Interview with George M. Scott

Interviewed by Margaret Robertson
Minnesota Historical Society

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MR: Your family originally came from Ireland, is that right?

GS: Yes, my father was born and raised in Ireland. He was born outside a small farm town called Hacketstown, in County Carlow, Ireland. We would ask him where County Carlow was, and he would say that it was forty miles by hay wagon out of Dublin. That's about all we could get from him on that until we finally went over to Ireland. My nephew, Bill Scott, who practices law in Westchester County, Pennsylvania, did some research on the family tree and has been to Ireland several times. He traced back the family four hundred years on two farms outside of Hacketstown. One farm is called Constable Hill and the other farm is called Ballasalla. He went as far back as the records would go, and the Scott family had owned these two farms for all those years. Now it wasn't exactly ownership, because in those days before the Irish free state was founded in 1922, no one owned the land but the crown and the earl of the district. Everyone is listed as "lessor" on the tax records. Those in possession of the land are the owners now. I guess the law hasn't been tested as to whether or not the earl still owns that land or whether the people own the land.

My father left there after his father died. His mother died when he was young. He claims that he sold a cow for his steerage to America.

These two small dairy farms are still owned by relatives of ours. Ballasalla is a very nice farm now. In those days it wasn't worth anything to sell, because of course, as I say, you weren't actually the owner. The Quinns, who were my father's second cousins owned Ballasalla, and our other relatives, the Bradys, owned Constable Hill. When we went to Ireland, we visited them along with our other relatives. The only sign in town over any store is a big one with the name "Scott" spelled out--that kind of surprised all of us. That store used to be my uncle's--it was the William J. Scott Bakery--and even though different people own it now, the name still stands there over the door. So we had a little flavor of the area, which is very beautiful. We had an enjoyable trip.

We went to the church in town that my father attended. We went to the bar in town where my father drank beer. In fact, old Bridgett Scott was still alive then--she was eighty-six years old. She was the only one who remembered my father, because he had left Ireland before the rest of the relatives were born. Now Bridgett has passed away. Bridgett lived in a little shanty with very beautiful, old porcelain and brass furniture.
They were very valuable, I'm sure, but she had no biffy--no bathroom--in her shanty. We asked her where she went to the bathroom. She'd lived there her whole life, and she went next door to the neighbor. [Chuckles] So for eighty-six years she'd been going next door to the neighbor to go to the bathroom. Things don't change much over there.

MR: How old was your father when he came to the United States?

GS: He was about twenty-one. He was born in 1880, and he came over here in 1902. He arrived in New York City, where he had friends and relatives. He lived with his sister, until she moved to Pennsylvania. My father moved to New Jersey after he married my mother, who was from New York City. Her name was Harriet O'Donnell. All her family was out in New Jersey, so they moved out there, where they raised eight children. Twelve were born and eight survived, and I was the youngest of the brood.

I was born at home in a series of four townhouses attached together. The building was called Powder Mill Row. It was located all by itself in the country on a dirt road, probably half a mile from any other house or dwelling. It had been built during the Civil War by the Hercules Powder Company. The factory was about a half mile behind the house next to the Rahway River, where the water was used for power and so forth. The reason the building was so far from the plant was that if the factory were to blow up, fewer people would be killed. Well, in fact, the plant did blow up. The house that remained was then made into four townhouses, and it was there that I lived until I went into service.

It was a very rural area and at least two miles to any bus. There was no electricity, water, or gas utilities. We had a well out back and oil lamps with wicks. We cooked on either a kerosene stove or a wood coal stove. We would go out into the surrounding areas and chop down trees--no one seemed to worry about it. We then used that wood for the winter.

The Rahway River ran through the area, and a dam to supply power had been built long before I was born. The dammed up reservoir was called Jackson's Pond. That is where I had most of my activities as a kid. I swam, and I also built a kayak at woodworking class at school. My dog would sit up front, and we would paddle through the swamps and around the islands and up the river. In the wintertime, we'd do the same thing on a sled with spikes on the ends of broken ax handles. We used to call it "pecking." We'd peck along and ice skate, too. It was rather enjoyable.

The family owned no car, so the only transportation available was the school bus. I attended the Abraham Clark Elementary School, named after the signer of the Declaration of Independence for New Jersey. Then I went to Jonathan Dayton Regional High School in Springfield, New Jersey. Jonathan Dayton was the signer of the Constitution for the state of New Jersey.
Soon after getting out of high school, the war started. Of course, most of us joined up. I was inducted at Fort Dix, New Jersey, as many, many others were. As you know, we had over twenty million service men in World War II, and the enlistments came in fast after Pearl Harbor. We were shifted around from here to there for awhile. I finally wound up in the Army's specialized training program at the University of Minnesota. I was there for two years, studying engineering, algebra, trigonometry, geometry, calculus, chemistry, and physics.

The purpose of the Army's specialized training program was to help reconstruct the world after the war. After awhile, the young men were needed for the battle fronts. This necessitated the breaking up of the program. They were conscripting older people, when they had this resource of many young men like myself in college. The Army gave us rather perfunctory training as infantry men and overseas we went.

I should mention that while attending the University of Minnesota, I met my present wife, Joyce Hughes, who was a co-ed there. She later finished up her last two years of college at Stephens College in Columbia, Missouri. We established a relationship. We wrote to each other while I was overseas.

The war ended in Europe in May of 1945. We landed on the Normandy peninsula, went all through France, crossed the Rhine into Germany, and went through southern Germany and Austria. We were almost into Italy when the war ended. We were considered battle-hardened troops, so the Army shipped us back immediately, even before the war in Japan was over. Our artillery and engineering units and other support groups were shipped directly to the Orient. We were given thirty days furlough in the United States and then were to meet with our unit in the South Pacific for the invasion of Japan.

Joyce came out to see me in New Jersey. Most of our unit was on the beach, enjoying our thirty days when the news came that an atomic bomb was dropped on Japan. A few days later, the second atomic bomb was dropped. We had no knowledge of what an atomic bomb was nor did anybody else in the world, of course, except the world's leaders. The war ended while we sat on the beach.

In October, I was out of service. I came back to the University of Minnesota and was accepted. My classes wouldn't start until the following September because there were about 20,000 students enrolled at once and the University was just not equipped for it. [Laughs] Well, I didn't want to wait a year, so I wrote to twelve different universities. The University of Tennessee was the first to answer. I went down to Knoxville for a year and got my third year of pre-law, which was the requirement in those days. I then applied at New York University, which my brother Bill had attended, and was accepted.

Arthur Vanderbilt, who was the dean at the time and taught contracts, interviewed me and accepted me as a student. He went on to a great career as the chief justice of the New Jersey Supreme Court. He established New Jersey as a prime example of what a judicial reform movement could do in terms of bringing the courts up to date. He's generally
credited with coining the phrase, "Justice delayed is justice denied." Just incidentally, Justice [William] Brennan on the current U.S. Supreme Court was part of that movement in New Jersey. He is given a great deal of credit for his work in this judicial reform movement. That issue interested me, because it was evidence that so much could be done. It wasn't impossible to make things work efficiently in a democracy.

Joyce's dad, who was a rather prominent lawyer in Minneapolis, was trying a case against the Hennepin County attorney's office in Minneapolis when he had a cerebral hemorrhage and died. The case was against John Gearty, who later would be an assistant county attorney in the office that I would have the privilege of heading. Joyce's mother was not a business person in any way, and she wanted to sell everything and move into an apartment. So Joyce and I decided that we would get married.

In June of '47, I came out to Minneapolis and got married. I started going to law school in September at the Minneapolis-Minnesota College of Law, a night law school (later the William Mitchell College of Law). I also got a job with the law firm of Shepley, Severson and Bey. They did insurance defense work. I got a job as an investigator for them, which was great experience. I worked for them through all four years of law school. I went to school three nights a week. I got in the habit of getting up at four in the morning and studying till seven. Then I would go to work, followed by school at night. As I say, it became a habit, because I still wake up at four in the morning. Most of my studying as a lawyer and as a justice on the court has been done between four and seven in the morning. [Chuckles] It's an excellent, quiet, alert time. It worked for me.

MR: When did you realize that the law was going to be your career?

GS: Well, I guess I didn't really decide on it until I met Joyce's dad and had conversations with him. The basis was there. I was very interested in government, very interested in history. I had a course of law in high school which I loved. I also loved studying current events. I had had a course called "Problems in American Democracy" with a great teacher, which I just loved, too.

My family had been dabbling a little in civic life and public life. My mother was a volunteer county committee woman for many years. My brother Frank was involved in the operation of sample ballots and such on a voluntary basis. My father was also involved politically. None of them ever held a public office. It seemed natural to be interested in law and government--it just went together. My yearbook in high school, when I was a senior, put down my ambition as "United States Senator." [Laughs]

As a kid, I was concerned with government. I was brought up under the circumstances I described, during a very deep financial depression. My father was out of work. My brother Frank, who was eleven years older than me, was out of work. I would look at some of the factories and see that they were closed. I knew everybody needed the products that those factories produced, but they weren't producing anything. People were in great need and wanted employment. It made me think that government could do better
for the people than what I was seeing. It was just part of my nature to think of government and think of law, which of course is government.

I guess meeting Joyce's dad and talking to him was the decisive point. He used to dwell upon the fact that you couldn't let your emotions get the best of you when you lost a case. I never had the occasion to experience this. Luckily, I won all my cases. [Laughs] Some of the cases were tough. I've had juries out four days in a row, but the juries came around and found on my side. I had a very unusual and lucky career. I enjoy the law much.

MR: It was in law school in Minneapolis that you met Douglas Amdahl, is that correct?

GS: The first night of law school, I met Doug Amdahl. He was a young fellow from Mabel, Minnesota--Fillmore County, down around the Iowa border. We went to school together for four years straight. We studied together for four years straight. We studied together for the bar. We then opened a practice together when we finished law school--Amdahl and Scott, in Minneapolis. When I became Hennepin County attorney, Doug came over with me and headed my civil department. He then went on to become a judge of the district court in Hennepin County. I left the county attorney's office to become a justice over here. Later, Doug had the opportunity to come over as an associate and then was appointed chief. Doug, of course, is chief today and a very excellent chief. He is still a very good friend. [Laughs]

MR: Before you went to the Hennepin County as a prosecuting attorney, you were with the attorney general's office, is that right?

GS: Yes. That was my entrance into public life in Minnesota. It probably started with the acquaintance of a neighbor of ours, Miles Lord. Miles Lord was running for state attorney general. It was 1954 or a little before that, that Hubert Humphrey was up for reelection as senator. Hubert Humphrey, as everyone knows, was quite a dynamic person who had merged the Democratic and Farmer-Labor party into the DFL. It was an exciting time. Orville Freeman, a lawyer in Minneapolis, was running for governor. Darned if Hubert Humphrey's power didn't sweep the entire ticket in. It was quite a happy time and happy occasion. I shouldn't have done it, but I did come over with Miles Lord.

I was appointed his deputy in charge of the highway department. That was an exciting period because of Eisenhower's interstate highway program. At that time, it was a twenty year program to build the interstate system. It's been going on now for thirty years and probably will continue for another ten--it's really been a great program.

Orville Freeman, who was elected governor on the DFL ticket, was what you might call in political circles 'squeaky clean.' He didn't want any sign of possible corruption in his administration in any way, so he required that the state negotiate for the right of way only through the courts. Our office could not purchase land outright from an owner. The office of attorney general expanded rather rapidly, from about less than ten lawyers to
close to fifty. More lawyers learned how to try a case before a jury than ever before--it was an invaluable experience.

Then a vacancy arose in the district court in Hennepin County. In those days, we didn't have as many judges as we do now, so vacancies were infrequent. Governor Freeman elevated Hennepin County Attorney Michael Dillon to the district bench. Then the county board appointed me as attorney for Hennepin County. That's when Doug Amdahl joined the county attorney's office, and we worked together again.

When I was appointed, there was a sensational case that the grand jury had already indicted. I knew nothing more about it than what I had read in the paper, like everyone else. Suddenly, I found myself trying a rather sensational murder case of a doctor who had been accused of sexually molesting and strangling a patient to death. It became so sensational that when the verdict finally came in, a picture of the jurors was in the paper in Rome, Italy. It was covered very thoroughly by the press in the United States. I was sent a copy of a big story on it in the Philadelphia paper and so on. In fact, a relative in Ireland later told me how even they had read and talked about this case I was trying. [Laughs] It lasted eight weeks and the jury was out for four days before they arrived at a guilty verdict. It was a very close case. The evidence was scanty. This was the case of the state versus Dr. A. Arnold Axelrod.

Then it seemed that there was one case after the other for about twenty years. [Laughs] I tried as many as I could myself. I enjoyed it. I got pretty well known, and during that period I remained active politically. I had the privilege of being selected as a national delegate to the Democratic convention in Los Angeles in 1960 when Orville Freeman, governor of Minnesota, nominated Jack Kennedy for president. Our senator, Eugene McCarthy, nominated Adlai Stevenson for president. Our entire delegation, including myself, voted continually for Hubert Humphrey right to the end. Then when Jack Kennedy got enough votes for the nomination, we all switched to Jack Kennedy. I then became Hubert Humphrey's campaign manager for his reelection to the Senate after Jack Kennedy became the nominee.

During those years, aside from running the office, I was involved in many things. In 1960, I was elected president of the Minnesota County Attorney's Association. In 1964, in New York, I was elected president of the National District Attorney's Association. We made a lot of reforms in the field. Many, as a matter of necessity, because we were going through a crisis in this country as we never had before.

Every once in awhile, this democracy gets a little shaky. I remember during the thirties having so many people say that the troubles were going to lead to revolution, especially when the workers began to organize industrially for the first time in America. I remember sitting as a kid around fires at night with the strikers, with piles of rocks before all of us. We were waiting for the trucks to come out, and we would have used those rocks against them--just never had occasion to do so. It was a shaky time for the government. In my opinion, that was the time for a man like Roosevelt to appeal to the
common man and to prevent a change in our democracy--a change in our general
structure by changing the attitude and the application of the law.

Then in the sixties, I again watched the dissatisfaction of the people rearing its head.
Minneapolis, along with other cities, had riots. Areas of the city were burned by many
good American citizens who were fed up. The fourteenth amendment which called for
equality--after fighting a bloody civil war for that purpose--was never applied. In Plessy
v. Ferguson, the U.S. Supreme Court said that the fourteenth amendment did not mean
that there should be equality between blacks and whites. The dissent said that the Court
had forgotten history. Earl Warren was appointed by Eisenhower as chief justice and
wrote Brown v. Board of Education in 1954--a ten-page unanimous decision which said it
is blatantly unconstitutional to separate the races in schools. That led to a general reform.

This had to happen, because we had just finished a war where we condemned Hitler and
Mussolini and Tojo very strongly for their injustices. We fought that war all together, all
the races. We then returned to the United States to go back into the same old pattern of
inequality and injustice which we had just fought against. It wasn't going to last. The
fourteenth amendment had to be applied--ninety years later than it should have been. So
there was a revolution in constitutional and criminal law in this country to prevent more
riots and possible open revolution.

People think we have a solid government, and I think we have one today. But there are
times when the government gets awfully shaky--little incidents happen that could bring
on further incidents. I've seen it, as I say, twice in my lifetime, where the government
could have fallen if it were not for the leaders that arose during that period. That leader
during the sixties was Earl Warren, head of the judicial branch of government--just as
Roosevelt, head of the executive branch, saved the government during the thirties. You
might say that Reagan was powerful enough to change our philosophy during the eighties,
although we were not in a revolutionary stance. There seems to be, as a matter of
necessity, a leader who does come forth like Churchill, who was so needed in Europe
when he was called upon by the British to lead the war effort. He wasn't kept very long
after the war was over, but he was a great wartime leader who saw the picture so clearly,
just as Roosevelt and Earl Warren did.

In the sixties, the decisions were coming down from the United States Supreme Court
every Friday. They applied to the cases we were trying in court. The justices were
applying the Bill of Rights, the first ten amendments of the Constitution of the United
States, for the first time to the states. That is what the fourteenth amendment said should
have been done one hundred years ago, but it never happened. The Warren court never
really invoked the Fourteenth Amendment as a whole concerning the Bill of Rights, but
did it on a case by case basis of each phrase and clause.

Even today, not all of the Bill of Rights applies to the states. One of the great problems is
that through the years, the states have built up their own laws, such as Minnesota Reports.
The states debated these issues in their own courts. Their supreme courts had made
decisions as to the application of their own constitutions, which had provisions about the right of lawyers to represent defendants. There were also laws about searches and seizures and against violations of the press and of free speech. The Warren Court produced decisions such as Gideon v. Wainright on the right to a lawyer and Mapp v. Ohio on the right to be protected against unreasonable search and seizures. It was saying that the amendments of the United States Constitution and therefore, all the law that had been decided under the United States Constitution, automatically and immediately applied to the states. All the volumes and the centuries of state law were a nullity--were no more. In a sense, it was doing away with the rights of states to make their own decisions in the legal field.

It was a rather revolutionary move. That is one of the reasons why the Court, an equal and independent branch of government with the right to make those sorts of decisions, dragged its feet for ninety years in applying the fourteenth amendment. Another revolutionary move was ruling in Weeks v. the United States that any evidence had to be excluded, no matter how authentic or trustworthy it was, if its seizure violated the constitution. Now the states never had applied such theory before, and suddenly the exclusionary rules barred evidence where the constable blundered.

It was a period of time where signs went up all over the country, "Impeach Earl Warren." I remember being up in Canada, talking to the crown counsel when I was asked about that. "What's this all about? We drive through the states and see signs that say, 'Impeach Earl Warren.' Why do they want to impeach your chief justice?" [Laughs] But Earl Warren, instead of being an activist, was really a strict conformist. He was applying the very words of the fourteenth amendment that had lain dormant all those years. Now none of us would stand for requiring a separate railroad car for blacks or blacks to sit in the back of the bus or barring blacks from lunch counters. We've come a long way in the judicial branch.

Those were the periods of time that I lived through. During the sixties, I had the great privilege of working with some of the nationwide charitable organizations, including the National March of Dimes Foundation. I also met the hero of the day, Dr. Salk. I went to La Jolla, California with him to open his biological institute. The city of San Diego voted three to one to give him a beautiful piece of land for his institute overlooking the Pacific Ocean for nothing. I had the privilege of digging the first shovelful of dirt with Dr. Salk.

I had worked with the March of Dimes long before I got into public life. Minnesota, for reasons that came out later, was for many years an epidemic state as far as polio was concerned. The strange thing about polio was that the place in the United States that had the lowest incidence was a black ghetto of Mobile, Alabama. It was considered one of the worst health spots in the United States, but it had the least incidence of polio. Polio only struck where people had not been made immune by contacts with the virus.

Minnesota played a large part in field tests of the polio vaccine on children. I know some of my friends said we were going to kill all the schoolchildren in Minneapolis with these
tests. It turned out that Salk's vaccine worked. Those doubters who thought it was a mosquito or a red bug or whatever else were wrong, and Salk was a national hero. As I said before, I had the privilege of meeting and working with him. In developing the vaccine and building his institute in La Jolla, Salk said that he ran into so many situations in virology that he had to leave--because he was in pursuit of the polio virus--that he would feel that his life was a failure if he didn't go back and take advantage of those discoveries. This work is leading into so much research into cancer these days.

Locally, I had the privilege of working with the Volunteers of America, which is similar to the Salvation Army. In fact, this organization arose out of the same family over in England, which has quite a history. I worked with the Volunteers of America in Minneapolis, building senior citizens establishments, nursing homes, and halfway houses. I received their national award one year, which put me in a category with some extremely prominent citizens of the United States. [Chuckles] So I worked hard with that organization, as well as some others, as the record discloses.

MR: This was a very busy time for you. Why did you feel an obligation to be involved in so many charitable activities when your life was already so full?

GS: I had started working with March of Dimes when I lived out in Richfield and was still going to law school. I had three little boys when I finished law school. It seemed every other house right in our neighborhood was being stricken with polio. I got involved in that effort. Usually when I got involved in something, I stuck with it. With the Volunteers of America, I think they were probably one of the most successful charitable organizations in this area. It established the Bar-None Ranch out in Anoka County and the Galloway Ranch up in Milaca County. The youth that I was working with--as far as the county attorney's office is concerned with the juvenile courts--were being sent to these places. It was only natural that I'd be involved in that field and I guess once I got involved, I just worked at it.

MR: To get back a little bit to when you were with the county attorney's office, how did you apply some of the directives of the Warren Court to your situation? For example, you had all police officers carry copies of the Miranda warning.

GS: Well, we tried to implement immediately whatever decision came down. Many prosecutors, both locally and throughout the country, fought the Court. I didn't see any reason to do that, so we implemented its decisions. We were criticized by many judges. We used procedures that had no basis in any laws or statutes. The judges indicated that we were acting unconstitutionally, but we never really had any direct confrontation with the courts.

We opened our files to the defendants which was unheard of. Until then, lawyers played poker with each other. There would always be a last minute, convenient witness who was very difficult to disprove because of the time element. We would open our files to the opposing attorneys--showing what we had and why we charged their clients with the
crime. We would give them copies so they could show their clients what we had. It cut down on the number of cases we tried.

This openness also led to discussion and plea negotiations. Our plea negotiations were held in open court--no discussions in chambers, or the hallways, or the offices. We would go into open court and have the court reporter take everything down that was said--why we were suggesting a certain disposition and so forth. Then it was up to the judge to decide whether or not he or she would accept the reasoning of both sides. The judge would get involved and ask questions, take it under advisement and then decide what to do. We were developing what I considered a fair procedure even though I had no legal basis or precedent to do these things. The overall opinions were coming down, but no specific procedure was being suggested as to how it was to be done. We did it.

As you can well imagine, this was a problem nationally. So the ABA [American Bar Association] donated $750,000, which was matched by other organizations. I was appointed by the then president of the ABA, Lewis Powell--who later became a justice on the United States Supreme Court--to the task force for standards of criminal justice. The procedure that we had developed in Hennepin County, as far as bringing everything out in the open before trial, was adopted by the ABA in what was referred to as the omnibus hearing. All the procedures that we had adopted in Hennepin County were adopted by the ABA.

Each state then appointed a local committee for adoption of these procedures. Our local committee submitted its report to the Supreme Court of Minnesota for adoption. Luckily, I was on the Court at the time. The change didn't come easily. The lawyers did not wish to change their right to surprise the other side, to develop a defense during trial, to turn over names. The battle was heavy in Minnesota against the adoption of these rules. The Court worked on the proposed rules for a year after they were submitted to us. The entire Court met every Friday on this issue. A year later, we adopted a set of rules that I consider one of the best in the country. I know they have been copied by other states.

Speaking of rules, I always had had the desire to have some uniformity in the juvenile field because every judge did things a little differently. We had the opportunity under Chief Justice [Robert] Sheran to appoint a juvenile justice commission, of which I was the liaison to the Court. We adopted uniform rules of juvenile procedure. One of the great advantages of uniform rules is that you have the law all in one place, so that everybody knows what the law says. In addition, cases coming from various jurisdictions, including the United States Supreme Court, do not necessarily change those rules. Instead of having a change every Friday when decisions come down from the U.S. Supreme Court, the rules stand unless they are clearly unconstitutional under the new decision. In a sense, uniform procedures keep the law more stable than it was before.

MR: Do the directives of the Warren Court and some of the new procedures you adopted impede or promote justice on the county and national level?
GS: Contrary to what many people in the general public assume, I don't see where the new procedures have impeded prosecutions at all. In fact, we have more prosecutions now, and probably a higher percentage of convictions, than ever before in our history. Certain evidence may be excluded at times. That may be an injustice because that excluded evidence might have been very trustworthy, very authentic. A certain person might not be prosecuted as a result. So, in that instance, there would be an injustice. I don't see where that would interfere with the enforcement of the law under our constitutional system.

Our constitutional system is misunderstood, too. Most people say, "How about the victim?" They don't understand the intent of the founders in Philadelphia back in 1787. The founders wanted to protect the people from government. Their purpose was to give the federal government just certain powers and restrict and deny other powers in favor of the people. That is the government that has lasted two hundred years longer than any other democratic government in the history of mankind. That is the American democracy that was developed. Whether it is skimpy or voluminous evidence, there are still twelve citizens sitting on the jury who make the final decision. They are making their judgment based upon what they feel the truth is.

I don't think we're having any problems as a result of these procedures. One of the real problems today is trying to determine a better system than putting everybody in jail. We're building more prisons throughout this country than ever before--spending billions and billions and billions because the simple philosophy today is put people in jail, and that's what we're doing. We've tried many other things, but there must be a better answer than putting fellow human beings who are not dangerous to others in a cage. I don't think there's any doubt in the world that a dangerous person should be put in a cage. But for those who are not dangerous to others, there must be another method which we're not using now. We're just building more and more prisons. We have more people in jail today than ever before. We have maybe twice as high a percentage of imprisonment than any other western country, and there is no end in sight. We have a law against everything.

MR: While you were county attorney, there was a great deal of media coverage of your office. You also established a fair trial/free-press council in Minnesota. Do you want to talk a little bit about the role of media in covering judicial decisions?

GS: I believe in our form of government. I believe in our Constitution, and our Constitution gives us a free press. I think it's one of the most valuable aspects of our democracy. Whenever a military or dictatorial group takes over another country, the first thing they do is suppress the press. There's no doubt in my mind that our press is extremely valuable to our form of government. I think there should be very few restrictions.

I've been frustrated many times by the press. I have seen the press tell untruths. I've not agreed with many things they've said. I've never taken issue with the press, because
they believe something to be true, I think they have a right to print it--no matter how detrimental it is to certain people and no matter how bad their taste is. The press should have guidelines so that they act somewhat decently and responsibly. I have never tried to tell them what to say because I believe in the free press. Their conduct is up to them.

We thought that maybe we should have a gathering of all groups involved in the problems with the press and see if we couldn't establish some voluntary guidelines of decency. The press, of course, was very worried that once you get voluntary guidelines, they may somehow be incorporated into statutes. It was a tough go. Walter Rogosheske was on this Supreme Court at the time when I was county attorney. He, along with a few other members of the bar and myself, created Fair Trial, Free Press, Inc. Bob Shaw, who was the executive director of the Minnesota Newspaper Association, was one of the real leaders in this field.

What we were trying to do obviously didn't work. [Chuckles] One of our suggestions was to hold off printing detrimental information about a defendant unless the information came out in court before a jury. If the information were in the paper, the jury might read it and have the benefit of unconstitutional evidence in deliberations. We were trying to get the media to wait. When an omnibus hearing was held, all this information would be thrashed out in open court with the media present. We wanted the press not to print the information until we went to trial. We would go to trial right after the omnibus hearing so that there would not be a long delay.

One program that did succeed was the printing of laminated cards. I am a great believer in these cards--I had 8,000 cards printed when the Miranda warning case came down. These cards were printed by the county attorney's office and the County Attorney's Association and distributed to all police officers throughout the state. That way, we wouldn't have the problem of excluding confessions because the Miranda warning had not been given. It worked.

We did agree with the press most of the time, although we had some knock-down, drag-out fights over a card which listed what information could be released to the press. For example, you could not arrest someone, put him in jail and tell no one about it. That card system worked pretty well for awhile. The first big policy break did not come from the press, but from the mayor of Minneapolis, who was a former burglary detective.

MR: Charles Stenvig?

GS: Yes. He said that the police was not going to pay attention to the information listed on the card. It was open season on the card system. By then, I had been appointed to the Supreme Court, so I was no longer part of that committee. The issue turned into a debating society, and the card system ended. I would say that for ten years, the system was very effective.
Now there are all these news shows, the witnesses are appearing on television even while the case is being tried before a jury. The media is bringing out people who know nothing about the case. Now we don't know whether the juries are deciding on the evidence they hear in the courtroom or what they hear on television. Luckily, this issue only involves the most sensational cases, which are few and far between. Considering that there are maybe 15 million cases a year, we're talking about maybe less than fifty.

MR: While you were county attorney you ran for governor. Do you want to talk a little bit about that campaign?

GS: Well, the pictures in the campaign literature that we have incorporated in this remembrance book speak for themselves. [Laughs] I was pretty well known. Having been a lifelong Democrat, when the situation first arose that there was not a sitting Democratic governor running, I ran. The Republican governor had decided not to run again, so the race was wide open. A lot of my friends over the years had said, "You should run for governor." I guess they must also have said that to a dozen people. [Laughs]

With the support of a lot of groups, I started campaigning. I would work until about six and go home and pick up [my wife] Joyce. We would go out to some place in the state and give a speech every night for a solid year. I wound up as one of three people who were fighting for the nomination in Duluth. Wendell Anderson finally got it. I then supported Wendell.

That was quite an experience. It was quite a chore, and you had to be dedicated. I got to know the other candidates pretty well. I got to know a lot of people who took me in. I didn't have much money and even hooked rides with the other candidates. [Laughs] Anyway, we had a good year. It was a good experience. It was close, but there's only one chair to sit in, and not everybody can sit there. [Laughs]

MR: And soon after that you were appointed to the Supreme Court?

GS: Yes. Well, not soon after—it was about three years later. The governor's race was in 1970, and I was appointed to the Supreme Court by Governor Wendell Anderson in 1973.

MR: Was this a position that you had aspired to?

GS: Well, I like the law. As far as running for governor, of course the governor has to give his program to the legislature, which has to pass statutes. It's still involving the law. As they say, it is every young person's right to aspire. [Chuckles] It's like working in a corporation. If you're ambitious, you attempt to be the head of a department, and then vice president, and then president of the corporation, and then on the board of directors. It's a natural thing when you're in public life to aspire to higher office if the opportunity arises.
MR: You often say in your writings that, "We must have change so that things may remain the same."

GS: Our constitutional government has lasted two hundred years. That doesn't mean it hasn't changed. I've seen two very shaky times in our history. If we hadn't had change, if we hadn't had different interpretations of the social legislation, we were subject to upheaval.

We had to look at things a little differently in the 'thirties, for example. Hoover was a very smart man. He had been head of relief and had fed Europe after World War I. But during the Depression, we had people in bread lines and the president was refusing to do anything. Just refusing to do anything! There were a lot of pieces of legislation that were passed during Roosevelt's first one hundred days--such as the NRA [National Recovery Administration], which cut the work week to five days a week and eight hours a day. There had to be this change, or we were going to have a different form of government.

I've used that phrase many times. People have laughed at me sometimes until I've explained what I mean. [Chuckles] For example, if the Warren Court hadn't been willing to change Plessy v. Ferguson--which now we agree was an absolutely ridiculous ruling--we would be in trouble. But that was the law for ninety years. That's what I mean when I say that we must have change. When justice calls for change, when equality calls for change, we must make that change so that we can remain an orderly country.

I listened to a talk the other night by Todd Bachman of Bachman's Florist. They're on their fifth generation of florists now. The Bachmans came over from Germany in 1882. Needless to say, had they remained in Germany they wouldn't have five generations working in the same company. In Europe, they have to scrape themselves up from the dust every other generation. In the United States, we have to recognize the warning signs and develop escape valves so that frustrations are taken care of. In that way, we won't have revolutions like they do in every other country in the Americas except Canada. [Laughs] We have safety valves, and we should recognize them.

I think the legal profession is a great safety valve. We have 700,000 lawyers working on people's problems--settling controversies and so forth. That's a great safety valve to get rid of frustrations. No other country in the world has that system. We're freer than any other country in the world, therefore more frustrations develop. We must watch the mood of the people and not let it go too far. We must make changes when they're needed so that we can be an orderly country for another two hundred years.

MR: I'm sure as that as an associate justice, there were many memorable cases during your tenure here. Are there some that particularly stand out in your mind?

GS: Each case within the Court is a controversy, of course. We sit in our conference room and really discuss the issues, sometimes very heatedly. The cases I think were most
important and about which I was most emotional would be the ones that had to do with equality.

For example, there was a case like Stalling v. Kossack. It was merely a personal injury case involving an automobile accident. I think the plaintiff got a broken leg or something. He was being treated differently because the truck that hit and injured him belonged to a municipal corporation, not a private corporation. He still had a broken leg, still had the same injuries. Why should he be treated differently—in fact, unequally—from the person who was hit by a truck belonging to Dayton's, rather than the city of Duluth, a municipal corporation? He would have received more compensation from Dayton's. I thought that the statute was unconstitutional, and the Court went along with me. It was unanimous. I was always watching for inequality.

Another case which was a little more fuzzy was one from Saint Paul, where a woman was excluded from joining the Jaycees. I wrote the majority opinion. Chief Justice Sheran dissented. It was a divided court. I said that the Jaycees were a public organization. Therefore, state action was involved, and their bylaws barring women were unconstitutional. That case was heard by the Court on the request of Chief Judge [Donald] Alsop of the federal court. The federal courts have the right to ask the state supreme courts to interpret our own statutes. Judge Alsop followed my decision. The case was appealed in federal court to the Eighth Circuit Court of Appeals, which followed Justice Sheran's dissent. It was then appealed to the United States Supreme Court, where they reversed the Eighth Circuit and followed my opinion. [Laughs]

That was quite a victory for me, because it was a new field—you might say, a more fuzzy field. Still, to me it was an inequality that was being authorized by the government. It was an important case because it opened up the issue of equal treatment of women by all public organizations. The decision meant reaching a little bit, but to me, it was proper.

As a nation, we are without an equal rights amendment, which we should have too, by the way. [Chuckles] Then maybe we will have fulfilled at least the desires of our founding fathers. When I say founding fathers, I mean all those involved in a fifteen year period from the creation of the Declaration of Independence to the final adoption of the Bill of Rights in 1791. Most people were fighting for what was said in the Declaration of Independence, even though that was not incorporated in the Constitution. Except for the Equal Rights Amendment, we're pretty close to fulfilling the desires of the founders during those first fifteen years.

In a way, maybe the courts are the worst enemies of the women's movement. Whenever any issue comes up involving inequality, we invoke the Constitution, even though the equal rights amendment isn't there. Then people say, "Well, why do we need an equal rights amendment?" But the law in Minnesota is not the law nationwide, and it is not true in every field. [Chuckles] As we get more conservative, we have to worry about strict constructionists. They say that the Constitution says that all men are created equal, not
women. [Laughs] We say in Minnesota that the Constitution meant women as well, but not every state does so.

MR: During your tenure you served with a number of justices. Are there any who are especially memorable to you?

GS: Well, we've had all kinds of justices, from one extreme to the other. I think Justice Sheran was considered a lawyer's lawyer—he still is. There was no kinder chief justice than Justice Amdahl. Sheran was a very, very kind man too, but everybody likes Amdahl. He believes in people. Justice Rogosheske is a great man. He just loves people, and people love him.

They've all been good. We've been blessed in Minnesota with our entire judiciary. They're honest, hard-working people. They may disagree with each other, but they're all decent human beings. Everyone is different. Everyone thinks a little differently. What surprises me at times is that we get along in this democracy as well as we do, when everybody has a different opinion on the same subject. [Laughs]

MR: Periodically, there are moves to change the way judges are selected in Minnesota. Do you have any thoughts about that?

GS: Yes, I do. I think judges should be elected by the people. I don't know how else you keep some judges from getting a little too eccentric. It's only right that the people, if a judge gets way out of bounds, have a right to have him considered for removal.

I also worry about what's going on in the Supreme Court of the United States. Minnesota has the correct idea in making judges quit when they're seventy because the value of people to the system diminishes. Maybe some judges' capacities don't diminish at seventy, but who is to make that judgment? Each person is a very bad judge of his or her own indispensability. I think the people have a right to vote on judges the same as any other governmental position.

MR: Would you have some kind of screening system in that those who ran for election would be approved by the ABA or some other kind of merit process? Or would it simply be direct elections?

GS: My immediate answer to that is that our elective system has worked pretty well. Some judges have become great judges who maybe wouldn't pass those tests. The old saying is, "Why fix it when it isn't broken?" The Constitution allows anyone over twenty-one who is learned in the law—meaning an attorney at law—to run. The people in this country, particularly in this state, are pretty astute people. They don't make too many mistakes, even though they themselves think they do. [Laughs]

MR: What are the characteristics of a good judge?
GS: Aside from the so-called "judicial temperament," they should be hardworking. They should not waste a lot of time on unimportant things—they should be efficient. Of course, they should always think of public relations with the citizenry. The people are so very important in keeping our system as it is. If we antagonize people to the point where they make changes that are detrimental to justice and due process, then we've lost an awful lot. Therefore, the courts should always try to keep the public in mind. We should try to explain our decisions to the public and consider what the public wants. I think that attitude is important in any of the three branches of government.

With the way the press is going now, I think most people do feel that the press is obnoxious. If we ever had a constitutional convention and a movement started to do damage to the first amendment, just the fact the people do not like the press could damage our system of justice. The press should think about that. The same is true of the judicial system. Judges should continually think about how their power should be used for the good of the public.

MR: Is it the role of the judiciary to follow or lead the people?

GS: I think judges have to lead the people. You see, our educational system fails to explain our system of government. Not long ago, it became unpopular to talk about our founding fathers and patriotism and things like that. The educators got away from those subjects, so very few people know much about our government now.

A judge recognizes that the Bill of Rights limit the government's rights. When he is considering whether or not some police broke into a citizen's house and made an illegal search, he can't worry about the victim. He has to worry about the violation of the Constitution. The public doesn't understand that. They say, "But that criminal was no good. The police were just trying to help." But the police cannot violate the Constitution. In that sense, the judge has to apply the law as it was set up in this American democracy.

Then the judge has to try to explain his decision to the public. The judiciary has not done a good job of that. People say, "Aren't we educating too many lawyers?" I say, "No!" Everybody in America should go to law school. Then we wouldn't have any question about what our government is about.

MR: You've spoken about efficiency in the courts operations, including the establishing an intermediate court of appeals. What are your thoughts about that?

GS: I was on the Court during that period. [Laughs] Actually, we had so many cases up here that there were about 2,000 cases for the nine of us. All we were doing is giving the litigants an audience with one justice, instead of with a supreme court. So we really didn't have a supreme court, because we were all individually handling the appeals. We had to do so in order to keep up. We didn't want to fall behind.
In order to act as a supreme court, all of us citing each case, we had to have some relief. Now the Court of Appeals has panels of threes that handle these thousands of cases. The important ones are re-considered by the Supreme Court. That's the way it should be. Even the critics have said there should be a body that has time to think about these major issues, because the decisions made are long lasting. When you figure that Plessy v. Ferguson--which always grated on my innards--lasted so many years, you realize that each decision is very important.

MR: You've been involved in so many activities on the Court, including establishing the new judicial building and deciding some important cases. Now that you've retired, do have any final thoughts about your legal career?

GS: I think that the law is probably one of the most interesting of fields because you're never bored. I should imagine medicine is something like that, too--if you're in the right medical speciality. Trying to determine what's wrong with people would keep the mind occupied as well. The law is an enjoyable field to consider when you're determining what you're going to do for the rest of your life. It's exciting, it's emotional, it's dramatic.

I remember one case concerning the head of a large real estate outfit in Minneapolis. He was a young, good looking man with football shoulders, wavy blonde hair, 6'4", a handsome devil. He was the son of a very prominent minister who had his own church in Richfield. This real estate man decided to go into the business of killing people for the insurance money.

I had a witness on the stand--a guy who actually cut another fellow's throat, almost decapitating him. The victim was not far from Abbott Northwestern Hospital. The paramedics got him to the hospital fast. The doctors worked for eight and a half hours, practically sewing his head back on. Of course, they couldn't reconnect his severed spine. But the doctors saved his life, and he was able to testify.

I had the witness who had cut the victim's throat on the stand. This handsome young fellow was in the crowded courtroom. I asked the witness what this fellow had asked him when they first met.

The witness answered, "He asked me how I would like to go into the business of killing people for the insurance money." Then he identified this fellow.

Everybody turned to look at this handsome young man. He turned bright red, but he stayed in the courtroom for a while. Then he got up, opened the gate, and walked down the aisle to leave the courtroom. Everybody's eyes were on him--the whole courtroom. They couldn't believe that a nice young fellow like that would try to set up such a business and carry it out. They just followed him with their eyes. You could hear a pin drop in that courtroom. I'd say that for three minutes, everybody--even the judge--was staring at him. [Laughs] I remember running into him over at Stillwater prison many times. He was always friendly with me. [Laughs]
There are dramatic and emotional times. Some of these cases are tough, too. Sometimes they turn out better than you expected. Then in other times, a devastating piece of testimony comes out. You can't let the jury know that your stomach just fell down around your knees. You must act normal, even when you're dying inside. [Laughing]

It's a tough business. People shouldn't try jury cases after they're sixty. In fact, I know a lot of attorneys who quit trying cases in their forties. The tension is ever present. You try to be casual, but you are tense about every word of the opposing attorney's cross-examination. You're listening to every word, because you have to determine whether you're going to object or whether he's bringing in evidence that is inadmissible. People probably say, "Well you just sat there all day." But boy, you're hanging on every little word. You're tense--your mind is constantly going.

You have to determine--which I always thought I was good at--whether to object or not, even when something is objectionable. You have to determine in a split second whether the jury will get mad at you for objecting. Maybe the jury wants to hear that. You have to decide whether or not the evidence will be damaging, even though you think it is inadmissible. I would allow a lot of stuff in. Even some of the judges would get mad at me about that. But I didn't want the jury to think I was trying to keep evidence out. Those twelve people over there are the ones who decide the case. Not the judge, not anybody else. They decide.

I used to always tell lawyers when I gave a lecture--keep the corner of your right eye on that jury at all times. Never forget that they're the ones who will decide the case. I used to always worry about the jury. Sometimes I would get the judge really mad on purpose when he was going too far. You know, you can get a judge who will go way off on tangents. I would get the judge mad at me, but the jury liked what I was doing. There's some dramatics involved in trying a case. But when judges went too far, I never minded them getting mad at me. They don't decide the case. The jury decides the case. Too many young lawyers now are concerned about the judge. They want to be liked and respected by the judge. He doesn't decide the case--it's the twelve people over there in the jury box who do. [Laughs]

MR: Thank you, Justice Scott.