore. Now there is a provision in the Constitution that he could not be Governor and President Pro Tempore --

MR. SCHUCKERS: A member of the Senate at the same time.

JUDGE DOYLE: A member of the Senate.

There's no prohibition about being Lieutenant Governor and being a Senator. Right. And it does say clearly "Governor."

And I had a lot of fun with the case because it sent me back into some of the process to which the Constitution was adopted and the speeches of why these things or why these particular sections of the Constitution were amended as they were. And I think it was an important decision, and I think it was a great decision -- I mean great as far as I was concerned that we were able to do that.

MR. SCHUCKERS: Now, did that get to the Pennsylvania Supreme Court?

JUDGE DOYLE: No.

MR. SCHUCKERS: It was never taken up?

JUDGE DOYLE: No. Judge Kelley concurred. Judge Smith filed a dissenting and concurring opinion. But, no, we were united.

MR. SCHUCKERS: Yes.

JUDGE DOYLE: Now, this was before Judge Cohn Jubelirer was on the Court.

MR. SCHUCKERS: Any other cases that you remember fondly?

JUDGE DOYLE: Well, I don't know.

MR. SCHUCKERS: Were there any type of cases that you didn't care for? I think a lot of things that happens with judges -- workers' compensation cases at one point took up something like 28 or 30 percent of the Court's decisions. And I think some of the judges got very tired of reviewing those cases.

JUDGE DOYLE: Well, there was another case that -- I have a good friend. We kind of grew up together. He was in my wife's class in grammar school. And he lives where I live now, in Media. Great friend.

But anyway, he's a funeral director. What happened was that they challenged -- there was a conflict in the law, and they adopted a law which dealt with prepaid funeral and internment. And they established before this that funeral directors, if they had received money for prepayment or for services, that they had to keep a hundred percent in escrow. But this law allowed them to put only 70 percent in escrow. So there was a conflict in the laws.

So I held -- and I think this was -- I'm not sure if this was a duty week. But there's no panel. It's a CD number; it's appellate jurisdiction. But it's a single-judge opinion. I guess it came up on cross motions for summary disposition by way of a motion for summary judgment, a declaratory judgment.

So I held that they were bound to put a hundred percent away. And I think it was the right decision, because you get some unscrupulous funeral director. And this is people -- this has been -- this has happened, you know; the same way with going away on trips and things like that. Their money is stolen by the people that they can most trust. I remember the decision very well. I remember that I had one angry friend, the funeral director.

MR. SCHUCKERS: Right.

Did you enjoy the jurisdiction of the Commonwealth Court? You mentioned three cases: One dealing with a Philadelphia ordinance, one dealing with the funeral director, and the other dealing with the role of the Lieutenant Governor vis-à-vis the Senate.

JUDGE DOYLE: Yes.

MR. SCHUCKERS: Did you enjoy that type of jurisdiction?

JUDGE DOYLE: Oh, yeah. That's why when I was in the General Assembly and thought back then that someday I might like to run for the Court.

MR. SCHUCKERS: Sure.

JUDGE DOYLE: I actually -- I was approached to run for the Supreme Court at one time. But this was after I was on the Commonwealth Court, and I respectfully declined to do that. Who knows.

MR. SCHUCKERS: One thing I should mention for the historical record -- and this is just my view -- is I think what you have at the Pennsylvania Supreme Court now is seven justices who are capable but none of their backgrounds is in administrative law. They all seem to have gone through -- have a great understanding of criminal law and great understanding of matters which were in front of the Superior Court. But none of them came from the Commonwealth Court and really understand administrative law.

JUDGE DOYLE: It's true. And it's also incongruous that the Supreme Court of Pennsylvania is still seven judges and the Chief Justice is determined by seniority.

MR. SCHUCKERS: Seniority?

JUDGE DOYLE: Yes. And had I run for the Supreme Court and won, I would have absolutely been Chief Justice one day.

MR. SCHUCKERS: If you had won.

JUDGE DOYLE: I would have won.

MR. SCHUCKERS: Now, have you maintained your interest in administrative law and public law since you left the bench eight or nine years ago?

JUDGE SCHUCKERS: Well, yes, I have. When I first left the Court, I joined the firm of Saul Ewing. It's a large law firm in Philadelphia. They had an office in Chesterbrook; I don't know if you know where that is.

MR. SCHUCKERS: Out near West Chester.

JUDGE DOYLE: No. No. It's up near King of Prussia, that area. But it was right off 202, and my home is right off 202. And my wife was not well; she was ill at the time. And I could get home in five minutes. So I joined Saul Ewing. So after several years and after she passed on, I just determined I would be happier working and coming back to my home county, Delaware. And, of course, Vince Mancini, who is an old friend -- he was a law clerk to Judge Rogers; did you know?

MR. SCHUCKERS: Ted Rogers, back in the late '70s, I believe. Yes.

JUDGE DOYLE: Yes. So with my background with Trevaskis -- and that law firm became Trevaskis, Doyle and Kelly, the firm -- and then with that natural inclination or interest.

And that's Vince's specialty. He's chairman of the PBA section on real estate, and he also is chairman of the Delaware County Bar Association's section on real estate. He runs monthly a breakfast meeting and lecture series that we get not just lawyers but real estate brokers and accountants to attend. He has an extensive practice.

Although I have to be honest and say that I'm not doing much of that work at all, quite frankly. That's what caused me to contact Vince. But since I have been -- since I transferred from or left Saul Ewing and came here, I have just been enveloped in the work that I do, separate and apart from any real estate and land development. I find myself just with a full plate of appellate practice with the clients that I have.

MR. SCHUCKERS: But not necessarily in the real estate area --

JUDGE DOYLE: No.

MR. SCHUCKERS: You don't do the real estate anymore.

JUDGE DOYLE: No, unless I take up a case that they have -- so it's not real estate really that occupies most of my time now. And I can't -- I can't put in a lot of hours, especially in the evenings. And that's another physical fact.

MR. SCHUCKERS: I think in real estate, you often have to do that with various meetings in the evening and that sort of thing.

JUDGE DOYLE: Positively. Zoning hearing boards meet in the evening. The commissioners and supervisors, they meet in the evening and so forth. So I haven't done a great deal of that for --

MR. SCHUCKERS: But you've been here in Media, what, the last three or four years; that would be about right?

JUDGE DOYLE: Yeah.

MR. SCHUCKERS: And does your practice to some extent involve the charter school movement and a lot of charter school litigation --

JUDGE DOYLE: They're my biggest --

MR. SCHUCKERS: -- with the Department of Education?

JUDGE DOYLE: Yes. They're my biggest clients. And actually my clients are the law firms -- or some of the law firms -- or one of the law firms that engages me on behalf of the client are the solicitors for the charter school organization -- statewide charter school organization. So we work well together. I mean, it's a good relationship, and I enjoy it. And I

see the difference between the charter schools and how they are educating the children and the children that are going to the public schools.

Now, charter schools are public schools. But they are chartered, and they are under the governance of not the school board but their own board of trustees. And that makes a big, immensely large difference in some of the areas, Philadelphia and Chester. So we also have -- yes, that is -- takes up most of my time these days.

MR. SCHUCKERS: Great. Well, Judge, thank you very much. You've been an outstanding public servant for 30 years -- 21 years on the Commonwealth Court, 8 years in the Legislature, 2 years in the Legislative Reference Bureau. And on behalf of the Commonwealth Court Historical Society, I want to thank you for taking your time and reminiscing. And I'll have this typed up, and we'll send it down to you and see where we go from there.

JUDGE DOYLE: Well, Dan, it's a pleasure seeing you again and talking to you again. And it's an honor that I had to become the President Judge of the Commonwealth Court. And I'll say it openly; I don't care if the Supreme Court -- but I believe that the Commonwealth Court is the best appellate court in the United States.

And when I was at the University of Virginia, in their program, of course, I had to explain to them -- none of the other states have a court, an appellate court like Commonwealth Court. So I had to explain to my colleagues at UVA what the Commonwealth Court was. And it was most interesting to see their reactions and how even different they are, the different states, of how they select their appellate court judges, whether it's by a Blue Ribbon Missouri type of selection committee or they're elected -- in Texas, they're elected every eight years, I believe it was back then, and they go out with hammers and tongs at one another. You know, it's political down there.

MR. SCHUCKERS: The only other court in the country that I'm familiar with which has a similar jurisdiction to the Commonwealth Court is the Federal D.C. Circuit Court of Appeals.

JUDGE DOYLE: Yeah, exactly. I'm very proud to have served on and led the Commonwealth Court as President Judge.

Thank you, Dan, for coming down. I know the work that you put in for the historical society.

MR. SCHUCKERS: I appreciate that. It combines my interest in history with my legal background. I enjoy doing that.

JUDGE DOYLE: I think -- you've been trying to get me to sit down for a year and a half or more.

MR. SCHUCKERS: Thank you very much, Judge.

(This concludes the interview.)