

Interview with Gary Stein

Michael Aron: It's now the afternoon of January 22nd, 2009. We're at the Eagleton Institute of Politics at Rutgers University for the Rutgers Program on the Governor. We have with us this afternoon Gary Stein. Gary was the director of Policy and Planning in Tom Kean's first term for three years and so the governor nominated him to the State Supreme Court where he then went on to serve for quite a while. How did you and Tom Kean first meet?

Gary Stein: I'm not precisely sure we possibly met at Fort Dix but neither one of us is certain of that and we've never crosschecked our periods of service there. What we do know is each of us in the late '50s, had enlisted in the National Guard, the New Jersey National Guard and the law at that time allowed you to serve six months of active duty in the army and then have a reserve commitment for five and a half years. And the reserve commitment included two weeks every summer at the New Jersey National Guard's summer camp so to speak at Camp Drum in Watertown New York. And we both remember we were there at the same time in the late '50s, not sure about the year; probably around 1959, 1960. And we were both assigned by the National Guard during summer camp duty, to the Public Information Office, which had to do with reporting the events of the National Guard on summer maneuvers. I think we were both there the year that Governor Meyner's wife had difficulties exiting a tank. And at my Supreme Court swearing in, Governor Kean recalled that there was an occasion that we picked up cigarette butts together one morning and wondered if life didn't have something better in store for each of us. But we were both lowly enlisted men, probably Private 1st Class or perhaps Specialist 4th Class, which was the equivalent of a corporal. And I always tell the story about Governor Kean having his combat boots outfitted with zippers so he'd have less difficulty getting to first formation on time. At the time, during the year, I was working at a New York City law firm at 29 Broadway. And I was in my mid 20's. I went to work there in 1956 at the age of 23. The Governor at the time was working around the corner from me I think on Wall Street for the family investment banking firm that existed then. I don't think it exists any longer. It was called Kean Taylor. And we discovered that we had a common interest in government and public affairs. And so, between military chores and cigarette butt policing; things like that, we got to talking and discovered we had common interests. And so when we got back to the city after our first summer camp, we had lunch a few times and talked and a friendship has developed that has lasted these many years.

Q: Where are you from?

Gary Stein: I was born in Newark. From the age of seven on, grew up in Irvington. Attended public schools in Irvington. Governor Kean's father was my congressman or my parents' congressman when I lived in Irvington. Went to Irvington high school, graduated in 1950. And after Irvington high school, I went to Duke undergraduate school and Law School. Graduated the law school in 1956 and that's when I went to the New York law firm, which was then called Kramer, Marx, Greenly and Bacchus. It's a predecessor to the firm Windels Marx that's around now. Tony Coscia, the chairman of the Port Authority is a partner in Windels Marx. That firm is a successor to the firm I started with.

Q: What was your family background?

Gary Stein: I have one brother who's 12 years younger who is a lawyer and was a partner at Greenberg Traurig in New York until a few years ago when he became House Counsel for Duferco, a Swiss based steel company. And Robert now divides his time between Lugano, Switzerland where he spends half the month and New York City, where he lives with his wife Gail. He has an office at the same law firm I'm counsel to, which is Pashman Stein. We just rent him an office as a courtesy because he's a relative of the managing partner, my son Michael. And so he's my only sibling. My dad, most of his working life was in the appliance business. Owned his own appliance store in Millburn until the mid '40s and after that was an appliance salesman for some large appliance chains like Two Guys from Harrison. My mom, after many years working as a salesperson in women's clothing, opened up her own clothing store in Newark in the early '60s and then relocated it to Millburn and was running that store until she died in 1976. My dad passed away in 1984, regrettably a year before I got on the Supreme Court. But I spent my childhood in Irvington and have very fond memories of a very simple upbringing in a lower middle class blue collar town that was a suburb of Newark. Worked most of my high school years in Hillside and had no particular

connection either to the law or to government in those formative years.

Q: What do you think when you pass through Irvington today?

Gary Stein: I don't pass through often but I know from what I hear and what I read that Irvington is struggling. When I was on the court of course, we were very familiar with the challenged condition of Irvington's public schools and it was towns like Irvington that had lost their tax base; a tax base that was quite healthy when I was a young boy. But towns like Irvington that lost their tax base that inspired our court to take such aggressive action to try to increase funding for public schools in the poorest communities in the state.

Q: Who was the first New Jersey governor that you recall?

Gary Stein: I suppose the first name that I would recall is Governor Driscoll who was governor when they built the turnpike and the parkway when I was a kid.

Q: When you got to know Tom Kean, it was around 1959?

Gary Stein: Late '50's, late '50's; yeah.

Q: You knew that he came from a prominent family?

Gary Stein: Not for a while. I mean certainly not when we met in the barracks. He was just another enlisted man. Eventually I learned that it was his father that was the Congressman. Tom was kind of a rumpled looking soldier in those days; rumpled fatigues and not a lot of spit and polish. He was just like any other guy in the barracks and I don't know at what point that recognition came to me or whether he told me but I didn't know it initially.

Q: When did you first get interested in politics and government?

Gary Stein: Probably in law school, Michael. I was in law school, in a southern law school during the years that the Supreme Court decided Brown against the Board of Education. There were students in my law school class with deeply formed views about segregation and so it was a very interesting time in history. And so my interest in government I think was piqued in my law school years and has continued ever since.

Q: Did you have any political heroes back then?

Gary Stein: Let's see. I followed the career of Aide Fortas, who was then a named partner at Arnold, Fortas and Porter because in those days, as counsel, he represented the defendant in the famous right to counsel case [Gideon v. Wainwright, 372 U.S. 335 (1963)] , , the name of which is escaping me. He also made some law in a case involving a mentally challenged defendant named Durham [Durham v. United States , 214 F.2d 86, US Court of Appeals DC Circuit (1954)] . He represented a Yale professor named Peters and so I was interested in the legal work that firm was doing and actually applied for a job at the firm when I left law school.

Q: Was that in Washington or in New York ?

Gary Stein: It was a Washington firm, Arnold & Porter. It's now Arnold & Porter; Fortas of course went on to become a justice of the Supreme Court and was forced to resign because of the Wolfson Scandal but he was a well known supporter of liberal causes in those days and I remember being interested in the cases that he took on.

Q: Were you a supporter of liberal causes?

Gary Stein: I was and still am.

Q: What drew you to the law?

Gary Stein: Coincidence. A friend of mine that I used to play basketball with told me that Duke Law School had a program that would allow you to combine your fourth year of college with your first year of law school. And he said he had applied and been accepted and it wasn't hard to do. I didn't have a clear career path. Money was very tight. I had a bunch of jobs while I was at Duke. Worked at the dining halls, worked at the S.H. Kress 5&10 cent store, had a laundry route. So, anything that would save a year's tuition looked attractive. And I took the law school aptitude test and was astonished to find out that I did very well. So I applied to law school. They gave me a \$300.00 a year scholarship. And I went.

Q: You worked at this firm in Lower Manhattan . Same firm for a number of years?

Gary Stein: I was there from 1956 until 1966, with two tours of duty in the army. The first was around '58, when I first enlisted in the National Guard and I served six months active duty and I went back to the firm. And then in 1961, when the Russians built the Berlin Wall, you may recall that President Kennedy in response to show Premier Khrushchev that he was not going to be pushed around, activated a million reservists and called them to active duty and I was one of the million. My wife and I at that time had two children and one on the way. I got three weeks notice that I had to report to Fort Bragg and spent a year in Fort Bragg probably from September '61 to August '62.

Q: How did you feel about being a pawn in the Cold War?

Gary Stein: Well, initially, I was surprised. It came with very little notice. I had to report in three weeks. I thought we'd go to Germany. I was assigned to an artillery unit from Brooklyn as a radio operator, which was my acquired skill in the army. I learned the Morse code in 12 days. And when I got there, it turned out that there was inadequate equipment for this unit and the crisis seemed to subside. And there was a need at Fort Bragg at the time for lawyers because of a quirk in the law. People who used addictive drugs were eligible for activation into the army into the army even though they would not have been eligible for the draft. And so Fort Bragg found itself with an influx of heroin users, all of whom once they got there, were immediately subject to court martial. And under the Code of Military Justice, any defendant in a special court martial was entitled to counsel. And they didn't have enough lawyers. So, somebody told one of the generals that I was a lawyer and I got assigned to represent a number of special court martial defendants in addition to my radio operator duties with the artillery. And my wife and children came down there probably in November. I rented a house and we had a fairly pleasant year there. My son Michael, with whom I work today, was born in Fayetteville in May of 1962.

Q: What did you do after '66?

Gary Stein: Well, let's see. So after Fort Bragg I went back to the law firm in 1964. My family and I had been living in Paramus, New Jersey since 1958 and I was commuting to New York and there had been a democratic mayor in Paramus by the name of Fred Galda; became a Superior Court judge. He's since deceased. But there had been many attempts to oust Mayor Galda in Paramus because of his political style and some people recruited me and said you're young. Nobody's mad at you. Why don't you run for mayor? In those days, the Republican Party had many more moderate figures than it does today. Senator Case was one of New Jersey's senators. There was Governor Rockefeller and John Lindsey and Governor Scranton and Governor Romney and Senator Javits. So, philosophically, the Republican Party was not an uncomfortable choice for me in 1963 or '64.

Q: Were you already a Republican?

Gary Stein: I was not. I was not.

Q: Were you a Democrat?

Gary Stein: I was neither. I registered as a Republican in 1964. I ran in a primary election and won against an Irish cop named Dennis Buckley. Lost in the general election, as did almost every Republican who ran for any office in 1964 because of the Johnson/Goldwater landslide. But what I discovered in running for mayor was that there was life on this side of the Hudson River and it occurred to me that practicing law in New Jersey would mean a lot

shorter commute than practicing law at 29 Broadway. So in 1966, I left my New York law firm and opened a one-man law office on Ridgewood Avenue in Paramus.

Q: Did you run for mayor again?

Gary Stein: No. No, I became Paramus Borough Attorney in January 1966 when a dear friend named Charlie Reid became mayor. Charlie later became an assemblyman from Bergen County, Chairman of the Board of Freeholders in Bergen County. Had been president of the Board of Education for 12 years in Paramus. Was named the Outstanding Library Trustee in America because of his longstanding work in libraries and Charlie and I were good friends and he named me Borough Attorney after he got elected. I also became active in county politics in 1966 and supported a young fellow named Nelson Gross, who was then running for County Chairman against Walter Jones. And Nelson you may recall was successful in that effort. I did not stay active in Nelson's political administration of Bergen County for more than a few weeks but in any event, I was certainly affiliated with him and Dick DeKorte and I probably organized his campaign for County Chairman back in 1966.

Q: DeKorte was a state senator?

Gary Stein: No, I think Dick was in the assembly at the time.

Q: How powerful were political bosses back then?

Gary Stein: Very powerful, very powerful. Walter Jones determined whether or not anybody in Bergen County became a judge because in those days of course, there was only one senator and senatorial courtesy was an extraordinary power. Senator Jones at the time also had a law firm that represented many municipalities in Bergen County.

Q: He was a Republican?

Gary Stein: He was. And exerted enormous influence on the political life of the county. And I think that when Nelson Gross became chairman, he also exerted a fair amount of influence. I think he was instrumental in moving New Jersey into President Nixon's corner in the 1960 Presidential, Republican Presidential Convention. I think political leaders in those days exerted a great deal of power.

Q: Did you have contact with those gentlemen?

Gary Stein: I had contact with Nelson Gross. I knew Walter Jones. I was never close to the seats of power. I perhaps knew the people that sat in them but I was fairly removed. I don't know that it was my style to say stay close to the leadership of the party but I was interested and so I tried to stay active.

Q: What was your public involvement if any, in the '70s?

Gary Stein: Well, let's see. I formed a law firm with a lawyer named Richard Kurland in the early '70s. The name of the firm was Stein and Kurland. We practiced together for I guess ten years until I went to Trenton with Governor Kean. I tried as best I could to combine my professional responsibilities, my parental responsibilities. By then I had five children; four in five years and five altogether. And my love of public life, the best I could, I was appointed by Marty Haynes at one point who was president of the State Bar Association, to chair a committee on state legislation, which I organized because I had been familiar with a similar committee in New York City in the City Bar Association. And I put together 40 lawyers. And what we used to do, I think in the Byrne Administration, is review passed bills and comment on them for the Governor's Counsel. So I did that for probably the better part of three years. I was president of the Paramus Boys Club. I was I think frustrated at the difficulty of running a private law practice, supporting my family and yet feeling a great interest and commitment to public issues but not seeing a clear path to contribute. I was sort of on the outs with the leadership of the Republican Party, which was then Nelson Gross, Tony Statile, John Inganamort. So I was sort of practicing law, doing my best to run a good law

practice and do interesting work and trying to keep current. Governor Kean and I by that time had reunited because he ran for the assembly in 1966. Incidentally, Nelson Gross had offered me an assembly nomination in 1966 but Walter Jones told me that I had to make a choice between running for the assembly or being Borough Attorney, which was quite correct. I couldn't do both comfortably. But I was reunited with Governor Kean and at the time, we would periodically have lunch. I think he served in the legislature until '76 and then he might have been a commissioner of the Highway Authority and maybe on the Board of New Jersey Network and we would talk. When he ran in '77, against Senator Bateman, I helped him. I was not enormously involved but I was somewhat involved, especially in Bergen County. When we got towards the end of that decade, maybe around 1980, Tony Cicatiello, whom I had known for many years, called me and said that it was not unlikely that the Governor would seek the Republican nomination in 1981. Did I want to help? I said that I did?

Q: How did you know Tony Cicatiello?

Gary Stein: I'm not sure but I think we may have met when Tony was working on the Ford campaign and Governor Kean was chair of the Ford campaign in New Jersey and Tony was helping him. But in any event, the Governor introduced me to Tony sometime in the mid '70s, early '70s. And I've been a friend of Tony's ever since. In any event, we talked about the possibility of the Governor seeking the nomination in '81 and of course, as you remember, it was a very contested Republican Primary. And perhaps with that partially in mind and perhaps I had a restlessness and perhaps it was just bad judgment at the time, I ran for Republican County Chairman against John Inganamort probably in 1980. And thank heaven I lost by 50 votes because God knows what would have happened to me if I had won. But I lost. But in any event, in losing I managed to visit all of the local Republican organizations in Bergen County and became acquainted with lots of the Republican leadership in the county. And so when the Governor announced his intention to seek the party nomination, I had a friend of mine who had a real estate office in Bergen County, make some space available and arrange for the Governor to meet with a delegation from every municipality. The county chairman, John at the time, was backing Pat Kramer. And the organization was gonna back Pat Kramer but I had some pretty good friends in that organization. And so the Governor spent the better part of three or four days in Paramus meeting Republican leaders that I sent to the office in Paramus and I think he made a very good impression and as a result, although he lost the county, he didn't lose it by a lot. And the fact that he ran well in Bergen County helped him. And so I had whatever possible contribution I could make to the campaign I did. I talked to him about policy issues while the campaign was going on. I took a very active role in the recount when the vote against Governor Florio was so close and it was a cliffhanger and I sort of coordinated a team of lawyers who participated in the legal work involved in the recount. And did the very best I could to be helpful in the campaign.

Q: Did you know at that point that you wanted to work in an administration if there was one?

Gary Stein: I thought I would like to, Michael. I was actually interested in being counsel to the governor because that was the only job in the administration that I knew anything about. I recall getting a call from Irwin Kimmelman sometime after the election asking me if I wanted to be Attorney General and I said no. And he said, "Oh good." <Laughs>

Q: Why did you say no?

Gary Stein: You know, my instinct; and it was an instinct only because I had never been in the legislature. I had never worked in Trenton. My instinct was that the Governor's office was where the action was and where the policy decisions were made and where the issues to the extent that they were interesting issues that would come down the pike would be decided. And so, I thought that if I was going to leave a private law practice with several kids in college, one still in high school and change my personal and family life to the extent required, I would rather be in the Governor's office. In any event, I communicated my interest in the counsel's job to Governor Kean a couple of weeks after the election. He called me and asked me to meet him down in Newark somewhere and we talked. And he said that his concept of the counsel's job was somewhat different than what it had been perhaps under Governor Meyner and Governor Byrne. That his notion was that the counsel's function should be the intermediary between the Governor's office and the legislature and he said that he thought Cary Edwards because

of his legislative experience was better suited to do that work and he thought because of what he knew to be my longstanding interest in policy issues that I should consider the job of Director of Policy and Planning; a job that I didn't know existed until he told me I should consider it.

Q: Did it exist?

Gary Stein: It did. Donald Linky had held that position for Governor Byrne but I just wasn't familiar enough with what the office had done, which is--

Q: Donald Linky who is sitting to my left as we do this interview?

Gary Stein: Yes. That's the Donald Linky I was talking about. I just was unfamiliar with the office's function. So, when the governor made that suggestion to me, I took a crash course in the office of Policy and Planning. Made some inquiries and after deciding that actually it would be a pretty decent fit with my interests and instincts, I said that I would be willing to do that.

Q: Did you change the structure of the office?

Gary Stein: I'm not sure Michael, what the office was like when Donald was running it. I didn't really know what I would be doing when I got there. I decided I needed at least three or four people to help and I interviewed some folks. And I hired four.

Q: Anybody we would know today?

Gary Stein: Well, let's see. Ginny Holt worked for me. I'm not sure if Ginny is still in the Treasurer's office. A fellow named Warren Levy. Larry Weitzner was one of my staff and Larry is today a political consultant. Larry actually helped us when we tried to develop the transit system along the Hudson waterfront. In fact, I think I sent Larry up to Jersey City to open a branch office of the Office of Policy and Planning up in Jersey City preparatory to trying to get the work done on a Federal grant for that--

Q: That Hudson/Bergen Light Rail Line?

Gary Stein: That Hudson/Bergen Light Rail Line, which was one of the ideas that came out of the Policy and Planning Office during my tenure. But Larry worked for me. A fellow named Warren Levy and another guy named John Geneisse. But the truth is, when I got there, I learned that to the extent that I needed more help than I had by way of permanent staff. The help was available in the departments. And I wasn't there a week when the Governor called me and said we don't have any prison space for state inmates. And said you got to do something. The county jails are overflowing and you got to figure out what to do. And so for the first couple of months that I was there, I worked with Commissioner Fauver, with the Attorney General's Office, with the Parole Office; to try to come up with a plan to address what was a really serious shortage of state prison bed spaces.

Q: What did you come up with?

Gary Stein: We came up with a plan. I forget the title of it. I remember it had a yellow cover. Carl Golden said, "This looks pretty good." But it was a sort of an intermediate term plan to address the shortage. It included some prefab trailers that would be available fairly quickly because the county jails at the time, I forget the numbers; but Passaic County and Hudson County and Essex County were overflowing with state prison inmates. Commissioner Fauver didn't believe in double celling. And so when the state prison system was at capacity, he would send inmates to the county jails. Pay them a per diem and the county jail situation was dreadful. And so we really had to come up with something pretty quick and the something pretty quick included an expansion of the Camden Prison. It included a very extensive effort to negotiate a site for a prison in Newark that's the site that's opposite the Newark airport.

Q: Northern State Prison.

Gary Stein: Yup. And the construction of a medium care facility in southern New Jersey and a bond issue of 90 million dollars that I believe was on the ballot in 1983. And that experience of putting a bond issue on the ballot, hiring Joe Katz and Angelo Baglivo and I forget who the third guy was to help me get public support and getting the bond issue passed had a lot to do with sharpening my views about authority bonding that stood me in good stead I think when I had that issue as a member of the State Supreme Court. We were involved in my tenure as Director of Policy and Planning in three bond issues. Two that went to referendum; one was the prison bond issue, the second was a very successful science and technology bond issue. And the third was the Transportation Trust Fund bond issue that was not put to referendum. That was an authority bond issue but the Transportation Trust Fund perhaps was the most well known contribution of the Policy and Planning office during my tenure.

Q: Was that the same thing as the infrastructure bank?

Gary Stein: No. No, that was different. That was an early concept floated by Commissioner Hughey. I think the notion was similar but he had something I think a little different in mind if my memory serves me. The Transportation Trust Fund notion really originated because the Governor and I both were well aware that there was an enormous need for transportation capital and that it was very hard to get transportation capital into the annual budget and for it to stay there because the legislature would see 75, 100 billion dollars for transportation capital projects and put it somewhere else. And so because the need was so great and because no one had come up with a stable funding source, I talked to some investment bankers about alternative methods of financing transportation capital. And some bankers from Bear Stearns, notably a guy named Joe Giglio, who was a well known transportation funding expert sat down with us. And we had I guess the Mudge Rose law firm. I forget the name of the lawyer we used in those days but we began to talk about an off-budget revolving fund. And the question was, where would the revenue come from? And I don't remember who had the idea. It might have been me. It might have been somebody that worked for me but we got the idea of tapping the toll roads as a source of permanent revenue and we decided we would try to get 25 million dollars; ten from the parkway, ten from the turnpike, which led to a significant arm wrestling match with Bo Sullivan who was then the Turnpike Chairman. And maybe two and a half million from the Atlantic City Expressway. We had another chunk of money in fees that were to be imposed on trucks and the balance, the difference between what we needed annually to amortize the debt-- I think the first bond issue was modest; maybe 65, 70, 85 million dollars and I don't remember whether it required 60 million a year or 100 million a year. But the balance between what we got from the toll roads, from the truck fees, was provided by a legislative appropriation and we created-- the concept was we would create the Transportation Trust Fund Authority, which was a new authority. It never existed before. After we had the idea pretty well cooked, I involved John Sheridan who was the Commissioner of Transportation and we went in to see the Governor and Cary and laid this idea out for them. Cary had a political reaction, which was, "Won't you have to raise the gas tax in 1985?" Which was, is the year of the Governor's reelection. Wouldn't that be difficult? We talked it through and eventually everybody signed off. And John Sheridan, to his credit, once the framework of the legislation had been put together, visited personally every member of the assembly and senate to get support for that bill. It was a very controversial bill probably because it became apparent as it developed, as the idea evolved, that it was a very good idea. And believe me when I tell you, I had no notion when we started this, that this had political implications. Never-- last thing in the world that occurred to me. I was thinking about a stable source of transportation funding. But the night that the legislature voted on the bill, we had visitors in the Governor's outer office and the visitors were the executives of the heavy construction union. I forget the number of the union or the name of the guys but we served beer and pizza in the Governor's outer office. There were a few cigars that were exchanged. And the Governor went home-- it was a big piece of legislation. And it was one of the two nights in the three years that I was Policy and Planning Director that I did not go back to Upper Saddle River. And about 3:00 in the morning, Speaker Karcher, who was I think torn between supporting a bill that he thought was going to be politically popular and not wanting the Governor to get credit, halted the negotiations over the question of who would determine where the money was gonna be spent; which counties, which towns, which roads. And I got the call and John Sheridan and I told the union leaders that we were at an impasse and somebody asked us where is this guy Karcher. And the union leaders went to visit him; the other side of the statehouse. When they came back an hour later, the impasse was broken. The bill passed. The signing of the Transportation Trust Fund Authority legislation took place

at the War Memorial Building and one of the signing pens was a very valuable commodity. It turned out to be an extremely popular piece of legislation because it stimulated the expenditure of millions of dollars on transportation projects over the next ten years.

Q: And now when you hear governors of this era talking about the Transportation trust Fund, do you feel a pride of authorship in that?

Gary Stein: A little bit of pride of authorship. A little disappointment that Governor Corzine's initial proposal to raise the tolls to raise capital for transportation projects and to retire some of the toll road debt didn't get a better reception from the Democrats in the legislature. I thought it was a very good idea. And I think if he had perhaps persisted with it, it might have passed. I think it was a reasonably well conceived response to the situation he found himself in. At the time that we proposed the Transportation Trust Fund Authority, our state bonded debt was very low. We had a AAA bond rating. We were nowhere near spending eight and a half percent of the budget, nine percent on amortization of bonds. So we had the benefit of a very, very healthy state financial system and so those bonds were easy to sell. Sold out very quickly and it was a very successful bond issue. But more to the point, I think it had a lot to do with the Governor receiving union support when he ran for reelection in 1985 because he was considered a friend of labor who had been responsible for stimulating this enormously important road construction initiative in New Jersey.

Q: Was Kean a good campaigner?

Gary Stein: He was a very effective campaigner. You may or may not remember a piece in the Wall Street Journal during the campaign. It was a piece by a Wall Street Journal reporter who had asked Governor Florio to have lunch with him. And the message came back from one of his staff that said, "Congressman Florio," because he was a Congressman at the time, "Doesn't have luncheon engagements during the campaign." By comparison, Governor Kean, who one would expect from his pedigree would be stuffy, hard to reach, unavailable; would talk to anybody. And raised havoc with his schedulers because he would talk to reporters for as long as the reporters wanted to engage him. He would talk to anybody that he met. He had a very nice disarming manner. It was perhaps a signal, although I don't know if we quite appreciated at the time, about his non-confrontational style as a Governor. What we saw on the campaign was here was this guy who had no concern about being late for anything. And who would be affable, patient, cordial, to almost anybody that wanted to stop him and chat with him. Who was always engaging, who was always interesting in what you asked or what you had to say and I think that he had learned a great deal from the '77 campaign. He'd improved his speech techniques. He communicated well. He had more inflection in his voice. He was a livelier speaker. And he also made some very hard political judgments such as the fact that he decided that he had to support capital punishment when he ran in a primary against five Republicans, all of whom supported capital punishment. So I think that he won that campaign; you may or may not remember but he was endorsed by 18 of the 21 daily newspapers in New Jersey. He won that campaign because he persuaded the reporters who covered him of his availability, of his openness, of his good judgment, of his relaxed style. And I think the reporters' coverage of the campaign translated itself into broad editorial support and support from a broad cross-section of the state.

Q: Was he coming off a Republican year? We were coming off of eight years of Democratic governors? What was the political climate that year?

Gary Stein: I think that he went into that general election campaign as an underdog. I think Florio was better known; had been in congress for many years. My recollection on this point isn't good Michael but I thought he had a good chance but I didn't think he was a favorite going into the campaign.

Q: What did you accomplish in your three years at Policy and Planning? You talked about the Transportation Trust Fund. What else is upper most in your memory?

Gary Stein: The prison bond issue was a big deal because it addressed a crisis and it addressed it successfully. I think the Corrections Department was very pleased with what we did. I think the other initiatives that I remember

include the science and technology bond issue which was a big deal. The establishment of the Light Rail in Hudson County, or at least the establishment of the seeds for the Light Rail System in Hudson County as well as a fair amount of work on budgetary issues. There was a management improvement plan cooking around in those days that was focused on budgetary issues that I had a fair amount to do with.

Q: Commit.

Gary Stein: Yeah. Something like that. It was Al Fasola's brainchild. But the science and technology initiative I think had long term implications for the state. I recommended it to the Governor because from conversations with people like Saul Fenster who was then the President of NJIT and I'm trying to think who was running UMDNJ at the time.

Q: Stanley Bergen

Gary Stein: Stanley Bergen and Ed Bloustein and also the President of Stevens we spoke to at length and we spoke to some very distinguished scientists from Bell Labs and Exxon who were on the committee. The sense was conveyed that New Jersey had an inherent strength because of a concentration of pharmaceutical companies and scientifically oriented companies and that we weren't capitalizing on that strength to take advantage of the economic benefits that those companies could help to accrue to New Jersey. So, the thought was that if we could generate a source of capital to fund research and scientific projects in collaboration with the universities, that there was a decent chance that it might lead to job creation that would serve the state's interest long term. At my recommendation, the Governor appointed a Science and Technology Commission. I don't know that I chaired it. I might have. But in any event, I sort of presided over it and steered the ship as it functioned. For the better part of at least 18 months this commission met and considered projects that could be funded at the various universities that would have long term economic implications for the state. The projects were quite diverse. The projects that survived the screening process by the commission, that I remember, were the Center of Molecular Biology that was a joint venture of Rutgers and UMDNJ at the New Brunswick campus here that's still in existence and very successful, a Center for Hazardous Waste at New Jersey Institute of Technology, a Ceramic Center at Rutgers, a Center for Food Technology and various other centers that were affiliated with Stevens and some of the other state colleges. We had an Executive Director of the Commission whose name was Ed Cohen who I think had been working for the Department of Higher Education when there was a Department of Higher Education and he ably served as Executive Director and helped write our report and recommendations. It took a while because there was a lot of interest. There were a couple of senators and assemblymen on the commission. I think Senator Lynch was on the commission. I'm trying to remember who else. Very fine scientists, the heads of the universities, representatives of the universities, took a while because there was a lot of competition. There was a lot of debate about the size of the bond issue and who should get the benefit of it and how it was going to be allocated both by university and by region. I remember getting in to kind of a sharp debate with the late President Bloustein because he thought we were dragging our feet and wanted the bond issue to be on the ballot in 1983 and I said it's not ready. I said, "We're not going to do this until it's ready and when it's ready and we do it, it's going to be successful." He spoke to the Governor and the Governor supported my conclusion that we weren't ready in '83. In any event, by 1984 we were ready and the public relations experts named this, if I remember, the Jobs, Science and Technology Bond Issue, that was to make sure that people voted for it and we hired the same PR experts, Joe Katz, Andy Baglivo. The Governor and I visited the editorial boards and the bond issue passed overwhelmingly and it was greeted with a reasonable amount of enthusiasm by the universities because it led to the creation, for example at Rutgers of this very sophisticated Center for Molecular Biology before we decided that that would be the centerpiece of the bond issue. We consulted David Baltimore from Johns Hopkins who came up to meet with Governor Kean and me and Roy Vagelos from Merck and other scientists who were persuaded as we were that this was an appropriate focus for New Jersey's research institutions and we had similarly qualified experts who helped us with the Hazardous Waste Center at NJIT and the other centers. I can't speak firsthand about how those other centers are doing but the last I checked, the Center for Molecular Biology was doing extremely well and had very sophisticated and talented staff. So I regard that initiative as one that was enduring, that was probably an appropriate use of state resources, appropriate use of the state bonding power and we did a general obligation bond issue, meaning we went to the voters. The voters approved it and it was in the neighborhood of \$85-\$90 million, which was real money in the

early eighties.

Q: Who were the key people around Kean in your time with Kean?

Gary Stein: Well, certainly the key people were his Chief of Staff which originally was Lew Thurston and after the first year or so, Greg Stevens, Cary Edwards, myself, Tony Cicatiello, who was always very close adviser. Jon Hanson and Phil Kaltenbacher I think were guys who had helped the governor with his fundraising. I'm trying to remember the name of that lawyer who got very active on the Republican National Committee. Larry Bathgate who had significant fundraising connections. But from a policy standpoint, I think the Governor made it a practice to talk to lots of people. He had a good relationship with Mort Pye who was the publisher of the Star Ledger. He, I think, enjoyed a close relationship with Governor Byrne that has been enhanced and continues to this day. But in those days Nick Brady was a close adviser to the Governor until Nick went to the Senate. Governor also kept his own counsel. Nobody in the Governor's office in 1982 knew until he announced it that Marie Garibaldi would replace Morris Pashman on the New Jersey Supreme Court.

Q: First woman ever.

Gary Stein: He didn't tell Cary . Didn't tell Lew. Didn't tell me. Don't believe he told Carl Golden, although you'd have to ask Carl. So he did what lots of successful public officials do. You talk to everybody that you think knows something about a subject. You inform yourself until you reach the point that you feel comfortable that you know everything that you're supposed to know and then you make up your own mind. And I think that's what he did. We didn't have a lot of heated policy debates in the Governor's Office. Governor Kean I don't think was comfortable with confrontation or a lot of head to head debate. I think the Governor liked to hear from people, would call and ask questions, would read policy papers that were given to him and eventually reach a conclusion based on all of the information that he got. Greg Stevens had an enormously positive influence on the Governor's Administration. You may recall that in 1982, his first year in office, he had back problems and wound up in St. Barnabas Hospital in traction. It was also in 1982 that the state budget was in the tank because the economy was in the tank. Sometime I guess in mid 1982 I think the Governor had to ask the legislature to increase the income tax and the sales tax half a point. I remember that he gave a speech about state finances to the legislature on a Monday. He had been in Philadelphia on Friday and we had given him some drafts of things to work with. He came into the state house on Monday and we asked if the speech was done. He said, "No. No, I'm still working on it." The legislature is convening in a joint session in about 15 minutes. "Yeah, well, I know. But I'll get there." But it was a very tough year and eventually he became persuaded that he needed to ask for the tax increase. Then of course, when the legislature, after a lot of arm twisting, that was the second night that I stayed over and didn't go home to Upper Saddle River , a lot of arm twisting. I blocked Moose Foran, which was a risky thing to do from leaving the State House and the tax increases passed and the Governor had that famous press conference where he said, "I held my nose and signed the bill." Remarkably, the negative effect of those tax increases never adhered to Tom Kean. It just sort of rolled off his back and I think when he ran for reelection, hardly anybody remembered that the income tax and the sales tax had been increased in his first year of office.

Q: I'm not sure this is accurate, but do you recall that he proposed heighten the gas tax and the legislature turned around and said, "No, it's got to be the sales tax and the income tax"?

Gary Stein: I recall that he proposed the gas tax increase, because I tried to get Steve Perskie to vote for it but I don't recall that it was the legislature initiative. All I remember is that we couldn't balance the budget without more revenue. It was one of those constitutional crises so to speak and the Governor, I think, had better political instincts than all of us. He knew he had to do it and he wanted to distance himself as much as he could from the hard reality of a tax increase. So the legislature did it and he indicated that he signed the bill only because he was forced to, that it was a painful task that the Governor had to perform but certainly this was not his desire in any way, shape or form.

Q: Do you recall the size of the state budget in your day?

Gary Stein: I'm really not sure Michael. It might have been in the \$6 or \$7 billion range. I'm just not sure.

Q: I was going to guess \$5 million.

Gary Stein: Yeah. I'm just not sure. A lot lower than what it is now.

Q: To what extent were you involved in picking the cabinet?

Gary Stein: Well, I was a member of the transition team, so to speak, and I remember interviewing some of the cabinet designees. I had been a strong supporter of John Sheridan for Transportation. I remarked to Governor Kean recently we heard the General Gerard passed away and he was the Governor's choice to head the New Jersey National Guard even though there was strong political support for somebody from another county. I had interviewed General Gerard and recommended him. I don't remember the other members of the cabinet. I certainly know that we didn't make the selection of Commissioner Fauver permanent until after the Governor's term had started and I was a strong supporter of Commissioner Fauver. But yeah, I was as involved I suppose as most people around him.

Q: Do you recall whether you were at any kind of disadvantage for having had the long recount? Did you lose time in the transition for having had to spend three and a half weeks or so fighting for the victory?

Gary Stein: I don't remember that because I really wasn't designated to be part of the administration until after some weeks passed so I don't remember what the effect of the recount was on the shaping of the administration. But I think we had time. I think that you learn when you assume governmental responsibility. One of the things we learned very quickly was that we didn't have enough speech writing capacity when we started. I think when we began, the only guy who was designated to help the Governor with speeches was Paul Wolcott who worked for Carl Golden and it quickly became apparent as the months went by that we needed more help and Katherine Brokaw was recruited and Bob Grady was recruited and it was just clear that you couldn't function as a Governor without more support in that respect. I started to say earlier to talk about the impact Greg Stevens had. When Greg became Chief of Staff, he told the Governor that he had to get out more and that he had to be seen around the state more and that it was very important to his ability to govern to go out and reach people and touch people and speak to people. I vividly recall the night that Dioxin was discovered in Newark .

Q: I vividly recall what happened that night as well.

Gary Stein: Greg Stevens, Bob Hughey grabbed the Governor and they went up to the Ironbound in Newark . I went home to Upper Saddle River . I didn't go with them but I heard the story the next day where they found a small tavern and the Governor got behind the bar, even bought drinks for the house and told the people there that we were going to clean up the Dioxin, they had nothing to fear. But I think it was a singularly significant event in the Governor's administration because I think he realized that night how much of an impact he could have by personally appearing in groups like that. Greg was a big advocate of the Governor spending more time out of the State House, less time in his office reading the policy papers and Greg had an enormous influence in that area. The other area in which he had a very big influence was Greg was very capable of facing down a cabinet member and telling a cabinet member, "You're not going to do that anymore." Or, "You're going to do this and you're going to do this and you're not going to do that." He'd brought a little bit of discipline, needed discipline, to the management of the Governor's Office and I think it helped stabilize the administration, which got off to a rocky start in '82 because the economy was bad and the Governor had a bad back. Greg's arrival in '83 I think stabilized and solidified the administration. Greg, Cary and I had an uneasy working relationship at times. The Governor would call me and say, "You guys need to get along. Straighten it out, would you?" The response was, "Governor, you've got to straighten it out." But it was not a function that he liked performing. But as time went on, we learned how to work with each other.

Q: What was the problem there?

Gary Stein: No, no problem. Just different personalities. I remember Carl Golden coming in early in the administration saying, "For God's sakes, if you guys are going to argue with each other, close the transom." But there was a normal tug and tension that personalities would have in an administration. It had to get straightened out and it did.

Q: Tom Kean cared a lot about the arts. He fashioned himself the Education Governor. He cared a lot about the State's image. Any of those areas you work in?

Gary Stein: Yeah. The education area was something that was close to my heart and became even more important to me when I was a judge. I think we were disadvantaged. I think Tom, who had taught in a private school, did have a deep feeling about the importance of public education but the state of the art then didn't inform us of the need for, for example, early childhood intervention. There were some preliminary studies being done but this was the early eighties. We also didn't know then that the legislation that had been passed in the Byrne Administration that ended the Robinson Cahill case and the tax that was passed under Governor Byrne's initiative, had not eliminated the tremendous disparity in funding in the public schools in the poorest cities. We didn't learn that until the Abbott Burke litigation reached the Supreme Court in the nineties. Also, Commissioner Cooperman had a particular resistance to the notion that funding could have a substantial effect on quality in the urban schools. I do remember many discussions about what initiatives we could take to improve the quality of urban schools because I knew first hand that the urban schools that had been the best schools in the state in the forties and fifties when I grew up, had come to be almost dysfunctional because they were unfunded. The white flight from the cities to the suburbs had destroyed the city's tax base and the legislation that was passed in the seventies after Robinson and Cahill didn't make up the difference, although I think the huge Supreme Court thought it would. And so my instinct was that we needed to be more aggressive. I think Commissioner Cooperman recommended a pilot project in three cities, one of which was Neptune . One of which was Asbury Park . I forget the third one. But I didn't feel we did nearly as much as Governor Kean would have liked to do. Of course, when the Abbot Burke litigation was instituted, the Attorney General's office in the second Kean administration was resisting the notion that the funding disparity had created a constitutional issue. The litigation actually blossomed after Governor Kean left office. But I think we were the victims of the lack of sophisticated insight into what needed to be done to address urban school problems. I think Governor Kean, had he been in office in the nineties, would have been very aggressive in moving to deal with those problems. I just don't think we knew enough. For example, the evidence that the preschool initiative ordered by our court in the nineties has been extremely successful in raising the achievement level of children on the fourth grade statewide tests, was not evidence that was available to us in the early eighties. But it was certainly an area that he was interested in, he was sympathetic to, and I think had he been Governor at a different time, would have been able to make more of a mark. As for the arts, he was a great friend of the arts and never wanted to see the arts shortchanged. And of course one of his great legacies is that he had an instrumental role in the funding and sitting and development of the Performing Arts Center in Newark , which warms my heart as a kid from Irvington every time I go there. The Governor, I think, feels the same way.

Q: You mentioned government management improvement and Al Fasola. Who was Al Fasola and was he encroaching on your turf at all with his efforts to make the executive branch more efficient?

Gary Stein: Not at all. Al was a political adviser before the election and had a policy position in the Governor's Office. This was his charge to improve the efficiency and management. We got private sector advice. But it's a hard thing to do. Al did the best he could and worked very hard. I helped him. We worked cooperatively.

Q: In the end, did it amount to anything?

Gary Stein: I don't know. I don't know. Maybe. There might have been some savings. Efficiencies are cheap but I don't know. I can't comment. Part of it is the that the way to measure efficiencies is not very crystal clear and so when you look at the effect of what we did, I'm not sure. I worked closely with Rich Keevey who's now at the Woodrow Wilson School in who I came to respect enormously. We worked very closely on budget issues. I thought Rich was an extraordinarily good budget director who had a wonderful understanding of the budget and he was very flexible and responsive to requests by the Governor's Office to help address problems where funding was

needed but was not necessarily available from the budget. Rich was an enormous aid to Governor Kean.

Michael Aron: As Policy Director, you're in a non-legal role. Did you think that might hurt your legal career?

Gary Stein: I didn't know. I didn't know. I'd been a lawyer from 1956 to 1982 and all of a sudden, I was not a lawyer but I was still a lawyer at heart. I always loved my profession. The fact that I had had legal training and had spent ten years on Wall Street was very helpful, especially when we did the Transportation Trust Fund Authority because I had done corporate law and mergers and acquisitions when I was on Wall Street. So I think from the time being I was simply focusing on policy issues but I assumed that when I got done, I'd go back to practice law. I didn't assume, nor did I have any idea that I would end up as a judge. I was home at Upper Salle River on Columbus Day in 1984 and went to play a couple of set of singles with an old friend of mine named Hank Conway at a tennis club in Allendale, split sets. When I came back home, one of the state troopers that worked with the Governor called me and said, "Governor wants to talk to you." I picked up the phone and I exchanged pleasantries. He said, "Do you have a current resume?" I said, "No." He said, "Well, how long would it take for you to put together." I said, "What for?" He said, "Well, I want to appoint you tomorrow to New Jersey Supreme Court to succeed Justice Schreiber." I said, "I'll have it when I get to work tomorrow." And I did and he did. That's why I left the Governor's Administration in January 1985.

Q: What did that phone call mean to you?

Gary Stein: It meant a great deal. I had always revered the New Jersey Supreme Court as a young lawyer. At Duke Law School I'd studied its opinions. I'd always thought it was the finest State Supreme Court in the country. I had a great respect for the members of the court that were serving at the time, Chief Justice Wilentz, the other justices and so I was thrilled by the appointment. I won't say it came out of the blue. I had been told that I was a contender for the vacancy. But being a contender and being the nominee are two different things.

Q: Did you signal to him that you wanted it?

Gary Stein: Never had that conversation with him during the time I served in the Office of Policy and Planning. It might have been a conversation we had in the past but I don't remember it. I know Greg Stevens signaled to him that it was something that I would have liked. But I never had the conversation with him.

Q: Did you have contact with the Governor once you became a Justice?

Gary Stein: Social contact. No more than that. We would see each other at events occasionally. The Court and the Governor's Office would get together. We'd have lunch occasionally. We would talk. He was a great critic of our school funding opinions and so occasionally I would have to unburden myself with a letter to him, trying to set him straight. But yeah, we always maintained very cordial contact and conversation. I spoke to him just a couple of weeks ago. I put a call into him the other day to let him know I was going to be here. We're going to talk soon I'm sure. We play tennis almost every Election Day since 1982. We had a doubles match with Jon Hanson, Chris Daggett, sometimes Stew Pollock, sometimes Jim Coleman. We played this past Election Day as a matter of fact with John's son-in-law. We've maintained very cordial contact. Tom recommended me to be on the Board of Drew University during his tenure and I continue to serve there to this day.

Q: How do you think he handled the whole Wilentz reappointment fight?

Gary Stein: I thought he was marvelous. I think he understood that Robert Wilentz was a wonderful Chief Justice. I think he appreciated the Chief Justice's devotion to his wife and the reasons why he saw fit to spend more of his time in New York than New Jersey. I think Governor Kean was determined to reappoint him and was successful in his effort.

Q: Governors appoint justices; often appoint members of their inner circle to the Court. Does the Court, in turn, tend to favor governors over the legislature?

Gary Stein: No. I think when you wind up on the Supreme Court your obligation, and you know it when you get there, is to call them as you see them. You put aside any past loyalty, affection and if you can't, if a case comes to you where you can't disassociate yourself from your past connections, you disqualify yourself. But once you get there, you're perfectly capable, at least I felt I was and I think my colleagues did, of being totally objective and deciding cases based on the law whether it made the Governor happy or not happy. We were never on all fours in terms of our political philosophy. We had periods of agreement and disagreement. We voted for different candidates for different offices. We talked often about policy issues after I left the Governor's Office. We had areas of agreement and disagreement. So I think he understood that when I went on the Court, I was going to be my own person and make my judgments based on what I thought was the right decision.

Q: Do you still have the reverence for the Supreme Court that you had the day you were appointed?

Gary Stein: Sure. <Laughs> For the institution, it's a funny question because I'm gone since September 2002. It seems like a very long time ago. I served there for almost 18 years but I have a very diverse and interesting law practice. I have 16 grandchildren. I teach. I do a lot of other stuff. I have some nonprofit stuff that I do. It feels like it was light-years since I've been a judge. I thoroughly enjoyed, I was thrilled at the opportunity to serve on that court and I was blessed because for nine or ten years, I had the same six colleagues and it was a wonderful cohesive group that was intellectually strong and coalesced in a wonderful way. But the institution is still strong. I have deep reverence for the institution. But I'm somewhat removed.

Q: What were the one or two most important cases in your 18 years?

Gary Stein: Well, the school funding cases were very important to me, important to the Court because I think we changed the dynamic of how urban public schools were funded. We insisted on parity with the wealthiest school districts and it meant a great deal. I know from talking to teachers and administrators that the influx of funding that came out of the Abbott Burke decisions made an enormous difference. School districts are run by superintendents and the pupils are taught by teachers and so the quality of the district depends so much on personnel and money can't necessarily make a bad teacher into a good teacher but the idea that you can have decent books and decent facilities and smaller classes and better support staff and better intervention and early childhood training, the preschool order that we issued in 1998 in Abbott V was game changing for urban school districts in this state. We ordered free preschool for all three and four year olds. Some 50,000 children in the poorest districts now get free preschool. I know Governor Corzine would like to extend that. We ordered full day kindergarten. We ordered an array of support services.

Q: How is the state supposed to pay for that? The critics would say, how is the state supposed to pay for some of the mandates that the Supreme Court has laid down?

Gary Stein: The short answer is that the studies about preschool tell you that it saves money in the long term. It saves money because the kids that get preschool and succeed in grade school don't become drug addicts. They go onto college. They don't wind up in prison. But the other answer is that this state turned its back on the urban school districts for the better part of 40 years and that was wrong. We had a funding system that was simply distorted. It never took into account of the needs of the children and it was simply based on the tax base of the municipalities. That was the wrong thing for the state to do. The state didn't remedy it until the Court intervened. So the fact that it costs money to equalize opportunities for urban children whose brothers and sisters and parents had been denied those opportunities, it seems to be is a basic cost of government.

Q: When you hear, usually Republican legislatures say, "We're spending 25,000 dollars per student, 30,000 dollars in Newark, there are suburban districts that are spending 11,000 dollars per student, we're throwing good money after bad"-- what do you think?

Gary Stein: I think they exaggerate. They don't have the numbers right. They don't care about the irresponsible funding mechanism that we had in place for four decades. What we did was level the playing field and give kids in the urban districts a fair chance. The fact that the state is financially challenged is the result of a very, very bad

economy and the result of some very irresponsible governance that occurred during the nineties. But that doesn't mean that kids that grow up in Newark and Jersey City and Trenton and Camden should be denied the same quality education as their peers in the suburbs.

Q: In hindsight, would a better result of the whole *Robinson v. Cahill* been a different remedy, like county wide school districts, county wide tax base or a state wide property tax?

Gary Stein: I don't know. I know the remedy that we arrived at was the right remedy given the case that was presented to us. I think our decisions have done an enormous amount of good. In any event, I'm particularly proud of the Court's intervention in that area. The Court also did some remarkable things in the affordable housing area that, again, are causing a fair amount of dissension today but people forget that the root of the problem that confronted the Court in the early Mount Laurel cases was that the suburbs in New Jersey simply excluded minorities and poor people for many years, and it wasn't until the Court had intervened and took a firm hand that the legislature weighed in with the Affordable Housing Act that was passed during the first term of Governor Kean. For a while, that legislative remedy worked. The Council on Affordable Housing in the first stage did a pretty good job. The third round rules that were issued by the Council were a disaster, were set aside by the Court and again, people are complaining because they say, "Oh my God, look at the terrible effect this has on the finances of municipalities." People forget what the root cause of the problem is. I think the Court played a very necessary role. I think the Court also distinguished itself in the area of capital punishment. We reversed the first 30 death sentences that were imposed under the death penalty law. I happened to have written the first opinion on a death sentence and that was in the case of Robert Marshall. But our Court was very tough in making sure that nobody was to be sentenced to death who didn't have a fair trial. It was not an easy task for the Court but institutionally the Court was very careful to make sure that its rulings accorded every defendant, no matter how heinous, the rights that they were entitled to.

Q: Interesting that the Court would invalidate the death sentences of so many black, violent, underclass criminals and that the first sentence it would uphold would be for the middle class white man who hired somebody to do his killing for him.

Gary Stein: Right. You need to know the records. I mean, the reasons for the reversals in most of the cases were crystal clear. It was simple trial error that was intolerable. We didn't think there was trial error of that nature in the Marshall case. But you can't generalize about the death penalty juror's prudence is about as arcane as any juror's prudence you'll ever confront.

Q: Are you glad we're away from the death penalty?

Gary Stein: Delighted. Delighted. Yes. I think it's a good thing.

Q: Do you think the climate today has changed in the direction of being against judicial activism? Could the Court today issue decisions like *Robinson*, *Abbott*, *Mount Laurel* without a move to amend the Constitution?

Gary Stein: We had broad public support for our school funding decisions. It was quite remarkable. But the editorial pages of all the leading papers supported the Court strongly. I think they supported us because one, the decisions were very well defended, well written, very persuasive, and two, you didn't need to be a brain surgeon to understand the underlying inequity. So my answer is courts function when there is a void that's created by the other branches of government. A good example, of course, is the right to die cases. The Karen Ann Quinlan Case came to the Court before my time but it arose in a legislative vacuum. There was no legislation that would authorize the termination of life support for someone whose family decided that life support should be discontinued. There was no way to insulate and immunize the medical people who terminated life support from criminal prosecution and so there being a void of that nature, only the judiciary could fill it. And it did. I think if circumstances like that arise again, the public will expect the Court to perform that role and the Court will do it and there will be public support.

Q: Do you think government in Trenton has changed significantly since your earlier days there?

Gary Stein: I think in this respect that even before the Kean Administration, going back to the sixties and seventies, legislative service probably attracted a higher quality, better qualified candidates than we see today.

Q: Why do you think that is?

Gary Stein: Well, I just think it's the nature of the economy and the job market. For example, in the sixties it was not uncommon for some of the brightest lawyers in the state, like Robert Wilentz and Richard DeKorte and others of that ilk to run for the legislature as part of a career path. I think the changing nature of the law has made that less possible. I also think that the adversarial aspects of politics discouraged my children's generation from active participation and I think that's regrettable. In a democracy, you hope that the best qualified people will put themselves forward and try to serve. Nevertheless, you have to have an atmosphere where that kind of candidate is encouraged. Without that kind of an atmosphere, you might say you get the government you deserve.

Q: Do conflict of interest rules and financial disclosure requirements keep good people out of government today?

Gary Stein: Probably. Probably.

Q: Have we gone too far in that direction?

Gary Stein: I don't think so. I don't think so. I think that funding of political campaigns has always been problematic. It's always hard to ask somebody to give you money and then say no to them when they ask you for help after you're elected. I think the idea of disclosure, I actually was counsel to the-- I forget. It was a commission appointed by Governor Cahill chaired by Irwin Kimmelman back in the early seventies and I drafted the first campaign contribution and expenditure reporting law. I thought it was a good law and it's still in effect and administered by ELEC but I think reporting is important. I also think that public financing of campaigns to the extent it's affordable is a good thing. I was sorry that the legislature pulled back from that Fair Campaign Trial Program that it had started. They pulled back for what I thought was a bad reason. But I think that disclosure is important and I think that the principle of conflicts of interest is just basic. You don't participate in an area where you have an interest that could override your judgment and that applies to judges and it should apply to government officials and members of the legislature and members of the cabinet.

Q: How should future generations remember Governor Tom Kean?

Gary Stein: They should and will remember him as one of the very finest modern Governors of New Jersey. He managed to have two very successful terms. He was able to attract broad support for his reelection and justifiably so. He reached out in all directions, to minorities, to members of the opposite party. His book that he wrote about his administration was not accidentally entitled "The Politics of Inclusion". He perhaps was a precursor to our new President who also has promised to practice nonconfrontational politics. That was, I think, the hallmark of Governor Kean's success. He managed to govern without embitterment, without antagonisms towards the other party. He reached out a warm and friendly hand to members of the other party. He understood, it was almost instinctive with him, that you govern better when you can talk freely and candidly to people who may publicly be opposed to what you're doing. And so he consistently extended himself and his staff to members of the other party and reached out to people who would be unlikely constituents and supporters. I think he very successfully navigated those eight years as Governor. He was an enormously successful governor, brought the same kind of style to the Chairmanship of the 9/11 Commission and managed to achieve unanimity among very strong willed people, was very deferential and cooperative with Lee Hamilton as cochairman. It was his style. I don't think it was a lesson that anybody taught him. I think it was his natural instinct and his style and it stood him in very good stead.

Q: Thank you very much.

End of Justice Gary S. Stein Interview