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NEW YORK UNIVERSITY SCHOOL OF LAW –
INSTITUTE OF JUDICIAL ADMINISTRATION (IJA)
Oral History of Distinguished American Judges

HON. STEWART G. POLLOCK
SUPREME COURT OF NEW JERSEY

with

John J. Sivoilella, Ph.D.
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September 24 & 25, 2020

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MR. SIVOLELLA: Hello, Justice Pollock. Thank you

00:00:16 very much for meeting today. For the record, I'm John Sivolella. As your former law clerk, I'm very honored to conduct this oral history on behalf of the Institute of Judicial Administration at NYU law school. I'm particularly honored since we're both NYU Law alumni, of course. So let's get started and make some history. First question I'll start with, we'll go way back to the beginning. You've mentioned that you grew up in an idyllic Norman Rockwell-type, small-town setting in New Jersey. Can you give us a sketch of your childhood, starting with where you were born?

00:01:01 JUSTICE POLLOCK: Well I was born in East Orange, New Jersey, which is adjacent to Newark. I was born on December 21, 1932 in my grandparents' home. Then as far as Brookside goes, what happened was my grandfather, my maternal grandfather, very kindly built a house for my family in Brookside. So we moved there, and when I was under one year old. Brookside was a sort of Norman Rockwell¹ kind of community. It consisted essentially of farms, estates, and single-family homes. I think when I grew up, the population in the township was about a thousand. It's since developed into a very attractive residential community.

MR. SIVOLELLA: What were the, you know, kind of centers of
00:02:08 commerce and life there? What types of buildings were in town?

JUSTICE POLLOCK: Yeah, I think Mendham Township remains a place

¹ [Norman Rockwell](https://www.britannica.com/biography/Norman-Rockwell) was a famous American illustrator who was best known for capturing everyday American life through his work on the covers of *The Saturday Evening Post*.
<https://www.britannica.com/biography/Norman-Rockwell>

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where you cannot buy a loaf of bread or a gallon of gas. The
joke in town was when George Washington rode through, he said,
"Don't change anything until I get back." But what it was like
00:02:30 was this. There were four buildings that pretty much defined
Brookside, which was the eastern end of Mendham Township, and the
first building was the general store and post office. It had gas
pumps in front, the post office in back. In between there was a
kerosene pump and then a telephone booth. The interesting thing
was in that store you could buy everything the world had to
offer: bubblegum, shoelaces, fly paper, cereal, so forth. That
was pretty much the daily center of activity in town. Catty-
corner from the store was the school, four rooms in the school,
two grades in a room, one teacher teaching everything to both
00:03:30 grades. I had one teacher, and my children actually had the same
teacher several decades later. And then across the street was
the Community club, which was the home of such events as the
annual firemen's turkey dinner, the square dances, and it also
was the center of activities on the 4th of July, which was a very
big day in Brookside. And the fourth and final building was the
community church, which was a non-denominational church that I
attended, both, and where I actually taught Sunday school later.
But that's pretty much a picture of what Brookside was like at
the time.

MR. SIVOLELLA: Yeah, so your memory of that is very clear. My
mom was actually born in East Orange. My grandfather was an East
00:04:31 Orange fire captain, believe it or not, so, and you had mentioned
you were recently inducted into the East Orange Hall of Fame too,

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so...

JUSTICE POLLOCK: That's right.

MR. SIVOLELLA: Congratulations on that, that was fantastic.

00:04:44

JUSTICE POLLOCK: And there have been some pretty nifty people who have done that. One, Althea Gibson, and I had the honor of playing with her in a tennis tournament at one point. But it's an interesting community.

MR. SIVOLELLA: So again, back in time, can you tell us a little bit about your parents and how they ultimately came to bring the family over to Brookside from East Orange and what type of people were they, do you recall growing up?

00:05:31

JUSTICE POLLOCK: Well, my folks were good people, and they provided us, the three children, with a stable environment during our childhood, which encompassed the Depression and World War II. Neither one of them had much education. Neither had graduated from high school. My father never finished elementary school, and perhaps because of that, they put a, put a premium on education and commitment. So when we grew up as kids, we grew up with the understanding that we were going to college and that we were going to pay for it ourselves. But I'd like to make brief mention of my maternal grandfather, who as I mentioned earlier, actually provided us with the house in Brookside. He was an interesting man. He came over steerage class from England and built a successful business, and I'm grateful to him.

MR. SIVOLELLA: Wow. How about from your childhood, what key memories or lessons have you taken with you throughout your life? Things that have stuck with you, experiences you had when you

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were in Brookside that may have taught you something that's...

00:07:11 JUSTICE POLLOCK: Well, I'll tell you, three come to mind. After school, starting in about the sixth or seventh grade, I would work in the Brookside general store. And in the early 1940s, during World War II, there had been a power outage from a heavy snow storm, and I was working alone in the store. The utility workers were trying to replace the power lines, and a crew came in at lunchtime to get something to eat. One of them picked up a can of pork and beans. This presented a dilemma, because in those days to have anything with meat in it, you had to have a red token or a red stamp, and he had neither.² So it presented me at an early age with a dilemma. Do I literally follow the law, or do I try to temper it with a sense of equity and let him have the pork and beans? And I opted for the latter. And for 00:08:14 several weeks thereafter, I fully expected to hear a knock on the door, see an FBI agent say are you the kid who sold the pork and beans and didn't get the red token? That was one.

MR. SIVOLELLA: I think your compassion overcame the rationing guidelines at that point.

JUSTICE POLLOCK: Even Blackstone, who was no free spirit on statutory interpretation, said statutes should be interpreted with equity.

MR. SIVOLELLA: Yeah.

JUSTICE POLLOCK: Then I'll tell you there was another one. The biggest event in Brookside was the 4th of July. And the high spot

² During World War II, the Office of Price Administration created a rationing system whereby every American had [ration books](https://www.nationalww2museum.org/students-teachers/student-resources/research-starters/take-closer-look-ration-books), which contained removable stamps used to purchase certain goods such as meat. <https://www.nationalww2museum.org/students-teachers/student-resources/research-starters/take-closer-look-ration-books>

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00:08:53 of the 4th of July parade was the volunteer firemen, of whom my father was one. And he had marched in the parade. He and I were walking from the community club up to our house. We walked by an old garage, and two men motioned my father inside. He came out; he was visibly shaken. Turned out the background was some folks in town had asked my father to run for tax assessor in opposition to the incumbent. And the incumbent and one of his friends had offered my father \$100 to drop out of the race. And my father knew immediately that that was wrong and rejected what they had, what they proposed. Years later when I was on the court listening to lawyers who were up before us on disciplinary proceedings say they didn't know what they had done was wrong, I couldn't help but think that my father, with a seventh grade education, could figure out what was right, what was right and wrong. And then there was one other, I'll mention it, one winter

00:10:19 afternoon, a bunch of us kids were up playing ice, a makeshift game of ice hockey. And I was up there with my dog Buck, who was a key part of my life. One of the kids shouted, "Stew, your dog's fallen through the ice." And sure enough, where the stream came into the pond and the ice was thin, Buck had fallen through. When he tried to get up on the ice, it would break and he couldn't make it. And I remembered, I think I saw this in the Boy Scout manual, it may have been something else, what you were supposed to do was spread eagle out and work your way forward with a weight distribution. So I did that and it worked, and I got to Buck and pulled him out. That was a lot of excitement for that day.

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00:11:13 MR. SIVOLELLA: It was. It was very risky too, but you succeeded. So...

JUSTICE POLLOCK: Yeah. I loved the dog, and I was happy to do it, I was there.

MR. SIVOLELLA: Yeah, you've always been a big fan of dogs that I know throughout your life, I've met them. So from Brookside, you ultimately attended Morristown High School. So you're probably now within, where you're sitting, probably within a few miles of Morristown High School. And you, among other, many other things there, you were a member of a state championship tennis team. But Morristown obviously was much bigger than Brookside, and various towns fed into it. So how did your perspective change in high school at this time?

JUSTICE POLLOCK: Well, you're quite right. In my eighth grade class in Brookside, there were eight people, eight students. So Morristown at that time was a receiving district for many

00:12:17 municipalities. And going there was exciting. But the part that, one of the parts that I loved the best, it was my introduction to diversity. And for the first time in my life, I met kids from different backgrounds. I met them, went to school with them, sat with them, so forth. Students who were from different races, religions, ethnic backgrounds, all which I found tremendously exciting, and I still do. It also introduced me to the notion that there is an inherent dignity in everyone, which is something that I hope comes through in my work on the court because as life unfolded, I became increasingly convinced of that proposition. So Morristown High School was a big thing

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00:13:12 for me. My dad wanted all of us to work after school, so my brother and I surely did. And notwithstanding that, I was able to do enough in high school so my classmates, when they had their Hall of Fame election, elected me as the most ambitious one, one that has always had me perplexed, the most original, and then the most likely to succeed. And I'm grateful to them for having done so.

MR. SIVOLELLA: Yeah, it's a shame that perplexed, that was going to be a follow up, why most original, but if it's perplexing, I'll skip that follow-up question.

JUSTICE POLLOCK: We don't want to go there.

MR. SIVOLELLA: I'm sure. And then, well, from Morristown, it was onto Hamilton College. I know Hamilton still has a place very dear in your heart. How did your path take you up there?

00:14:23 JUSTICE POLLOCK: Well, I narrowed the choice down to Hamilton, where my brother was going, and Amherst. And financial aid was key. When I spoke to the dean of admissions at Amherst, he said oh, financial aid is difficult and so forth. Ultimately, they came through with a nice scholarship. But when I went to Hamilton and met with the dean of admissions there, and I told him in the course of the interview that I would need financial aid, and he said, "Oh Stew, we'll take care of that," and I felt as if I had found a home. So that's the reason I went there.

MR. SIVOLELLA: That was a big deal. It must have been a big day when he said that when you were sitting there. You knew you had it made at that point. And then at Hamilton too you were always, like Morristown, constantly working and earning your way in

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00:15:16 addition to...

JUSTICE POLLOCK: Yeah.

MR. SIVOLELLA: Studies and extracurriculars. I mean, you really worked your way through college.

JUSTICE POLLOCK: Well, I did. I washed dishes, waited on table, everything to collect enough money to pay the bills. Rake leaves, cut grass, babysat. And then in my second, third, and fourth years, I roomed with the secretary of the college who wanted somebody to stay in his house while he was traveling around. So I did that, and I got a free room. And then in my senior year I was the steward at the fraternity, which gave me free board. The best job of all though was I had a milk route. I delivered milk to the fraternities. And that, that provided me with money for clothes and spending money and so forth.

00:16:23 MR. SIVOLELLA: So in addition to all the hard work though, while you were at Hamilton you met the person who would change your life and guide your life forever.

JUSTICE POLLOCK: That's a true statement. When I got to the end of my junior year, as I indicated a few minutes ago, I had everything in place for my senior year. I had my room taken care of by staying with the secretary of the college, had my meals taken care of by being steward. I had my milk route, which provided me with spending money and so forth, and I had this full tuition scholarship. So I thought there probably was more to life than work. And I went in to talk to a young professor, Channing Richardson. He was a Quaker. And I asked him if he had

00:17:13 any ideas of what I might do in the summer, and he suggested that

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I apply for an American Friends Service Committee work camp, which I did. At a conference in Mexico, that's where I was sent, in Mexico, at a conference in Mexico, I met Penny Morrow, who had just graduated from a Quaker boarding school. She was a Quaker. And as you indicated, that was probably the most important event in my life. And we were married on June 9th, 1956 and remained married until she died on June 30th, 2014.

MR. SIVOLELLA: So Justice Pollock, at this point at Hamilton College, what types of things did you do there that may have piqued your interest in going to law school or learning about the law? Were there particular activities or things that you had experience with that may have gotten you interested in that?

JUSTICE POLLOCK: Yes. Well there was, one comes to mind, Hamilton had then and I believe has now an honor system that covers both written work and exams. I was on the honor court for all four years, and in my senior year, I was chairman. We had a very difficult case come before us in my senior year involving one of my classmates, who was charged with cheating on an exam, which he stoutly denied, but the evidence to the contrary was overwhelming. So we sustained the allegation. The faculty reviewed and approved of it. It was, it was a taxing case, at least for me. And I remember after the case was over, a couple of weeks after it was over, I was walking by the administration building, and the dean was coming out. And he said, "Stew, what are you going to do next year?" And I said, "I really don't know; I'm not set on anything." He said, "Well I think you ought to think about law school." So that started me thinking. And he

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very kindly pointed out that NYU had a very generous scholarship program, and that's really how it unfolded.

MR. SIVOLELLA: Yeah, honor system is a really important thing for students, and it's a great way to grow as a student. But it's a very difficult thing because you have to, sometimes you have a case like that once in a while, right, where you have to discipline a fellow student. And you're right, it kind of, it's tough, it stays with you, but obviously you learned a lot from it.

JUSTICE POLLOCK: I did, but it was difficult.

MR. SIVOLELLA: So from this point at Hamilton, it was onto law school. And so just stepping back a little bit, can you talk about how you think NYU law school has evolved over the years since you've attended and a little bit about your ongoing relationship with NYU law school and with IJA?

00:20:50

JUSTICE POLLOCK: Yeah, I think NYU is the great legal success story of the last 50 to 75 years. When I went there, it was a good New York law school. I think it's now one of the great national law schools, and I'm delighted to have gone there. I've actually had a sort of a second life with NYU. After I was appointed to the court, I was at a dinner, sat next to the then-dean, Norman Redlich, and we hit it off. And he apparently went back and talked with Bob McKay, who had been a dean beforehand and who had been a young professor when I was there. And the net result was that Dean Redlich offered me a place on the Law Center Foundation board. I still serve as an emeritus member, which means, as far as I can tell, I don't do much.

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MR. SIVOLELLA: And you've also been on the IJA board, correct?

JUSTICE POLLOCK: Yes, yes, I was on the IJA board, and then I taught at the appellate judges conferences, made some wonderful friendships with people like Sam Estreicher³ and Oscar Chase⁴, who are co-directors of IJA.

MR. SIVOLELLA: Yeah.

JUSTICE POLLOCK: So it's been a wonderful, wonderful experience and relationship for me.

MR. SIVOLELLA: So in terms of your career after NYU Law, according to some of your history, you and Penny started, you know, living together in a trailer in Bayonne, New Jersey. Right, that's true? And you began to work for a law firm founded by Arthur Vanderbilt?

JUSTICE POLLOCK: Yes.

00:22:56 MR. SIVOLELLA: So what significance did this have to your legal career, your beginnings?

JUSTICE POLLOCK: Penny and I were actually married at the end of my second year at NYU and her third year at Mount Holyoke. And you're quite correct. Our home was a used trailer in Sunset Trailer Park in Bayonne, New Jersey. When I graduated from the law school, I wanted to come back to New Jersey. There was one unattractive feature of returning to New Jersey. And that is at that time, a law school graduate had to clerk for nine months

³ [Samuel Estreicher](https://its.law.nyu.edu/facultyprofiles/index.cfm?fuseaction=profile.overview&personid=19902) is the Dwight D. Opperman Professor of Law, Director of the Center for Labor and Employment Law, and Co-Director of the IJA.
<https://its.law.nyu.edu/facultyprofiles/index.cfm?fuseaction=profile.overview&personid=19902>

⁴ [Oscar Chase](https://its.law.nyu.edu/facultyprofiles/index.cfm?fuseaction=profile.overview&personid=19828) is the Russel D. Niles Professor of Law Emeritus and was a Co-Director of the IJA.
<https://its.law.nyu.edu/facultyprofiles/index.cfm?fuseaction=profile.overview&personid=19828>

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before taking the bar. So I was, I was looking for a clerkship, and I applied to the law firm of Toner, Crowley, Woelper & Vanderbilt, which had succeeded Arthur T. Vanderbilt when he
00:23:55 became chief justice of New Jersey. And I started there, clerked there, took the bar, passed it. And in the firm, there were some wonderful lawyers, one of whom was Bill Vanderbilt, who was one of Chief Justice Vanderbilt's twin sons. And Bill and I were talking one day, and I asked him, I said, "How long do you think it will be before I get to try a case in the, try a case?" He said, "You mean in the U.S. District Court or the superior court?" And I said, "Yes." He said, "Probably eight years." Well that sounded like an awful long time to me. So Bill very kindly called the U.S. Attorney, and I went down for an interview. And months later I started as an Assistant U.S. Attorney. My guess is I was probably the greenest Assistant U.S. Attorney who's ever gone into a U.S. Attorney's office.

MR. SIVOLELLA: But those jumps are useful, right. I mean in terms of developing a litigation career, a U.S. Attorney's job,
00:25:12 you're thrown right into the fire, pretty much, correct?

JUSTICE POLLOCK: You're absolutely right. But I had, when I went down there, I had never tried a case, never even argued a motion. Excuse me. So when I went down, within two weeks I was on my feet, I'm trying my first case. And I remember, I thought my adversary and the judge ought to know what a treat they were in for. So I said to Judge Wortendyke, who was conducting a pretrial conference on our case, I said, "Judge, there's something I've got to tell you. I've never tried a case. In

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fact, I've never been in court." He said, "What you mean is you've never tried a jury trial in the U.S. District Court." I said, "No. What I mean is, I've never been in court." But he
00:26:09 smiled and said, "Well, I have, and we all survived." I worked hard. I wanted, I knew how little I knew, and I wanted to be the best-prepared lawyer in the courtroom. So that was my goal. And over the time I was there, the judges came to trust me, for which I'm grateful. So I mean, in those days there was a system called U.S. Commissioners. The U.S. Commissioners were the predecessors of what are now called U.S. Magistrate Judges. We had final jurisdiction on petty offenses, preliminary jurisdiction on major criminal offenses. It was not a very good system. And the magistrate judges are much better than we were as U.S. commissioners. But when I left, the chief judge asked me if I would like to be the U.S. Commissioner for Northwest New Jersey. It was part-time. And I agreed to do it and had some interesting experiences in the course of doing it, and it was kind of fun.

MR. SIVOLELLA: And that was an early taste of public service.
00:27:30 You would do a lot of that in the future. And around this time, you and Penny started to have a family, and I believe you had four children come, wonderful kids, still are, wonderful children come in like a six-year period of time. So did this affect your decision-making at all for joining what's your private firm, Schenck, Price, Smith & King, where you stayed and became partner and a big piece of your career was there, but how did having a family, and especially a large family, affect your thinking, if at all?

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00:28:23 JUSTICE POLLOCK: Well first of all, I've been lucky. I've been with three law firms, the Vanderbilt firm, Schenck Price, and the one I'm with now, Riker Danzig. And they've all been wonderful experiences. But to answer your question, as after I'd been down in the U.S. Attorney's office for a couple of years, Cliff Starrett, who had been at Root-Tilden in the first class at NYU and was practicing law in Morristown, called and asked if I'd like to come practice law there. That was at Schenck Price. And the call was timely because as you indicated, we already had two children, and we didn't seem to know how to prevent that from happening. So I thought it was a good opportunity, and I went out there and started in 1960 with that firm.

MR. SIVOLELLA: And did you eventually develop a specialty at Schenck Price? And if so, how did that come about? Was it something that happened kind of organically through, through clients you had, or just your practice area?

00:29:40 JUSTICE POLLOCK: Well, when I first went there, the partners told me that every member of the firm was expected to know three things: how to try a case, I wasn't worried about that, how to close a title, and how to draw a will. So at the beginning, it was very much a general practice. Then something interesting happened. Up until then in New Jersey, banks could branch only in the county where they had their main office, and the inner-city banks were anxious to get out into the suburbs. So they lobbied for and obtained a change in the statute that initially permitted branching, created three districts in the state and permitted branching in any district where the bank had its home

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office. Now, of course we have national, international banking. But the change in the law gave rise to all sorts of applications to banks to expand into the suburbs, branch banks, new banks, whatever. We represented at that time, I think three or four banks that had come to me and asked me to defend the applications to come in, which I did. This led eventually to people who had wanted to start banks coming to ask me to do that, and so I developed an expertise in that area. Curiously, over time, as the years went by, some of the banks started to come to me to do mergers and acquisitions, which was quite a change. It was switching into corporate practice. But I had wanted to make that transition, so I did. And the other, the other area, a specialty that I ultimately developed was in land use development. In the 1960s, a lot of corporations wanted to move out of the inner cities into the suburbs, primarily Morristown and Princeton. So there were applications for approval for office buildings, for corporate headquarters, whatever, and I did a fair amount of that stuff too.

00:32:06 MR. SIVOLELLA: So you really took these entities through a new part of their life cycle, really, right. They were able to grow and merge, and you know, that was how you develop an expertise. You're kind of there hand in hand with them as, are evolving.

JUSTICE POLLOCK: Yes.

MR. SIVOLELLA: So you've also described that period, or your period in private practice then very fondly as a very busy and a very happy time. Can you elaborate a little bit on that?

JUSTICE POLLOCK: It was. What was wonderful was Penny and I had

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00:33:09 four wonderful children who were the center of our lives. And I remember the tenet of the Root-Tilden program, lawyers that served, served the public. So I engaged in a fair amount of extracurricular activities. I was president of what was then called the Occupational Training Center for the Handicapped. I was counsel of the New Jersey Association for Retarded Children. I served as President of the Morris County Bar. And I served as a trustee and chairman of the banking section of the state bar, so there was a lot going on.

MR. SIVOLELLA: So you had your, you were developing your expertise and all of these extracurriculars and a large family, so it was a very busy but a very happy time for you. It's nice, good period. But this period would, in terms of private practice, would slowly begin to evolve further. You decided to take a continuing legal course up in Cambridge at Harvard one summer, and there you had a serendipitous encounter, as you would describe it. Can you explain what happened?

00:34:16 JUSTICE POLLOCK: Sure. Well, what happened was I became very much aware that I needed to sharpen my knowledge on things like antitrust law, securities law, so forth. And in those days, continuing legal education was fairly limited. And one of the available courses were some summer courses that Harvard offered. So I signed up and went out there. And also attending was a judge from Essex County, Brendan Byrne,⁵ and we met at a coffee break and seemed to like each other. Then a couple of weeks

⁵ [Brendan Byrne](https://www.nytimes.com/2018/01/04/obituaries/brendan-byrne-former-new-jersey-governor-is-dead-at-93.html) was a former Superior Court judge of New Jersey and governor <https://www.nytimes.com/2018/01/04/obituaries/brendan-byrne-former-new-jersey-governor-is-dead-at-93.html>

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later, he was named the assignment judge for Morris, Sussex, and Warren Counties. That was the year I was president of the bar. And there are always problems between lawyers and judges that the assignment judge and the bar president can help solve by talking about. So we got to know each other there. I tried a case

00:35:27 before him, a fairly significant land use opinion. And one day his secretary called and said the judge is about to render an opinion in your case. So I raced up to the courthouse, and he ruled against me. And he said in doing so, he said, "There are some cases that can't be won, but I want you to know I've never seen a case tried better," which was small solace. But anyway, when that happened, that was also the day, as it turns out, that he was resigning from the bench to run for governor. And as I walked out from the courthouse down the steps, who should appear alongside me but Judge Byrne. And I said, "Judge, I know you understand I'm going to have to appeal." He said, "I understand that." And I said, "Let me just wish you the best of everything." And he waved some papers at me that turned out to be his petition to run for governor. And he said, "I don't know how this is going to turn out." And I thought at that time my

00:36:50 exposure to him was over, I would probably never see him again. Or if I did, it would be under very constrained circumstances.

MR. SIVOLELLA: Little did you think at that point. So Brendan Byrne ended up, he did run for governor, and he did win, actually. And I guess you impressed him so much in that case and your, of course your general reputation and people knowing you as well, that he actually reached out to you. And what happened

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next?

00:37:45 JUSTICE POLLOCK: What happened, again there was another instance of serendipity. I had friends in Morristown, Bob and Ann Klein. I used to play a lot of tennis with Bob. And Ann had run in the primary against Brendan Byrne. She'd come in second, backed him in the general, and Bob invited us down for a cookout and mentioned that Ann was going to be inducted the following Monday as Commissioner of Institutions and Agencies. And the coincidence was that was the day I was going to file my appeal from Brendan Byrne's decision. So anyway, after I filed the appeal, I wandered over to the governor's office, where I'd never been. In the outer office, they conducted the induction ceremony. I was about to leave when a state trooper said the governor would like to see you. So I went in, and he said, this was during the OPEC energy crisis of 1973. And he said, "Look, I've got a problem. The legislature has just made the Board of Public Utilities fulltime, bipartisan, and given it all the energy planning and control for the whole state." And he said, "I have two Democrats in mind for two of the positions on the commission." He said, "I need somebody who's a Republican, who is a lawyer, and who I can trust." And I remember saying to him, 00:39:05 "Governor, I don't know the first thing about public utilities." He looked at me and said, "Neither did I when I went on the Public Utilities Commission." Accepting the offer would have meant a significant reduction in salary, and I wanted Penny and the kids to be on board with this. So I went home. And what we decided was that I should do it, but that I should limit my term

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to two years, because by that time Wendy and Stew were going to be heading off to college, and I really needed to get back to private practice, which is pretty much the way it worked out. Serving on the BPU was my introduction to public life, and it was a wonderful experience.

00:40:10 MR. SIVOLELLA: Do you think your experience as a Root-Tilden Scholar at NYU law school, and you briefly mentioned before the principles behind the program, because it's a wonderful program, wonderful scholarship, still exists, but major principles behind it is a commitment to the ideals of public service, which kind of gets in your blood, and it's a principle you tend to follow throughout your life. But you think this impacted your decision at all?

JUSTICE POLLOCK: Very much because I was aware that I was presenting my family with a reduced standard of living. But I couldn't get out of my head the idea that a lawyer should accept the opportunity to serve the public. And that really was what motivated me to do it.

00:41:18 MR. SIVOLELLA: So you did serve two years on the BPU, and Brendan Byrne did have a very eventful first term. And nonetheless, he always had a reputation of being a straight, straight shooter, a straight person, bipartisan to some extent. So he won reelection, I guess at this point it was late, '77-ish, to a second term. And as many governors will do, you want to kind of freshen up your advisory team and your cabinet a little bit, so he decided to hire a new group of senior advisors. So at that point, what happened next for you?

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JUSTICE POLLOCK: Well, I went back to private practice after I was off the BPU, and things were going well. And when he was reelected, he invited me down to his office. He said, "I made a lot of mistakes my first term. I want to bring in a whole new team. And I'd like you to be my chief counsel." And I thought initially he had me mixed up with somebody else, because he was a Democrat, I was a Republican, and the governor's counsel is the governor's right or left hand person. I said, "Governor, you may have forgotten that I'm a Republican." And he looked at me and said, "Well I can stand it if you can."

00:42:44 MR. SIVOLELLA: Well Governor Byrne seemed to have, he seemed to be almost weaning you, right. Because he had offered you a board seat on University of Medicine and Dentistry back then. Also, did you serve on the State Commission of Investigation?

JUSTICE POLLOCK: I did.

MR. SIVOLELLA: SCI, which is also still around. So you were doing those two things as well really, it seems at the request of the governor post-BPU. So he seemed to be keeping his eye on you.

00:43:20 JUSTICE POLLOCK: In retrospect, I think that was, so Brendan kept his cards very close to his vest. But as time went on, what started out as a casual friendship developed into a relationship predicated on strong mutual trust, respect, and friendship.

MR. SIVOLELLA: We'll go there too. But you had mentioned the importance of the chief counsel to the governor, right. And particularly in a period of time, it's such a partisan time now. But just to, just to reiterate a little bit about, the importance

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of having a Republican chief counsel with a Democratic governor was unheard of almost, right?

00:44:13 JUSTICE POLLOCK: There was one precedent that I know. That was Vincent Biunno who later became a U.S. District Court judge. But it was different. It was different.

MR. SIVOLELLA: Because the chief counsel is also the right hand of the governor on legislation, right, and really is in essence the governor's attorney, right? The attorney general is the state's attorney, but the chief counsel is really..

JUSTICE POLLOCK: And you become - - all the things that governor has to do in order to govern successfully, and that, that means in order for the relationship to work, you have to trust, respect, and like each other.

00:45:20 MR. SIVOLELLA: Yeah, yeah. And then you mentioned a personal relationship forged. Could you talk a little bit about the personal relationships you forged during your career, particularly with Governor Byrne? You both had extremely busy schedules, and so you would squeeze in some work for, maybe some tennis or squash or something, you know, during the course of a wall-to-wall schedule. Did this help develop a personal relationship? And was that, was that important at all to you?

JUSTICE POLLOCK: We both liked and believed in physical fitness and exercise, and we played a lot of tennis. There was a tennis court at Morven, which was then the governor's mansion. And we played with a lot of folks, legislators, people who had matters they wanted to discuss with him. We also played squash. My special time with him every week was Friday morning. And I would

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drive down to Morven. And we would go over whatever we thought was important that was up before him for the following week. And we would do that for three or four hours, and then we would go get some exercise, usually was tennis, squash, or platform tennis.

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MR. SIVOLELLA: And you've always been, throughout your career, we as clerks knew that physical fitness was a part of your daily routine. It was a big deal. How did you, how do you think - - your ability to excel in very challenging jobs that had long hours?

JUSTICE POLLOCK: Oh, for me it was essential. I needed the exercise. And even when I was on the court, as you indicated, which was a very different experience. And I remember on my 50th birthday, I jogged with my two sons and son-in-law from our home into the courthouse, which I think that was 10 miles. And on my 60th birthday, my son Stew and I biked the 60 miles from our house in Mendham down to the Justice Complex in Trenton. It was important to me for exercise just in order to function well.

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MR. SIVOLELLA: No doubt. So when serving, as you mentioned how important the chief counsel's role is to the governor, and you worked very closely on some really significant issues, of those, is there one or two really poignant policy issues that stand out to you about your time as chief counsel with Governor Byrne?

JUSTICE POLLOCK: Well I think Brendan Byrne's finest hour was the preservation of the Pinelands. One of the folks with whom we used to play tennis was John McPhee, who wrote a book about the Pinelands and what a unique facility, place it was. And Brendan

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came up with the idea on his own that the Pinelands were being developed almost with very little control. And beneath, not only were the Pinelands unique, but beneath them there was a very important aquifer. So he came up with the idea of stopping or controlling development in the Pinelands. And that led to three things. One was a case in the Supreme Court that ultimately got dismissed as moot. But the important thing it led to in addition were the governor's executive order and the Pinelands Preservation Act.⁶ And the governor signed an executive order. We worked hard on that order, stopping, in effect stopping building in the Pinelands while the legislation was working its way through the legislature. And there was an immediate appeal that went before the Supreme Court on that. The governor took the position that he wanted to press for the legislation. When the legislation was passed, it rendered the Supreme Court case moot. But until then, we were defending the executive order. It ultimately had a happy ending because the act went through; the court did not have to decide the case involving the legality of the executive order we'd drawn. Somewhere along the line, he nominated me for the court. And I, at that point I recused myself in the counsel's office from further involvement. But it was, it was quite an experience.

MR. SIVOLELLA: So the McPhee book had really affected the governor, had really caught his attention, and the governor and you and the team really worked to kind of recondition people's

⁶ [Pinelands Protection Act](#)

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thinking. Maybe for those not familiar with New Jersey, if you look at a map, the Pinelands is almost a third of the state really, right, on the kind of southwest portion still. So it's a significant, even, and New Jersey is, you know, the most densely populated state in the Union. But a third of it is really the Pinelands, and is still not heavily populated, so that's lived on in history.

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JUSTICE POLLOCK: Just a footnote to that, if I may, after the act went through, the governor said, "Now we've got to find someone to run this commission." And I said, "I think I've got the perfect guy." And it was a wonderful man, one of my neighbors in Mendham Township, Frankie Parker, Franklin Parker⁷. He was a Wall Street lawyer, New York City lawyer. He was a man of impeccable integrity, had the ability to get along with just about everybody and was a committed conservationist. So he came down and he not only served for the balance of Brendan Byrne's term, but when Tom Kean⁸ became governor, Frankie became, continued as chairman under Tom Kean. And at some point, Frankie said, "I've got to stop doing this, it's taking up too much of my life," but neither Brendan Byrne nor Tom Kean wanted

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to lose him. And I remember Frankie said at one time, "You got me into this, you've got to get me out."

MR. SIVOLELLA: That was after many years of service.

JUSTICE POLLOCK: Yeah, I think he served for 11 years. He was

⁷ [Franklin Parker III](https://www.inquirer.com/philly/obituaries/20080207_Pinelands_leader_F_E_Parker_III.html) was the first chairman of the New Jersey Pinelands Commission. His work in this role led to the preserve being named in his honor https://www.inquirer.com/philly/obituaries/20080207_Pinelands_leader_F_E_Parker_III.html

⁸ [Thomas Kean](https://governors.rutgers.edu/governor-thomas-h-kean-biography/) is a two-time former governor (48th) of New Jersey and served from 1982 - 1990 <https://governors.rutgers.edu/governor-thomas-h-kean-biography/>

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wonderful.

MR. SIVOLELLA: And now did you and the governor also establish the state's Administrative Office of the Courts?

JUSTICE POLLOCK: Well that, well no, he established the..

MR. SIVOLELLA: Office of Administrative Law.

00:53:19 JUSTICE POLLOCK: Yeah. From our experience at the BPU, he and I, our respective experiences, he and I knew that hearing officers needed to be independent. And the BPU at that time had hearing officers, as did many of the administrative agencies. So we pushed through legislation creating that office, the Office of Administrative Law. And then the governor had been, not only had been a judge, but he had been the Essex County prosecutor for about 12 years. And he took a real interest in updating our criminal laws. So another substantial contribution that he made was a revision of the penal code.

MR. SIVOLELLA: So although we haven't discussed yet your transition to becoming a Supreme Court Justice or your time there, but at this point how would you think your, how would you characterize how your service in the governor's office and all of these public service positions in the spirit of being a Root-Tilden Scholar, how did they affect your perspective as a Supreme Court justice ultimately?

00:54:27 JUSTICE POLLOCK: Well, one thing I learned, particularly from being in the counsel's office, was what you could reasonably expect from the legislature. And also, you learn how they function. And that was key, because I can't tell you the number of times I heard legislators say to me what does this mean? I'd

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say look, it's a little unclear. And they would say well, we'll let the court straighten it out. And that was just part of the legislative process. Because I served on the governing body of an administrative agency, I had some feel for what you could expect from them and also to what extent courts should defer to the decisions of those agencies, which is becoming I think a fairly significant issue at the federal level. But those two experiences, BPU Commissioner, Counsel to the governor were a huge help when we were deciding public law issues.

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MR. SIVOLELLA: And it seems as if yes, it gave you a clearer perspective on your perspective on separation of powers and the roles of the branches and the role of the judiciary in particular. You described how seriously Governor Byrne took the appointments of judges and prosecutors. And one of your roles as chief counsel obviously would be to be in the middle of those appointments. But you and he instituted a feedback mechanism for judges in particular before their, before their re-nomination process, can you discuss how this came about a little bit and what it meant to the judiciary?

JUSTICE POLLOCK: Well yes, I must say that I don't know of a governor who has taken judicial appointments as seriously as Governor Byrne did. And as soon as he took those, he took prosecutorial appointments perhaps even more seriously. And the reason was, he said, "Look, a prosecutor has major non-reviewable discretion, so the people I put in have to be, have to be the right people." But what happened, we had an unfortunate experience. There was one judge who was coming up for

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reappointment, and the governor decided not to reappoint him because of demeanor issues. And then, I said to the governor there ought to be a better way for a judge to learn that he has, does not have a judicial demeanor by waiting until he comes up for reappointment. So he said why don't you talk to Chief Justice Hughes, which I did. And the net result is there's now a wonderful system within the judiciary for judges to get feedback on how they're doing and what people think of them during, before they come up for their tenure appointment.

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MR. SIVOLELLA: So prior to that, there was no official system. Judges had really no idea how they were doing, other than maybe feedback from trial judges, something informal, which is kind of a terrifying prospect. But now there is a formal system, and they can improve as well, right, so it overall helps the judiciary in New Jersey.

JUSTICE POLLOCK: All true.

MR. SIVOLELLA: And we'll get to the re-nomination process in a moment, how that works in New Jersey. But ultimately, you yourself did get approached to become a State Supreme Court justice. And could you talk a little bit about how Governor Byrne actually popped that question on you and whether you were expecting this, completely surprised? How did this play out? Another wonderful day, a wonderful moment in your career.

00:59:04

JUSTICE POLLOCK: Yes. In 1979, there were going to be two vacancies on the court. One, Chief Justice Hughes, a Democrat, was resigning. Retiring, I apologize. And also Worrall Mountain, who was a Republican from Morris County, was retiring.

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And the court, as you may know, that the strong tradition which has always been observed by every governor, it's just a tradition, it's not a law, is that there will never be more than four members on the court from one party. So it was pretty clear that a Democrat was going to be appointed chief justice and a Republican was going to be appointed as Associate Justice to succeed Worrall Mountain. The media caught onto this, and they started to speculate about what was going to happen. And some of them were kind enough to suggest that I might be an appropriate person to succeed Justice Mountain.

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MR. SIVOLELLA: So that balance that you mentioned is one of the things that always made the State Supreme Court highly respected, very, very well-functioning.

JUSTICE POLLOCK: Yeah.

MR. SIVOLELLA: And different, not to bring it up here, but other governors had come under a lot of pressure to break that tradition throughout the years, but obviously Governor Byrne was going to, was going to stick to that tradition.

JUSTICE POLLOCK: For sure. What happened was one day, the governor's office was on one side of the entrance to the Statehouse, counsel's office was on the other side. And then one day Dottie Seltzer called and said, "The governor wants to see you." So I went across the hall, and he was standing there with a piece of paper in his hand. And he was smiling. He said, "You better fill this out." And I picked it up. I saw it was a judicial questionnaire. And I said, "Why?" And his smile grew broader. He said, "Because I'm going to put you on the Supreme

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Court." And that was, that was typical Brendan Byrne.

MR. SIVOLELLA: That's a great story. And since you were chief counsel and had interacted so much with the state legislature, they were very familiar with you. They knew you pretty well as a person. They probably knew you as well as anybody in the governor's side of things. Can you tell us a little bit about your initial confirmation hearing then for the court?

01:02:00 JUSTICE POLLOCK: It was not as interesting as the confirmation hearing on my reappointment. But actually, I had worked enough for the members of the Senate on various things, legislation, whatever, so we knew each other pretty well. And it really was not much of a problem. I did have a problem with my own county senator, who had threatened to exercise senatorial courtesy, which would mean my nomination would not be considered, but he ultimately decided not to do that. So it was, it was a pretty unexciting, thankfully, exercise.

MR. SIVOLELLA: So you brought up senatorial courtesy. So you've had some experience with it throughout your career. You even wrote an opinion on it later on in your career as a justice, *De Vesa versus Dorsey*.⁹ What do you think in general about that practice?

JUSTICE POLLOCK: Well, it's for the Senate. It's for them to decide what rules they want to operate under. I think senatorial courtesy is a bad policy. And the reason I think that is that what happens if a senator exercises senatorial courtesy for any

⁹ *De Vesa v. Dorsey*, 634 A.2d 493 (N.J. 1993) <https://casetext.com/case/de-vesa-v-dorsey-1>

reason, no matter how petty or unimportant, it prevents the entire Senate from considering the candidate under, under consideration.

MR. SIVOLELLA: It doesn't exist as much now, right. But it is, it does seem to be a, kind of a way that senators try to shift some, some power to themselves away from the executive branch. But again, it's not a, a law of any kind. It's not in the constitution. It's basically a Senate rule, right, which still exists to some extent today and which judicial nominees have to at least be aware of. But it's kind of one of these odd quirks in some states, New Jersey in particular.

01:04:16 JUSTICE POLLOCK: Yes.

MR. SIVOLELLA: It ebbs and flows on the federal level as well in different forms. So what would you, what are your thoughts today? Bringing us up to present, just for a moment, on the New Jersey judiciary, what are your thoughts on the nominating process for state judges today, and what do you think about the quality of the New Jersey judiciary?

JUSTICE POLLOCK: As somebody who is a product of the system, I think it's pretty good. And I serve now on the governor's Judicial Advisory Panel. We help review candidates for the governor. I've been doing this I think since I left the court for whomever is governor.

MR. SIVOLELLA: So Justice Pollock, you even wrote an opinion on the Supreme Court that addressed, I believe it was a concurrence that addressed senatorial courtesy in *De Vesa v. Dorsey*¹⁰.

¹⁰ Id. <https://casetext.com/case/de-vesa-v-dorsey-1>

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01:05:20 Could you discuss that case a little bit?

JUSTICE POLLOCK: Well, the case had several ironic twists. The judge involved, who was up for reappointment, was Marianne Espinosa. And she was a good friend. Senator Dorsey exercised senatorial courtesy on her reappointment. So the case was brought, *De Vesa v. Dorsey*. The trial judge ruled that the issue of the exercise of senatorial courtesy was not justiciable. And so the case came up directly to our court. The chief justice had spoken publicly on behalf of Judge Espinosa, so he recused himself from the case. So we had a six-person court. And the irony was that John Dorsey had threatened senatorial courtesy on me. Marianne Murphy, Marianne Espinosa was a friend, but I was

01:06:40 persuaded that the trial judge had it right and that judicial reappointments are inherently political and therefore non-justiciable. So our court divided three to three. I wrote the opinion sustaining the decision below, so that was, it was considered a concurrence. And Alan Handler wrote the opinion going the other way, saying that the court could decide. Curiously, sometime later I was talking with a highly respected constitutional scholar, Gerald Gunther¹¹ out in California, and he said, "I want you to know that I put that case as a question on the exam." And I said, "What did the students think of it?" And he said, well he said, "I thought you were right, but the students thought the dissent was right." And I think, as I mentioned earlier, that the Senate has now limited senatorial

¹¹ [Gerald Gunther](https://www.nytimes.com/2002/08/01/us/gerald-gunther-legal-scholar-dies-at-75.html) was a constitutional scholar, author of a biography on Judge Learned Hand, and a faculty member of Stanford Law School.
<https://www.nytimes.com/2002/08/01/us/gerald-gunther-legal-scholar-dies-at-75.html>

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courtesy, only to the exercise of the initial appointment and do not apply it on reappointment.

01:08:08 MR. SIVOLELLA: Correct. What was the most difficult part of the transition to becoming a justice?

JUSTICE POLLOCK: Every day at the counsel's office was like the gun fight at the O.K. Corral. And the court was like a monastery. The most exciting thing that happened every day was the delivery of the afternoon mail. So that took a little, took a little while to crank down. But the transition really went easily. The court was very gracious, and I was confirmed in June, just before the court recessed. So I had the summer to get ready, and I used part of that to take a course in opinion writing that was quite valuable.

MR. SIVOLELLA: Was that course at UVA Law?

01:09:00 JUSTICE POLLOCK: No, that course was given by a judicial education group, the name of which I cannot recall.

MR. SIVOLELLA: So I believe the court had kind of a two-week cycle. Could you describe what that cycle was like?

JUSTICE POLLOCK: Sure. I'll start with the first two days, the argument days. On Monday and Tuesday of the first week, we had oral argument at the Supreme Court Courtroom in Trenton. I would then come home each night. I disciplined myself, made myself dictate a memo on each case that we had heard with a tentative decision and a lot of questions. And those memos, as you may recall, would be distributed among the clerks for the answers. Then on the Wednesday of that first week, I would come back to the office and generally would meet with you or the other clerks.

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We'd talk about the cases we heard and what the problems were and what my concerns were. And then in the balance of that week, you

01:10:13 do, I did the sort of things that you would expect, research, reviewing opinions, administrative work, whatever. And that would carry through to the weekend. Now, as you may recall, I would, I would dictate those memos. And one memo would go to a clerk who would come back with the answers during the balance of the week. So over the weekend, I would go over those memos and try to figure out what my final position would be at the court conference the following Tuesday. Then on Monday, I would confer with my cert partner. As you may recall, the six associate justices are divided into three teams of two, and those teams review petitions for certification and then report first to each other and then to the members of the court on the following day on whether or not the petitions should be granted or denied. So then we would do final preparation for the conference, reviewing motions, administrative matters, emergent applications, whatever. And then on Tuesday, we would go down to the chambers of the

01:11:48 chief justice for our conference. That was the hardest day of the two weeks for me. And we would start that day with emergent applications. Then we would go to circulating opinions and see if the author of the opinion had enough votes to make it a majority opinion, if people wanted to dissent, what their concerns were and so forth. After that, we would move to the cases that we heard the preceding Monday and Tuesday, and those were long discussions. Then we would consider the petitions for certification motions, administrative matters, and so forth.

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That's a shorthand for what was really quite a long and tiring day.

01:12:39 MR. SIVOLELLA: Yes, a marathon day for sure. So on the court, collegiality was always a critical component of the interactions behind the scenes. What types of processes or activities may have encouraged or hindered the court's strong working relationship?

JUSTICE POLLOCK: Well, if you take seven reasonably intelligent, highly motivated people from diverse backgrounds, give them controversial cases to decide, differences inevitably will emerge. If that were not so, a computer could simply decide the cases. And that was, that emphasized the need to be respectful and considerate of your colleagues and try to understand when they disagree with you, where they were coming from, what the differences were, and how you could resolve them.

MR. SIVOLELLA: Is that how you think you earned a reputation among the bar and in the media for being a consensus builder?

01:14:04 JUSTICE POLLOCK: I don't know, but I hope so. I respected the other members of the court, even when I disagreed with them sharply. And whether I was in the majority or in the dissent, I always tried to work out my differences with the other members of the court. Sometimes you can change a word here, a word there, a sentence. Sometimes you have to change an entire point. But if I could work those differences out with the members of the court, I thought I was doing something productive.

MR. SIVOLELLA: Now it was just a matter of time before I got to a question for you about law clerks. But of course law clerks

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are typically a critical component of judicial chambers. How did you select yours?

01:14:52 JUSTICE POLLOCK: The selection process got easier with time. Law professors, lawyers, other judges would recommend people. The pool of candidates was highly qualified. And what I looked for was collegiality and compatibility. We were a rather small group in secluded quarters and wanted someone with whom I could work happily and successfully. The other thing I looked for was diversity, all kinds of diversity, racial, religious, political, and so forth. And my thought was that if you get enough people with different views, even if you disagree with them sharply, out of the discussion that would ensue from listening to their viewpoints, I was more likely to reach the right result. I had great respect for my law clerks, and in fact was the part of the job I liked most, was working with you and the others. I must add at this point they, the clerks, really became part of my extended family. And as you may recall a couple of years ago, the clerks very generously arranged for my portrait to be painted, which I deeply appreciated.

01:16:22 MR. SIVOLELLA: Yeah, yes, from a clerk's perspective, it was an extended family. And you would interact with the previous ones and then kind of help transition the new ones and stayed in touch year to year. And it was really, to this day is really a special part of clerking for you. It was really unique and remarkable, so thank you. Thank you for that. One of your earliest, among your roughly 250 or so opinions, involved three artworks by

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Georgia O'Keeffe¹² that had been stolen back in the 1930s. Can you tell us a little bit about that case?¹³

01:17:09 JUSTICE POLLOCK: That arose early in my judicial career. And you're quite correct. There had been an exhibit in the 1930s at a gallery called An American Place in New York. One morning, O'Keeffe walked into the gallery and three paintings were gone. They surfaced decades later at an art dealer in Princeton. And O'Keeffe said those paintings are mine, I want them back. The art dealer said I was a bona fide purchaser for value, and they're mine. So O'Keeffe started a replevin action to regain possession of the paintings. And we were off and running. Up until then in cases like that where there were paintings that disappeared and then reappeared, the dispositive legal principle was adverse possession, whether or not the holder of the painting had held them openly, notoriously, continuously for whatever the period of limitations was in the relevant statute of limitations. And we changed that. We shifted the focus from the conduct of the possessor to the conduct of the original owner to try to regain them, which brought in the statute of limitations and the discovery rule. And that, that was the significance of the case. It attracted a lot of publicity, probably because of Georgia O'Keeffe. I remember, several law professors have told me it's in the case books being taught on adverse possession and so forth. One interesting footnote is that down in the Justice Complex in Trenton, which is the home of the Supreme Court, the

01:18:14

¹² [Georgia O'Keeffe](https://www.okeeffemuseum.org/about-georgia-okeeffe/) is a renowned American 20th century modern artist.
<https://www.okeeffemuseum.org/about-georgia-okeeffe/>

¹³ *O'Keeffe v. Snyder*, 416 A.2d 862 (N.J. 1980)

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administrative office of the courts, the attorney general, and so forth, as you walk in on the ground floor, there is a sculpture. And the sculpture is a lawyer, two lawyers and a judge, and the judge is holding a book open. And if you look carefully, the book is one of the briefs in the O'Keefe case.

01:19:43 MR. SIVOLELLA: That's a great, great anecdote for that story. So your court over time handled major sets of cases, and you came onto the court in the midst of some of these sets of cases, like public school financing and affordable housing cases, that would define those issues in New Jersey for generations. So rendering decisions and creating law in those complex matters can pose challenges, right, for the perceived legitimacy of a court. In general, how did your court manage these legitimacy-related issues?

JUSTICE POLLOCK: You describe that as a challenge. It reminded me of something one of my colleagues once said on the BPU. If every challenge is an opportunity, we have more insurmountable opportunities than we want. But you're quite correct. Those two sets of cases were probably the most demanding that we had on the court. The Robinson Cahill, which later became denominated as Abbott against Burke,¹⁴ dealt with the financing of public schools. New Jersey has a provision in its constitution that guarantees a thorough and efficient system of free public education. And over time, the system was not working constitutionally, and the reason is that the primary funding for

¹⁴ *Abbott v. Burke*, 495 A.2d 376 (N.J. 1985); *Abbott v. Burke*, 693 A.2d 417 (N.J. 1998)
<https://law.justia.com/cases/new-jersey/supreme-court/1985/100-n-j-269-0.html>;
<https://law.justia.com/cases/new-jersey/supreme-court/1998/a-155-97-opn.html>

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public education comes from local school taxes. As time passed, the urban centers had difficulties with declining property values and therefore declining taxes, which meant that the kids in the inner cities were not getting a thorough and efficient system of education. So our court, before I joined it, in the original Robinson Cahill opinion, ruled that, that the state had, that the system was failing. The court declined in that case and for several cases to tell the legislature what it should do, simply said this system isn't working. Ultimately, I think it was in the sixth opinion, and again it occurred before I got there, the court said this system isn't working, we're closing the schools until you come up with a constitutional method of finance. And that's what really gave rise to the income tax in New Jersey. And as years went by, the legislature would try to satisfy the constitutional obligation. The court would point out where it had failed. And so eventually they came up with a system that seems to be working. I have not kept up with any litigation on that point today. The other classic cases that you mentioned were the so-called Mount Laurel¹⁵ cases, which dealt with low and moderate-income housing.

01:22:08

01:23:11 And they, again, that started before I arrived on the court. And the initial beginning was quite modest. What was going on was in the 1950s and 60s, as we discussed yesterday, corporations were leaving the inner cities to come out into the suburbs, which provided the suburbs with very good rateables. And in order to

¹⁵ [South Burlington County, NAACP v. Mt. Laurel](https://law.justia.com/cases/new-jersey/supreme-court/1975/67-n-j-151-0.html) (Mount Laurel I), 336 A.2d 713 (N.J. 1975); [South Burlington County NAACP, v. Mt. Laurel](https://law.justia.com/cases/new-jersey/supreme-court/1983/92-n-j-158-0.html) (Mount Laurel II), 456 A.2d 390 (N.J. 1983) <https://law.justia.com/cases/new-jersey/supreme-court/1975/67-n-j-151-0.html>; <https://law.justia.com/cases/new-jersey/supreme-court/1983/92-n-j-158-0.html>

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accommodate the executives who are living and working in those corporations, many of the towns adopt a large lot zoning. And we, our court again before I got there, simply pointed out if you're going to zone for the chairman of the board and the president, you also have to take into consideration the secretaries and the lower-level employees. Over time, that doctrine evolved and led to the court's attempt to require municipalities to provide low and moderate-income housing, not just for the folks who live there, but for people in the surrounding area. Those two sets of opinions were the most taxing on the court and on the court's legitimacy. And one way the court reacted, we tried very hard to be unanimous because we felt not only was the law at stake, but the legitimacy of the court as an institution, very much the way the U.S. Supreme Court did in Brown against the Board of Education.

01:24:36

MR. SIVOLELLA: When you were on the court as well, how did you approach adjudicating another group of difficult, extremely difficult and emotional cases, death penalty and related cases during your tenure there?

JUSTICE POLLOCK: Those were difficult cases. I have written opinions that have sustained the imposition of the death penalty. Fortunately before the penalty was imposed, the legislature changed its mind and revoked the death penalty. But as a matter of policy, I disagreed with the death penalty. I just don't think government should be in the business of taking people's lives. Having said that, I also thought that the death penalty had been part of our country and this state's history forever,

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and that within constitutional limits, the legislature could have a death penalty if that's what it wanted. So as I mentioned, although I disagreed with the policy, I have written opinions that sustained it. I'm grateful that before the penalty was carried out, the legislature changed its mind.

MR. SIVOLELLA: You also authored opinions in cases like *Schroeder v. Perkel*,¹⁶ which had been labeled in the press as, in other places as a wrongful birth case, and *Procanik versus Cillo*, which allowed an infant born with disabilities to sue doctors who failed to diagnose his mother's rubella. The court

01:26:45

also handled matters like *Baby M*,¹⁷ which was internationally recognized. Can you discuss these cases a bit and how these and other issues may have affected your interest in law and bioethics and medicine?

JUSTICE POLLOCK: *Schroeder* and *Procanik* were challenging cases. The allegation was, as you indicated, that the doctor had failed to properly inform the parents in the one case that a child had cystic fibrosis, which the parents alleged led them to have another child which also had cystic fibrosis. And then in, I'm sorry, that was *Schroeder*.

MR. SIVOLELLA: *Schroeder*.

01:27:47

JUSTICE POLLOCK: And then *Procanik* was a case where a woman earlier in her pregnancy had been diagnosed with rubella and she said the doctor had not sufficiently warned her about that. And it raised profound issues. Is a life with burdens worth more

¹⁶ *Schroeder v. Perkel*, 432 A.2d 834 (N.J. 1981) <https://law.justia.com/cases/new-jersey/supreme-court/1981/87-n-j-53-0.html>

¹⁷ *Matter of Baby M.*, 537 A.2d 1227 (N.J. 1988) <https://law.justia.com/cases/new-jersey/supreme-court/1988/109-n-j-396-1.html>

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01:28:17 than non-life? And quite frankly, I expressly said we were not going to address that and that all we were going to try to do is come to a fair and reasonable allocation of the cost of raising a child with these handicaps. And both opinions produced dissents. One dissent said I had gone too far. Another dissent said I hadn't gone far enough. Baby M was probably the most discussed case. It may have attracted more attention than anything, any other case while I was on the court. The court actually was unanimous, and it raised a challenging issue. And the issue was, concerned the, who would be the custodial parents of a child born through the following facts.

01:29:11 The surrogate mother had agreed in a contract to be inseminated with the sperm of a man who paid her \$10,000 to become pregnant, carry the child to term, and then deliver the child to him and his wife. However, after the baby was born, the surrogate mother said she could not part with it and wanted custody of the child. And this is an area where there was no immediately cogent law, but it doesn't mean there was not any law. And so what we did was we looked to the law concerning the prohibition on baby selling, the termination of parental rights, the allocation of a child or the ward of a child in adoption cases where the best interests of the child play in. We simply said that the contract was unenforceable, and we remanded it to the trial court, and the trial court then made a determination on who should receive the custody of the child in the child's best interests.

MR. SIVOLELLA: So this also raises an issue, generally, how did the court, when issues came to you from a new form of, rising

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01:31:06 from a new form of technology, rising technology, or a new advancement in science that's created an absolute conundrum, how did, how did the court manage and deal with these cases? 'Cause eventually they'd make their way up to you.

JUSTICE POLLOCK: Well, as presented to us, the case came, of course, with a record and with multiple amicus briefs. And what we did, we simply did the best we could. And as I mentioned, in the Baby M case,¹⁸ although there were no legal principles directly on point, there were relevant legal principles to which you could go for guidance, and that's what we did. The problem

01:32:57 arose earlier again in a case that came to the court before I was on it, the Quinlan case, the right-to-die case.¹⁹ We did have several other cases involving that notion, that principle while I was there. And what you do is you simply try to find the most relevant legal principles and come to the best decision.

MR. SIVOLELLA: In part because of the expertise you developed in law and bioethics, you were asked to be the first chair of Seton Hall's health law program. Can you tell us about this?

JUSTICE POLLOCK: Yes, that was a happy experience. Two professors, Kathleen Boozang,²⁰ who is now the dean, and John Jacoby stopped in the chambers and said Seton Hall was thinking of starting this health law program, and they asked if I would be

01:33:08 willing to chair it. I was only too happy to do so because by this time my interest, as you've indicated, in law, medicine, and bioethics had grown so much so that when I was at UVA to work on

¹⁸ Id. <https://law.justia.com/cases/new-jersey/supreme-court/1976/70-n-j-10-0.html>

¹⁹ In Re Quinlan, 355 A.2d 647 (N.J. 1976)

²⁰ Kathleen Boozang is Dean & Professor of Law at Seton Hall Law <https://law.shu.edu/faculty/full-time/kathleen-boozang.cfm>

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my master's, that was the topic of my thesis. So I was happy to do it, and I'm happy to see that the program at Seton Hall has continued to grow.

MR. SIVOLELLA: So stepping back for a moment and taking kind of a high-level look at things, what were the guiding principles for you in writing your opinions?

01:34:22 JUSTICE POLLOCK: I guess the two most dominant considerations were clarity and brevity. I wasn't trying to write law review articles, although I did try to write scholarly opinions. And the reason is I felt someday somebody is going to have to read these opinions in deciding cases, whether it's a litigant, a lawyer, or a judge. So I wanted to make them as clear as I could. I also, I spent a lot of time on the facts, and I thought the facts were important. One of the great judges in New Jersey history, one of the unsung heroes when I was nominated for the court, said, "I'll give you one piece of advice." He said, "Stewart, get the facts right and the law will take care of itself." So I spent a lot of time on the facts. Also in writing, I tried to avoid surplusage, adjectives and adverbs. I always felt if I came up with the right noun and the right verb, I wouldn't need to color it at all. So those are, those are the, those were the points that I tried to follow. I tried to be clear, tried to be concise, and I had the help with some wonderful law clerks like you.

01:35:20 MR. SIVOLELLA: Yes, and all of those lessons were taught repeatedly all year in your chambers and I think stayed with all of the clerks for sure. And as you were saying, that it

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absolutely all came back to me. So getting back to specific opinions briefly, you had an opinion in Vasquez versus Glassboro Service Association,²¹ and that forged some new law in both contract, the area of contracts, and also protected the rights of migrant workers in New Jersey. I believe you wrote that opinion around 1980 or so, and it still controls today. Can you discuss the case briefly?

01:36:29 JUSTICE POLLOCK: Sure. Vasquez involved a migrant worker in southern New Jersey. And for whatever reason, his employment had been terminated. Part of the employment arrangement was the provision of housing. And so the farmer, the employer said, look, you no longer work here, you cannot live here. And Vasquez had no place to go. We thought that was harsh. And so what we did was we read into the law the opportunity for Vasquez and employees to have housing on a limited basis for a limited period of time. In writing that, we actually built on an earlier opinion, State v. Shack,²² which also was protective of migrant workers. And I think there may have, there may have been an opinion since then; I don't know. But I think the point was to respect, if you will, the dignity of the migrant worker and not be too harsh in the reading of the law.

MR. SIVOLELLA: You also authored the court's opinion in Right to Choose v. Byrne.²³ Can you discuss the federalism issues a little bit that this opinion raised and the subsequent Weintraub lecture

²¹ [Vasquez v. Glassboro Service Ass'n, Inc.](https://law.justia.com/cases/new-jersey/supreme-court/1980/83-n-j-86-0.html), 415 A.2d 1156 (N.J. 1980) <https://law.justia.com/cases/new-jersey/supreme-court/1980/83-n-j-86-0.html>

²² [State v. Shack](https://law.justia.com/cases/new-jersey/supreme-court/1971/58-n-j-297-0.html), 277 A.2d 369 (N.J. 1971) <https://law.justia.com/cases/new-jersey/supreme-court/1971/58-n-j-297-0.html>

²³ [Right to Choose v. Byrne](https://law.justia.com/cases/new-jersey/supreme-court/1982/91-n-j-287-0.html), 450 A.2d 925 (N.J. 1982) <https://law.justia.com/cases/new-jersey/supreme-court/1982/91-n-j-287-0.html>

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01:37:35 on this topic that you gave at Rutgers Law School?

JUSTICE POLLOCK: I think the basic issue in Right to Choose was that federal law at that time provided Medicaid funding to an indigent woman who wanted to terminate her pregnancy if she was terminating the pregnancy to protect her life but not her health.

01:38:03 And what our opinion said was that doesn't go far enough and that under state law, under our state constitution, there was a constitutional right to terminate a pregnancy to protect the woman's health. And therefore we went beyond the protection accorded by the U.S. Supreme Court at that time to pregnant women. So our opinion went beyond the federal law as interpreted by the U.S. Supreme Court at that time, and then that triggered my interest into what extent can state courts depart from federal law in granting protection to fundamental rights. And so I spent a lot of time thinking about and studying that. I was actually,

01:39:10 I was invited out to the Aspen Institute to participate in a program with Justice Blackmun and Norval Morris,²⁴ who was then the dean at the University of Chicago Law School, called Justice in Society, where we discussed these issues. And then as you indicated, Rutgers invited me to give the Weintraub lecture, which I did. And in that I discussed the notion of federalism and the extent to which state courts can grant greater protection to fundamental rights. A positive surprise that came out of that was when the article was published, there was a very gracious and generous introduction by Justice Brennan, which I appreciate to

²⁴ [Norval Morris](https://www.nytimes.com/2004/03/07/us/norval-morris-dies-at-80-a-leading-expert-on-criminal-justice-systems.html) was a well-known criminologist at the University of Chicago, former dean of its law school, and strong advocate for criminal justice reform
<https://www.nytimes.com/2004/03/07/us/norval-morris-dies-at-80-a-leading-expert-on-criminal-justice-systems.html>

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this day.

MR. SIVOLELLA: To have read an introduction to your law review
01:40:07 piece was a surprise..

JUSTICE POLLOCK: It was.

MR. SIVOLELLA: To you.

JUSTICE POLLOCK: Yes, a welcome one. Sure there was at least
one person that read it.

MR. SIVOLELLA: So your work on the state's ability to provide
greater constitutional protections under kind of the rubric of
federalism eventually took you to the former Yugoslavia of all
places. How'd you get there?

JUSTICE POLLOCK: You're quite correct. I had given enough talks
on this that the USIA, United States Information Agency, asked me
to go to Yugoslavia, former Yugoslavia and Spain, which were
having separatist problems, to talk, which I did. And apparently
I was a failure because Yugoslavia disintegrated as a country,
and Spain still has its separatist problems.

01:41:11 MR. SIVOLELLA: So in New Jersey, we mentioned, we alluded to it
briefly in part one, but after seven years of service, the
governor can re-nominate a justice to the Supreme Court for
tenure, permanent tenure until mandatory retirement age, which is
still 70 years old in New Jersey. You had a re-nomination
process 'cause Governor Tom Kean re-nominated you for the
permanent tenure. How did right to choose, how did your opinion
in that case affect your re-nomination process?

JUSTICE POLLOCK: Well, the pro-life groups were opposed to me.
Also my home county senator threatened senatorial courtesy, and

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the governor's counsel, Michael Cole, called and said, "There'll be some witnesses against you. You better get some witnesses for you." And he said, "Get a couple of Republicans and one Democrat." And the gratifying thing was I made three phone calls. Each person accepted, and they were a pretty impressive group of witnesses. It was former Governor and Chief Justice Hughes, whose was a Democrat, Ray Bateman, who had been the chairman of the Senate Judiciary Committee, and Art Lane, with whom I served on the SCI, who had been a U.S. District Court judge and a general counsel for J&J, I'm grateful to this day for their support.

MR. SIVOLELLA: And what do you think of the phrase that's used occasionally, activist judges? Sometimes it's used in a pejorative sense. You have a view on that?

JUSTICE POLLOCK: I think it's a misnomer. The fact of the matter is judges make law, and to the extent that judicial activism is a criticism for making law, I think the better question is whether you like the law the judge makes, because whether a judge looks to original intent, the plain language of the statute, the judges are making, making law in every decision. So I would, as I've indicated, tend to avoid that phrase and look at what the judge does to see whether you like him or her.

MR. SIVOLELLA: So the New York Times once quoted you as writing, "Those who poison the land must pay for its cure."²⁵ What did that mean?

²⁵ *State, Dept. of Environmental Protection v. Ventron Corp.*, 468 A.2d 150, 161 (N.J. 1983) <https://law.justia.com/cases/new-jersey/supreme-court/1983/94-n-j-473-0.html>

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01:44:23 JUSTICE POLLOCK: What it meant on that case was, the DEP v. Ventron,²⁶ that not only was the present owner of contaminated land responsible for cleaning it up, but so were former owners who owned the land when it became contaminated. That case arose out of litigation concerning land that if my recollection is correct, had the highest contamination of radium in the world. And the record was voluminous. The trial was extensive. And what I was trying to do is come up with one line that would represent accurately what that case was all about. That was where I came up with the sentence. And then much to my astonishment, the next day The New York Times picked it up as the quotation of the day. And one footnote to all that is that when I left the court, the bar very generously created, named an environmental Inn of Court after me, for which I'm grateful.

MR. SIVOLELLA: As we've discussed your life and career, you've obviously had a lot of very important people be a part of things. Can you discuss briefly a few mentors or persons who significantly influenced your legal career and your judicial career?

01:45:38 JUSTICE POLLOCK: I have been lucky in having so many people offer a helping hand. When I was at the Vanderbilt firm as a law clerk, and in those days there was nothing in the office lower than the law clerk, Willard Woelper, who was the partner with whom I was working, was gracious to me even when I disagreed with him. And I appreciated that Bill Vanderbilt was very kind in reaching out to Chet Weidenburner about my serving as an

²⁶ Id. <https://law.justia.com/cases/new-jersey/supreme-court/1983/94-n-j-473-0.html>

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Assistant U.S. Attorney. And then when I came to Schenck Price, there was an absolutely wonderful man, one of the best, if not the best courtroom litigator I ever saw, Harold Price, who was an NYU law school graduate. Never went to college, went to law school at night, and he was generous and gracious in referring major cases to me that I could not have attracted on my own. And then of course Brendan Byrne sort of brought me along in public life, so I've been a lucky guy at just about every stage.

01:46:38

MR. SIVOLELLA: In a speech you gave at Tulsa Law School, you once described judges and lawyers as catchers in the rye. Can you explain this powerful metaphor?

JUSTICE POLLOCK: Well, I gave that speech in the year that it was the 50th anniversary of *The Catcher in the Rye*. And that line comes up about being a catcher in the rye, comes out of a conversation between Holden Caulfield, the protagonist, and his sister where she says, "What would you like to be?" And he said, "I'd like to be the catcher in the rye." And then he explains, he envisions a field of rye with a cliff behind it, and the kids are playing in the field. And he stands at the edge of the cliff and catches them as they're about to fall over. So my point was that lawyers and judges have the opportunity to be catchers in the rye for folks. And I had in mind people who were getting inadequate education, not having appropriate housing opportunities. Justice Brennan had a phrase to refer to all those in saying all those who did not participate in the abundance of American life. So that was where that line came from.

01:47:49

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MR. SIVOLELLA: Just as you thought your speech would fade into oblivion, you received a call one day. Can you tell us about that?

01:48:40 JUSTICE POLLOCK: I did. I was astonished. A couple of years later I received a call, I wish I could recall his name, but I can't, the dean of a law school in California, who asked if I remembered giving that talk, and then said he was going to use that theme as the basis for his commencement remarks, which made me feel good.

01:49:00 MR. SIVOLELLA: In the second annual IJA Brennan Lecture on State Courts and Social Justice, which is now I believe in its 26th year, you delivered a speech entitled then The Art of Judging. What was your inspiration for that speech, and can you tell us basically what it said?

01:49:48 JUSTICE POLLOCK: The speech came from a conference I had attended in Italy, sponsored by NYU. It was an international conference on constitutional law where there were several members of the U.S. Supreme Court, the chief justice of the Supreme Court of Italy, of the former Soviet Union and so forth. And the way it worked is in the mornings we would, we would have sessions where we would have roundtable discussions of constitutional law. And then in the afternoon, we would visit the wonderful museums in Florence. As I was wandering through the museum with this very distinguished group, I started to wonder about whether there was a comparison between what an artist does and what a judge does, and I began to see some similarities. The artist has to select whether he or she is going to paint on a large canvas, a

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small one, with broad brush strokes or not, in bright colors and so forth. And judges make comparable decisions when deciding how to write an opinion. And it starts, it starts with the selection of the facts on which the opinion is going to be predicated. So that was sort of what was behind it. Also resonating in my mind was a speech that Archibald MacLeish²⁷ had given to the Harvard Law Review in which he analogized the work of poets to lawyers and judges. And he pointed out what, as he saw it, the purpose of law was to make sense of the business of life. And he said and that's what artists do. They try to make sense of the business of life. So I thought it was good enough for Archibald MacLeish and poetry, it was good enough for me and art.

01:50:52

MR. SIVOLELLA: So you've always worked on your professional, you've always worked on perfecting your craft throughout your career. In this context, what role did continuing judicial education play in your career as a Supreme Court justice?

01:52:12

JUSTICE POLLOCK: You're quite right. I wanted to be as good as I could be as a judge. And this led me to look for constant ways to improve. And I guess the most significant effort was getting a master's degree at the University of Virginia. And they were kind enough after I finished my degree to invite me down to participate in judging a moot court final with Supreme Court Justice Anthony Kennedy. Then they invited me back to teach a course. And I also was active in the Appellate Judges Conference. Someone pointed out at one time, I think the final

²⁷ [Archibald MacLeish](https://www.poetryfoundation.org/poets/archibald-macleish) was a "poet, playwright, lawyer, and statesman..." of the 20th Century <https://www.poetryfoundation.org/poets/archibald-macleish>

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makeup of our court sat together for something like 12 years. So I was seeing the same people week after week and dealing with them day after day, and I wanted to see what was going on in other parts of the country. So I became active in the Appellate Judges Conference of the American Bar Association and chaired its Education Committee, attended many of its programs, and then ultimately served as chairman of the Appellate Judges Conference.

01:53:17 MR. SIVOLELLA: And by the way, I believe the course you taught at Virginia Law School was on law and bioethics in medicine, correct, tapped into...

JUSTICE POLLOCK: That's true. That was true.

MR. SIVOLELLA: So bring us up to the present for a moment. Can you discuss the independence of the judiciary today, particularly in light of, sometimes there are struggles between separation of powers? Do you have thoughts on the independence of the judiciary?

JUSTICE POLLOCK: I think it's terribly important. And I think, I think the good news is that right now, at least in New Jersey, no one is challenging the independence of the New Jersey judiciary. There have been times in the past when legislators who are upset over an opinion the court writes talks about making the court, at least our court, and perhaps even superior court

01:54:21 judges, elected. I think that's an awful notion. I think when you start introducing judges into the political process with a compulsion to raise money and all that, it can lead to untoward results. So right now I think we're in pretty good shape in New Jersey.

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MR. SIVOLELLA: So if you were going to have a cup of tea this afternoon with a person who had just become a new associate justice on the Supreme Court, what would be your advice for that person?

01:55:15 JUSTICE POLLOCK: I think I would emphasize the integrity of the judiciary, not only in terms of how you conduct yourself in the courtroom, but in your social life. The painful reality is there are restrictions on what you can do as a judge. And I know I've turned down invitations to dinner parties when I've heard who some of the guests were going to be, for whatever reason. And then I guess the other thing I would mention is the importance of respecting your colleagues. Listen carefully to what they say, try to figure out why they're going in one direction and you're going in the other. And is there some way that you can get together?

MR. SIVOLELLA: Maybe flipping that question, and you've probably done that, done this throughout your career, particularly at Riker, what is your advice generally for an attorney who is preparing to appear in front of the Supreme Court?

01:56:28 JUSTICE POLLOCK: The two questions I always had in the back of my mind when someone appeared before us was do I trust him or her, and does he or she know what he or she is talking about? And the good lawyers know how much they can give away and still keep what they need to win. And that to me is a fundamental aphorism about appellate advocacy. The other thing is listen carefully to the questions that the court asks. Now sometimes one justice will ask one question, and another justice will ask a

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question going in the other direction. I remember that happened once on our court when Chief Justice Wilentz turned to the lawyer and said, "Look, why don't you sit down and let them talk to each other." And I guess that's another point, is remember that the judges are human.

MR. SIVOLELLA: What are your thoughts on the growth of arbitration and mediation?

01:57:34 JUSTICE POLLOCK: I did a lot of both for many years after I retired from the court and while I was at Riker Danzig. And I think there is a useful role for both. I still serve as an emeritus member of the College of Commercial Arbitrators, which is a group of highly skilled arbitrators. The concern I have is often the arbitration clauses are drafted by the dominant person in a contractual relationship, and they sometimes favor someone in that position rather than the person in the servient position. And I become increasingly concerned when the result of the clause is to deprive one of the parties the opportunity to go to court. So I think, I think it's something that's useful, has its limits. And I would just be concerned about watching that one issue.

MR. SIVOLELLA: Can you talk a little bit about your role currently on the committee for the Supreme Court on the history of the judiciary in New Jersey?

01:59:01 JUSTICE POLLOCK: Well, that has turned out to be quite a project. The original chairman was Justice Coleman. Then when he resigned, the court asked me to serve. And what we're doing is looking, as you indicated, at the history of the New Jersey

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judiciary, in which Arthur T. Vanderbilt²⁸ is a critical player, if not the most important player. He was, as you know, he was not only the dean of the NYU law school, but he was president of the American Bar, a tremendously successful lawyer in New Jersey, the first chief justice under the 1947 constitution. What we were doing is we were trying to reconstruct the history from that time forward, from the 1947 constitution forward, when New Jersey went from having what had been described as the worst court system in the country to having the best. And because of Vanderbilt's role in it, I am particularly happy to serve as chairman and help preserve the history of the court system over the intervening decades since 1947.

02:00:05

MR. SIVOLELLA: Will this committee produce a book ultimately on this history, or a report?

JUSTICE POLLOCK: What we have is a website²⁹ with, on it, and I don't know whether it will produce a book, but there are multiple written pieces on the website about the development of law since 1947.

MR. SIVOLELLA: Could you also tell us a little bit about the, 'cause we talked in part one about your affinity and great experiences at Hamilton College. And it's not only during that period of time where you met Penny, but you also were gently steered onto the path of going to law school. But could you talk about your honorary degree that Hamilton granted?

02:01:12

JUSTICE POLLOCK: I was pleasantly surprised when the president

²⁸ [Arthur T. Vanderbilt](https://www.njcourts.gov/courts/supreme/vm/vanderbilt.html) <https://www.njcourts.gov/courts/supreme/vm/vanderbilt.html>

²⁹ [New Jersey Supreme Court Virtual Museum](https://www.njcourts.gov/courts/supreme/vm/scvirtualpic.html)
<https://www.njcourts.gov/courts/supreme/vm/scvirtualpic.html>

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of the university called and said they wanted to award me an honorary degree. My recollection is the citation focuses on the work on federalism, so forth. But I remember standing up on the stage when I was receiving the degree. And I was thinking only in America could somebody who had been a dishwasher here end up with an honorary degree.

02:02:06 MR. SIVOLELLA: That's true. That's a great story. So you have also been fortunate enough to have multiple children and grandchildren follow your path into the law, which is one of the greatest forms of flattery you could have. In fact, I think one of your sons and one of your grandsons actually graduated from NYU law school. What do you think about that? And also, what do you think about the profession today? How may it be a bit different for them than it was for you starting out?

JUSTICE POLLOCK: You're quite correct. I'm grateful for the number of lawyers in the family. My son-in-law, Bob Gilson, is now on the Appellate Division. And I have, let's see, my younger son Jeffrey went to NYU as a lawyer. And then I have four grandchildren who are lawyers, one of whom, as you've indicated, also went to NYU. And they're an interesting group. Two of them are in private practice. One is in the Civil Rights Division of the Department of Justice, and one of them is in a prosecutor's office in Charlottesville, Virginia, so it's gratifying to see that happen.

02:03:25 MR. SIVOLELLA: Finally, as we draw to a close in our discussion, Justice Pollock, how would you like to be remembered?

JUSTICE POLLOCK: I think I'd like to be remembered as someone

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who looked for the best in others, recognized the inherent dignity of everyone, worked hard, and did the best he could.

MR. SIVOLELLA: Great. And I think the, I think the state of New Jersey and the country are better off for the career path you chose, so thank you. So I'll wrap it up here today. It's been an honor and an absolute pleasure to spend all this time speaking with you about your life and your career on behalf of IJA's Oral History of Distinguished American Judges Project.

JUSTICE POLLOCK: Thank you, John, and thanks to IJA.