

**ORAL HISTORY OF  
JOAN Z. BERNSTEIN - SECOND INTERVIEW  
JULY 7, 1998**

Professor Jackson: Today is July 7, 1998, and this is the second interview with Joan Z. Bernstein, a/k/a Jodie, who is Director of the Bureau of Consumer Protection of the Federal Trade Commission. Jodie, as we've been discussing and as I mentioned in the letter, it would be helpful to the historical society if you could state on the tape your intentions, with respects to the tapes and transcripts, just in the event that events prevent us from finishing the process. So if you could say what your plans are.

Ms. Bernstein: I'm very comfortable with the project that you've undertaken and I would be happy to express my intent to donate the transcripts and the tapes to the historical society upon their completion. In the event we come to a point at which I would like to restrict some portion of it, obviously I'm free to do that.

Professor Jackson: Absolutely.

Ms. Bernstein: I don't anticipate it and I think it would be very useful to have that intention documented.

Professor Jackson: I think this should suffice for this period of time and I thank you. Now before I get into any further questions, I did want to ask you whether since our last session, which I very briefly summarized in a letter to you, you've thought of anything else you would like to add to what we talked about last time, in terms of your early years, your early influences, and your decisions about your education and going to law school.

Ms. Bernstein: I really don't think so. I think we pretty much covered the significant influences, and I think we talked about the influence (I'm pretty sure we did), but it

was a very significant one: a professor of mine at the University of Wisconsin who headed me in the direction of Yale Law School.

Professor Jackson: Was this Professor Feldman?

Ms. Bernstein: Yes. It was constitutional law in the poli sci department, and I just wanted to be sure we had him on record. He was a fabulous professor, and had he not suggested Yale, I just would have gone to Illinois without thinking about other law schools because I just didn't know about it and didn't really have other kinds of advisors about law schools.

Professor Jackson: Is he someone you've kept up with?

Ms. Bernstein: I did for a while. I haven't in more recent years. I did for quite some time, after I graduated and at some point during law school also.

Professor Jackson: That's good to have elaborated on.

Ms. Bernstein: Another influence at Wisconsin whom I would mention was Professor Witte who was in the economics department. My major was in economics.

Professor Jackson: How is Professor Witte's name spelled.

Ms. Bernstein: Witte. Professor Witte had been a principal author of the Social Security Act. He had been in the Roosevelt administration and was very distinguished economic professor. I not only took his course, I worked for him for some period— I can't even tell you— in a sort of stenographic way if he was writing articles, and he needed someone to both take dictation and type up who knew the vocabulary, which regular secretaries didn't. That relationship was a very important one to me because he stressed public service as a career choice even without being a lawyer and how important that had been to him and how important it was to people who were interested in scholarship to have a role in. It was a very important one to me.

Professor Jackson: Oh, good, because I don't recall our discussing Professor Witte.

Ms. Bernstein: I don't think we talked about him, and he was very influential and because I don't know how I happened to take this little job. I was a good typist, and I could take dictation. But somehow I did some work for him. It was not a whole lot, but I did and that allowed for, at a big university, a rather more personal kind of discussion, which we had from time to time.

Professor Jackson: As an academic it is always interesting to hear from people as distinguished as you about the influence that academics made as positive influences.

Ms. Bernstein: And in law school, of course, enormous influences and excitement in terms of some particular professors.

Professor Jackson: We talked last time about Professor Moore and the good grounding he gave you in that civil procedure class. We also talked about Professor Emerson. Were there other professors in particular that –

Ms. Bernstein: There were. One of them was very difficult– and I'm going to try to remember his name– from whom I had negotiable instruments, and he had been the dean of the law school. I'll think of it. (His name was Wesley Sturgis.) He had been the dean but not for very long period of time. But the reason I mention him is I took negotiable instruments because I thought I would have to have it, not because I was interested. Well one of things, I better get some of these tools, and I found it, because I think the way he taught it, enormously engaging. I really had to think back. I think I mentioned to you that I thought I was going to be a labor lawyer when I was going to law school.

Professor Jackson: No.

Ms. Bernstein: There was a famous professor at Wisconsin whose name was

Perlman who taught labor economics, and I had taken his course. I learned about the labor movement in the United States, and I thought that was fascinating, and I thought I would just get specialized and become a labor lawyer. And when I took labor law from Shulman, who was later the dean also, it was so boring, I thought I was going to jump out the window. The facts were interesting, of course, but the law was, I thought, tediously boring, as opposed to negotiable instruments, which I found just intriguing as an intellectual matter. I was quite torn up about that for a while because I thought, what does this lead to now, and concluded by the end of law school that I had no interest whatever in being a labor lawyer. And I was interested in commercial law and what sort of constituted advanced contracts. Negotiable instruments served me very well because I went to Sherman and Sterling, and the bank was the biggest client the firm had.

Professor Jackson: This is interesting.

Ms. Bernstein: It was very interesting; it was such a different time of not having real mentors and not very much guidance. As I said initially, Vicki, that many of us did not have high expectations (including the men) when we entered law school because there was still discrimination in the big law firms, certainly in regard to women and also Jews. It was more open than it had been before the war, but there were two big Wall Street Jewish law firms in New York and the rest, maybe they did and maybe they didn't. It was not a very sure shot at all.

Professor Jackson: At Sherman and Sterling, were you the only woman?

Ms. Bernstein: Yes.

Professor Jackson: Were there other Jews there?

Ms. Bernstein: There were a couple but they were largely not open Jews. I may have mentioned that. Henry Harfield, who was the banking partner and who happened to be the

hiring partner the year I was hired, it turned out, was Jewish, from the Midwest. No one knew he was Jewish. No one knew he was Jewish, was not, I believe, a practicing Jew by that time, but he came from a Jewish family background. There was one other who was about a year or two ahead of me in law school, and I think that was about it. Oh, there was one other partner, who did become something of a mentor for me. Gosh I've forgotten his last name now, (his name was Bill Golub) and he was openly Jewish, had been a lateral, and he was acquired because they were doing some kind of work that he was an expert in, and they needed him. He was not treated like others. He was not a partner, he was like a very senior associate who got paid a lot of money and was sort of chuckled at behind his back because he wore the wrong hat, his wife was in entertainment, and it was really such a conformist era, the '50s, you know. It really was, but for many of those reasons people in my class (at least the people we hung out with) did not have the same kind of expectations that I think people have had in the last decade or so. If you went to the Yale Law School, you knew you were going to have, if you did at all well, you would have a lot of choices.

Professor Jackson: What effects would the lowered or uncertain expectations have had as you went looking for different jobs? How does that affect what you do or how you think of what you do? Does it make it easier to make different choices or does it shut people down in terms of looking for things? It clearly didn't shut you down.

Ms. Bernstein: I think, actually, the way it ended up most everybody got a job. And we got them in pretty traditional ways, I think. As I said the last time, law firms didn't come up to interview. We all went down to New York. The other thing was that very few people sought jobs in the government because it was such an attractive time. It was the McCarthy era. There was the loyalty oaths and all that sort of thing, and in fact I had a

classmate, at least one, who was turned down for membership in the New York Bar because he had belonged to the Young Communist League or something like that in college. There are probably more than one of those. I only happen to know about one who was a good friend and did finally get admitted in Connecticut, but he probably couldn't have worked, obviously, if you don't get admitted to the bar. Now that passed, you know, in ten years or so.

Professor Jackson: Were there student organizations? Did the McCarthy era affect what kinds of student organizations existed at the law school?

Ms. Bernstein: Not that I know of. I don't think there were any. If there were, I was not aware. I mean there was moot court and barristers union, and the *Journal* and defense work at Legal Aid. They were all standard traditional activities that every law school had. I don't know of any others.

Professor Jackson: I was thinking. This may have been a later development of the National Lawyers Guild which might have been quite problematic.

Ms. Bernstein: It might very well have been there because there were faculty members whose reputations were being besmirched because of their leanings in writings and so forth. But I don't remember it being. If it was, I wasn't aware of it.

Professor Jackson: We're sort of jumping around a little bit. That's fine because these events are interrelated and that's how we experience our lives. I'm just apologizing to you for having to look back at my notes. I remember we talked about your interview at Sherman and Sterling and how you came to get the job. And I have a very unformed recollection from our lunch last summer that you had a positive experience at Sherman and Sterling, but could you tell me what kind of work you did there?

Ms. Bernstein: I can. I started in August of '51. I had taken the bar— I guess we

didn't get the results right away— but I had taken the bar and I was one of — and some of this is misty, I've got to admit. It's a long time ago. There were five, I believe, associates, five or six but I believe five. So we reported for work and we didn't even have offices. We all were assigned to the library, which was a big, very lovely library. So you had basically a table. They said eventually we'll get you some office space and so forth. So that was fine and that meant that we were all kind of huddled down there together. Two of them whom I remember (there are some I don't remember) — one was a colleague named Ed Self, who has been for many years, after he left Sherman and Sterling, a partner in one of the big firms in Birmingham, Alabama. And I've been in touch with him and his wife over the years. And Ed was wonderful to work with. The other one's name was John McNiff, and he and I were friendly also. He was one, I remember, who at some point they concluded was not going to make partner. I never expected to be a partner. I mean they practically told me I wouldn't be, but I didn't worry about that. I thought there are lots of others who aren't going to be partners either and working and getting experience. I thought, well, I'll cope with that when that comes along. John was told some time later, I don't know exactly when, that he was not going to be on the partnership track, but the most of the firms then, when they made those judgments, they worked very hard to place people with client companies. You didn't become a general counsel. You got a spot in the general counsel's office at National Cash Register— those were considered second class to being in a law firm. But they helped you, and it did not appear that they cut you loose or you weren't really capable, it's just that you couldn't be a partner there. So those are kind of my early recollections. The next year class ahead of us (none of their names I remember), some of them were helpful to me as well, in terms of kind of mentoring. Here's what the system was. There was an assignment partner and as different partners had me for an associate to work on this case or that

case, you got assigned to it. I don't know if I told you, because it was one wonderful episode. So I was working along, like everybody else, and we would talk about our assignments and doing our research and writings, our memos, and going up to talk to the partner and presenting it, and so forth. I have two vivid, vivid recollections of that process. The first was that as I was working on the very first. I did have one wonderful episode in which again Henry Harfield gave me this assignment that had something to do with what would happen to bank assets as Germany was being divided and where would the assets go, and I'm very vague about that, but it had something to do with City Bank had bank assets in both countries and who got what, and was there any precedent for that. And I remember vividly that the guys said, "Oh boy, that's a set up. There's not going to be any precedent for that, and what are you going to pull out to tell him?" And I somehow, I don't remember how I did this, but I found a case that was practically on all fours at a high level New York court or in the district courts that had to do with India and Pakistan, where this precise kind of thing happened, and it was like in a day I found this thing and wrote up this little thing saying something like, no doubt you know of this episode because it's so closely related, blah blah, you've seen this, but in the event you haven't. And he came down and announced in front of everyone, "How do girls do research? Do they just reach out their hand and a book comes out of the shelf?" because he didn't know about it. So that gave me a big boost initially because this peculiar thing had occurred. Sometimes it's better to be lucky than smart. And the other recollection— I have two more. One was when I went to some other partner, and there was a partner named Allen Troop that I did quite a lot of work for. He was either a trustee or the lawyer for the trustee of the Long Island Railroad, and it was 15 years of work or something like that. I did a lot of work for him. He was very businesslike, very workmanlike. He liked my work. He thought I did good work. He even tried to take me along,

I remember one day, to a lunch meeting with a client. They wouldn't let me into the dining room, and he insisted upon it and said something like “This is a lawyer, and she has to come to this meeting.” (Actual dialogue: Maitre’D at Club: “Mr. Troop, ladies are not admitted at lunch.” Mr. Troop: “This is no lady, it’s a lawyer.”)

Professor Jackson: Was he successful?

Ms. Bernstein: Yes. They let us come in. They put us at a table in the back. They did say, “You know there is a ladies’ dining room downstairs, Mr. Troop.” And he said, “Well I'm meeting a client here.” But he did it in a very businesslike manner. “I'm in charge here, you know.” He was very, very – it was like he wasn't even aware of whether an associate was a male or female. It was if the work measured up, it was okay. He was very nice, very workmanlike. I didn't have any kind of personal relationship with him, but the work went well.

Then I had somebody else, I don't remember who, who was a first timer also and that's nerve wracking, you know. Each one was kind of a new one, and you had to impress the new one. And I stood up to point out to some exhibit or other– it was in his little conference room– and I stood up and had on a new gray suit with gray shoes, and a drop of red blood dropped on the gray shoe, and I thought this is it, I'm going to die. I'm just going to die. And I don't know whether they saw it or not, they probably did. I just said, “Would you excuse me for a few minutes, please?” and took myself away and fixed that up and came back and finished my presentation. I don't think anybody ever said anything about it, but it's interesting that that should stand out in my mind. I have no idea what I was talking about, but I can vividly remember looking down and seeing this what I consider to be an event of embarrassment.

Professor Jackson: I'm not supposed to talk much on these tapes, but I can't resist sharing with you when I working on writing up a section of the report on the gender work and

was talking to a colleague about feeling that it was probably useful to say something about the absence of any facility in the courtroom where women could obtain sanitary napkins or tampons, other than if you were among the – you could ask to go to the nurse. And I said now this is a small, maybe subtle problem but it probably should to be spoken of. And my colleague said to me, there is nothing small or subtle about red drops on a white skirt. I had to share that story with you.

Ms. Bernstein: I'm sure that many, many women have experienced this kind of thing and nowadays when things are so much more open, it would still be a huge embarrassment.

Professor Jackson: I think it is still and I think it was only in the mid-'90s as a result of our bringing this to their attention that they have worked on making these more available.

Ms. Bernstein: We did have it in the law firm and the reason was, of course, the secretaries were females.

Professor Jackson: There are some law firms, I'm told, who had only male secretaries at times.

Ms. Bernstein: Not ours, we had all female.

Professor Jackson: Well, I can understand why an event like that would stand out.

Ms. Bernstein: It did. And the third was with a partner whose name was – I think his son is probably at the law firm now – Robert Clare, Bob Clare, who was the head of litigation at Sherman and Sterling, is very successful, very tough litigator who ran his troops very hard. Everyone wanted to work for Bob Clare because he had such a good reputation as a litigator, but almost nobody could survive his tongue lashings and other things. So when the assignment came, he called and my name was up, and the assignment partner said that, and he said, “Don't be crazy – I don't want this girl.” I believe it was still Henry Harfield who was the assignment

partner as well, and Clare said, “I know you hired her as sort of one of your jokes to see just how shaken up the rest of us get. Well you're not pulling it on me; I'm not having that.” And Henry said, “All right, how long would you like to wait until the next one is available because the rest are blah, blah, and they're all working and that's it.” So Bob, after a lot of huffing and puffing and going to the executive committee and so forth, I was told, had to accept me. To say the least, my assignment was just appalling because I thought there was no way that I can succeed in this. There is no way, and I talked to guys who were pals of mine at other law firms, from law schools, what should I do, and they said, look you've got to do it, you know, you've got to do it. And I said okay. I was even going to go to Henry and say you've put me in an impossible position. I can't satisfy him. But I didn't – I decided I would undertake to do it. It was a long, big assignment with like 15 major questions to write memos on to get him ready for some big trial and trial briefs and so that it was not going to be the kind of thing that you work on and get it ready in a week and have it done. It was huge. Now there was a guy I mentioned before, Bill Golub, who was the Long Island Railroad guy. He was first assistant to Allen Troop and had been brought in, Jewish guy. He helped me a lot on that. I asked him if he would help me as I did drafts and stuff and critique what I was doing. He said yes, and he said he wouldn't tell anybody. And he helped me a great deal. He helped me to focus. He helped me to figure out what Clare really needed because of course I didn't have any discussion with Clare after the first day of his handing me this assignment. And then in the meantime, my other buddies, like Ed Self, would call up at night and say, “This is Bob Clare, haven't you finished yet?” and so forth, plague me with this assignment. It had a happy ending. He was very satisfied with the work and he even said, “Well you know, if she's up the next time, I'll use her the next time.” So that turned out fine. There was another partner whose name was Gil Curlin, whom I did keep up

with somewhat after I left, who I did quite a lot of work for, and he was a very important partner and was very supportive of me. So overall my goal was to see if I could function like everybody else did. That's all I wanted. And they let me do that because they gave me the same assignments that everybody else got and then let me sink or swim like the rest of them.

Professor Jackson: I'm fascinated with something you said earlier, which was that you were led to understand early on that you would not to be a partner. And that didn't bother you. So how were you led to believe that and was it related to your gender?

Ms. Bernstein: Well it was just sort of, I mean they didn't say as a formal thing, "You'll never make partner," but the sort of scuttlebutt of the young partners. One of the things that was a tradition at Sherman and Sterling, two things: we had coffee in the morning in the kitchen in the library. There was a little kitchen in the library and a big coffee maker and most people came and took coffee away back to their offices, but a bunch would have coffee in the morning. It was all of us, and some of the other young associates and a few of the younger partners would hang around and schmooze about cases and things for half an hour, 45 minutes, then we would go back to our desks. You got to know people that way and so forth. It was that kind of thing where they would say, well you know, maybe two of the guys will make partner. Chances are Jodie, you know after all, where you are going to end up, where you would have enough business to generate or whatever the criteria. It was just kind of general scuttlebutt. I didn't really say, if I stayed here ten years, I would never make partner. I didn't really say that to myself because I didn't really expect to stay there. I didn't know what was going to happen to me, or anything. To say that I didn't worry about it is maybe a little bit of an overstatement. I did worry about it as the rest of them did, but we all were starting out fresh together, and you sort of see what happened. And people went to other smaller law firms from there, so that if you

did well at one of those big firms and didn't make partner, there were other things you could do. There were a lot of people who, I think I said this last time, who said to me, why don't you go, since I had two offers. One was from one of the other Jewish law firms, one of the Jewish law firms (I think it was Proskauer, but I can't swear to it). Why didn't you do that? You would have been much safer and more secure there. And I never liked the idea of segregation, ever. I didn't like that in college. I didn't want to do that. I just didn't like the idea of somehow saying we're not as good as what was considered the rest because we are as good. So I kind of felt that way about segregation of women or Jews or anybody else.

Professor Jackson: That's really fascinating, and the optimism it sounds like is partly situational— that you could see other associates who did well and if they didn't get partner, found something else, partly temperamental, the optimism and the drive.

Ms. Bernstein: Right, yes. The optimistic drive and, as I probably said before, my very early ambition was to be in politics, and so I always sort of had that in the back of my mind— well you know, I could go, if I can't run for office, maybe I could be on somebody's staff or something like that. I could be behind the scenes.

Professor Jackson: Now how long was it that you were at Sherman and Sterling?

Ms. Bernstein: I can't remember exactly. I believe it was about two years.

Professor Jackson: And what were the circumstances around your deciding to leave?

Ms. Bernstein: I was getting married to Dr. Lionel Bernstein, who said, and I quote, “Well,” and I said to him, “Why don't you think about relocating in New York?” He had finished his residency and was beginning to work on a Ph.D. I think he had finished his residency, not quite sure, but he was pretty close to finishing a residency in internal medicine and was already thinking, had already taken some graduate courses, to combine a Ph.D. in

physiology at the same time he was doing the clinical work. And I said to him, "Why don't you think (and he was pretty interested in academic medicine) of coming out here and exploring what you could do out here?" And he said, and I quote, "My career is going to be the more important of our two careers. I'm going to be the one that has to earn a living and take care of you and the children, so my turf is really here, in the Midwest, here is where I've got connections, here is where I was trained, I know all the leaders in the field," blah, blah, blah. And I said, "You're right, so I will come there."

Professor Jackson: And where in the Midwest was he?

Ms. Bernstein: Chicago.

Professor Jackson: Where was he trained?

Ms. Bernstein: The University of Illinois. And his internship and residency were at Cook County Hospital, then one of the premier training courses and training hospitals for doctors in the country.

Professor Jackson: When did you meet him?

Ms. Bernstein: Oh I met him I guess after the second year in law school when I was home in Galesburg, being a dutiful daughter and my good friend Toni Chayes, whom you may know. You know my good friend Toni Chayes?

Professor Jackson: I know her work. I've never met her, but sure.

Ms. Bernstein: Toni Chayes, who came to Yale Law School after Abe graduated from Harvard, came to Connecticut and worked for Governor Bowles, and Toni then entered Yale Law School. She could not have gone to Harvard because they weren't taking women, and she was furious about that because Harvard was Harvard, and she never got over that. But she had to settle for Yale, so we got to be friends. Pat and I particularly got to be very good friends.

Professor Jackson: Was she in your class or –

Ms. Bernstein: The class behind us. And in fact I think both Pat and I (although I'm not sure of this, I know I probably did) when I was working on the *Journal*, I know that I took a draft over and had Abe look it over to see what he thought because he had been editor of the *Harvard Law Review*. And Toni would say, "Abe will look that over for you, you know. Come over for supper; Abe's cooking supper." We got to be good friends. Now Abe's sister, Judy, was married to my husband's brother at the time, in Chicago. So that was the connection. Then Toni came out to visit her in-laws one summer, and said, "Can't you come up? You're not doing anything down there in Galesburg. Come up and we'll hang out, and I would like you to meet my sister-in-law Judy Chayes Bernstein." And so I did, and that's how I met my husband.

Professor Jackson: And so you left Sherman and Sterling and what happened next?

Ms. Bernstein: Well, what happened next. First of all I was going to get married, so I didn't leave for like a month before I was getting married, and my mother was losing her mind. We were getting married in Galesburg, that was at my insistence. I wanted to get married at home in Galesburg.

Professor Jackson: When did you get married?

Ms. Bernstein: Fifty-three or fifty-four, something like that. And I took the bar, the Illinois bar, because I didn't have quite enough time to waive in. So I went home, and I borrowed somebody's notes. My father knew somebody who had taken the bar the year before, and he gave me the notes, so I didn't take the cram course. I studied the notes at home and so forth and I had been practicing and all, basic stuff, so I was pretty up to speed on almost everything. And then I went up to Chicago and took the bar for 2½ days. I stayed with some family of my husband who then became very, very good friends– Hazel and Fred Shapiro, who

are wonderful, wonderful friends. He, a very distinguished orthopedic surgeon in Chicago. They were quite a lot older than we were. Their children are still very close to me. Anyway, I took the bar and then I went home and we got married. And we went on a little honeymoon that was pretty close to being a disaster – I think most honeymoons are. And I went up to Chicago and started looking for jobs. My husband was working, but I clearly needed to work and I wanted to work. I had hoped that I could work for the state of Illinois. There were lots of state of Illinois offices in Chicago and I really wanted to do that. I was very interested in state government. I had always been. And I turned to be right, you know The states are really very important institutions, but they weren't considered at the time. I had recommendations from various people. In fact, I had excellent Sherman and Sterling references, and as I visited around the law firms a little bit, they all said, “Well we don't hire women. Are you crazy?” I mean they really said that, openly They said, “What are they thinking of at Sherman and Sterling, hiring girls?” It was just awful, that part of it. So I was focusing on the state, and there happened to be some sort of an off year election year or something. I don't know what it was, but the office in the state that I was particularly interested in was the Illinois Commerce Commission. They had lawyers, and they would have been thrilled to have me, thrilled, but they said, “Look, the election is coming up and if there is a change, everybody gets fired.” In those days everything was patronage in the state. The entire state, the whole government turned over. So they said if you want to take a chance, okay, but you know. So I said that doesn't make any sense, and I sort of worked in the campaign a little bit.

Professor Jackson: Whose campaign?

Ms. Bernstein: The governor's. But lost. So then here I was still unemployed. And I thought, and my father said to me, “I told you that he was going to lose and now the only

Democrat who got elected was the state's attorney, Cook County state's attorney, a Democrat.” I said, “ Well gee, now I've worked in the governor's campaign, I have good credentials, I ought to be able to get a job there.” Oh no, you, this is really a hilarious story. We, by that time, had moved into a new apartment building in the medical center; it was the first time they had built apartments for professionals in the medical center. It was on the west side of Chicago, which was not exactly the best side of the city. My mother-in-law was incredibly embarrassed that we lived on the west side, but it was very convenient. My husband could walk to work. I could get on the EL and get downtown in ten minutes, and it was a new apartment. It was lovely. It was inexpensive and very nice apartment. So they said to me, “Well you have to go and get the recommendation of the ward committeeman on the west side. That's the way these jobs get assigned.” So I called up and made an appointment to see the ward committeeman, and my husband insisted on going with me because it was in such a bad neighborhood that I couldn't go at night. It was seven o'clock at night. And it was ward headquarters, and the machine worked in those years, the machine worked. So there were lots of neighbors and people, and it was still the old Italian neighborhood, it hadn't turned over yet, old Italian ethnic neighborhood, and they were in there asking for favors, you know, getting tickets fixed, and whatever they do there. And I was sitting in line waiting, and I had an appointment and so forth, so I said to Lionel, you just sit here because I've got to go in by myself. But they wouldn't let me go in by myself. “Well, who are you?” “Well, we live in the ward.” And they asked me a lot of questions, and finally they said, “Well you want to tell us really why you're here?” I said, “Yes. I want a job in the state's attorney's office.” “Oh, well why didn't you say so,” they said. “That's good, that's good. Now you go to work in the precinct, help us out in the precinct, and then when it's our turn for a job in the state's attorney's office, we'll recommend you. What about the Doc?” So

they know about the Doc and what he does, and everything. Okay. So I go home and start waiting working in the precinct, which I did. You know that meant going around introducing myself and saying are you registered, you know, taking care of this, that, and the other thing, and when there's any kind of petition, or whatever, do all that. So that was okay, you know. I didn't mind that. In fact I found it kind of interesting. And in the meantime in our building were all professionals like my husband and a couple women doctors and people doing research, so that was pleasant because there were people in our same circumstances and smart young women— a couple had babies already— and it was a nice environment. I liked it. And so finally the phone rings one day, oh, and then in the meantime we might as well – you know I left something out here somehow. You know, Vicki, I left something out, I've truncated my time somehow. And I don't apologize for it because it's too long ago to remember, but I think I did work in a law firm for a brief period right after we first got out there. I've got my chronology all mixed up here. Because I worked in this law firm— I don't want to leave that out— which I hated, I was miserable in, and they were also miserable I think. It's still in existence; it's called Schiff, Hardin& Waite. Every woman I have talked to – do you know Nicki Heidiprin? This was after the search for the state's attorney job.

Professor Jackson: Well sure.

Ms. Bernstein: Nicki worked there, way, way after I did, and she hated it as much as I did. I kept running into women, totally unconnected, who had somehow worked there. It was terrible. I had a terrible experience there. And I blamed it all on myself.

Professor Jackson: Were you the only woman there at the time?

Ms. Bernstein: Yes, I was the only woman there; I was the only woman they had ever had.

Professor Jackson: It's not surprising because if you're alone in a situation, women often blame themselves, but at the same time you had had such success at Sherman and Sterling.

Ms. Bernstein: It just took me a while. The other thing was first of all the men associates went out to lunch together. It was much smaller than Sherman and Sterling. It was a major law firm, but they went out to lunch every day, and they excluded me.

Professor Jackson: That's awful.

Ms. Bernstein: So I had to, I would call, I knew a few other people in town. My friend from law school, Pat Schwartz, was working at another law firm there, and I would meet her for lunch occasionally, or I had a couple other friends that I would meet for lunch. It was extremely isolating and uncomfortable. I did meet one person there, Bob Hunt, who is now dead, who had gone to Yale, who was considerably older than I was— I think he was a senior associate maybe a junior partner— who befriended me. He did befriend me. But he was even cautioned not to befriend me.

Professor Jackson: How did you get hired in such a hostile —

Ms. Bernstein: I don't know. Well there was one partner, I can't remember his name now— John, well I just can't remember his name— who hired me, and he was from a lesser law school (he had gone to like Loyola of Chicago or something like that), was kind of connected with politics. He was a different sort. The rest were really uptight suits who had gone to Harvard, and one guy had a big significant SEC plaque because he had been a commissioner of the SEC or something, I don't know. I have such bad memories of it, I can hardly remember much of it. However, the line on lunch was broken by one Frank McGarr, who became a federal district judge and was a splendid judge. He and I were in the same office. We shared an office, and one day after this misery of three or four months, he said to me, “Would you like to

go to lunch today?” And I said, “Frank do you think you can to be seen with me?” And he said, “Oh the hell with it,” you know, and he kind of broke the line. So there were some who – and Bob Hunt was very nice, and in fact Bob Hunt and I often would go out to dinner together – either my husband was working or we would to be working, and it was all quite open. And I learned later that there were partners who were very suspicious of my relationship with Bob. And we were totally open about this friendship. There was no reason not to be. He was a friend of mine and became a friend of my husband and others, and I had been married for two months, you know, or something like that. The whole thing was just terrible.

Professor Jackson: It sounds really quite awful.

Ms. Bernstein: It was awful. So that ended very soon, and that's really interesting to me that I unconsciously left that out.

Professor Jackson: Because it was so unpleasant.

Ms. Bernstein: Yes, it was and it still is.

Professor Jackson: It sounds it. So how long were you doing the precinct work for the ward committeeman?

Ms. Bernstein: I don't know, for several months. I did that and I would call up there every once in a while and say, “How about my job?” In the meantime my husband is saying – I have to tell you the hilarious part – my husband was saying we might as well just go ahead and have a baby now. This would to be as good a time, you're getting older. I was like 27. So I said, “All right, we'll think about it.” Well it seemed like maybe we should just get on with it. So but in the meantime I get a call from them saying, “Is the Doc home?” I said, “No the Doc is not home. Why?” “It's our turn to appoint an assistant city examiner, and we've never had a doc whose one of our people, and you've done all this work, so you know he could

get that job.” “But,” I said, “He's got a job. He's already got two jobs,” which he did. He was working two jobs. He was working all the time. And they said, “He doesn't have to go, he just has to accept. You can use five grand a year, can't you?” I said, “Yes we certainly can, but I'm telling you he isn't going to take that job.” “Well,” they said, “Oh, send him down here to talk to us.” I said to him, “Now you've got to go down and tell him you can't take this job without antagonizing him so that I don't get my job.” And he did. But it was too funny. But that was really the way things were done. I entertained at dinner parties and stuff with these stories about these folks. Finally, after I did decide then to have a baby and I got pregnant, then the phone rang one day and said, “Come down, you know, this slot is yours!” And I was like seven months pregnant, so I never did do it. Every once in a while I think to myself, you know if I had done that I could have ended up being mayor of Chicago because that's really how what's her name started, the woman mayor that Chicago had. She started working for Mayor Daley as a young attorney and ended up being mayor of Chicago. However, I have no regrets.

Professor Jackson: Let me get oriented in time. When was your first child born?

Ms. Bernstein: 1955, I believe, July 1955, Alec Bernstein. Suzie Bernstein, Susan Bernstein, was born in 1957; and Molly was born in 1961.

Professor Jackson: And are your children all living?

Ms. Bernstein: Yes. Alec is married to Judith Hall, a published poet, and the girls – Susan Bernstein is on the faculty of Brown, I probably told you that, and Molly is a film editor in New York City and started a job yesterday for Channel 13 and is doing a program for the next week.

Professor Jackson: One of my best friends ran pledge week for Channel 13 for years and years in the '70s up through the early '80s and now is out of that doing other things, but I

think I went down and helped her as a volunteer, so that's wonderful.

Ms. Bernstein: Yes. She's the editor. So I'm very fortunate. So is my husband. They are wonderful young people with good values and interesting careers, I think. Alec is a designer, an industrial designer.

Professor Jackson: Are there grandchildren?

Ms. Bernstein: No.

Professor Jackson: Let me just look back, because this is so interesting to me. The range of experiences you've had is really, even up in the '50s extraordinary for a woman.

Ms. Bernstein: It's true.

Professor Jackson: Now I forgot to ask when you were practicing in New York, did you appear before any courts during that time?

Ms. Bernstein: I don't think so. I went with Bob Clare a couple of times, but I certainly didn't appear. I did make a couple of very routine appearances at the SEC.

Professor Jackson: In New York?

Ms. Bernstein: No, came down here, off the train, filed the papers, made some routine appearance like, "We'll be ready on the 14th" before, I presume now, must have been an ALJ or then called hearing examiners. But I didn't make any court appearances other than those. But I felt that was quite good. I mean they let me do that. That's why I always felt so positively— in fact Sherman and Sterling got sued in the '70s I guess— discrimination suit, one of the big discrimination suits. And they never asked me about my experience. It was probably too old. But I did write to Henry Harfield, who was still there, and I said you know my experience is probably not relevant to anything, but I just want you to know as a matter of record it was a very positive experience for me.

Professor Jackson: That's really very interesting.

Ms. Bernstein: I'm still on their alumni list. They sent me this book. There are hundreds of people on their alumni list as you can imagine.

Professor Jackson: I had a question of how your marriage influenced your professional choices and obviously the big one was the move and I'm trying to think of your being married to a doctor who was appealing to the ward committeeman and how this may have influenced –

Ms. Bernstein: It was very weird. It was really weird. And I would say this, Vicki, about that: you know the socializing pressures of that period were such that I don't know about any other professional woman at the time, but I always felt that really there were such that in order to really to be successful as a person or as a professional, one needed to really to be successful in both, in both marriage and the career. I found that difficult. I found it difficult to even sort of conceive of, if it doesn't sound too strange to you, but I really felt that way. I don't mean that I got married because I needed to conform; I don't mean that. I was, I think, ready to get married. I was not real young when I got married, and I felt by that time I was more ready to make that kind of a commitment, most everybody I knew was already married before I was. I had some reluctance to marriage for quite a long time because I couldn't figure out how I was going to try to work these two things that I thought were important to me together. And I think, and then I did decide, that we would get married, but it was in the nature of sort of a compromise in career choices and ambitions and bringing them together, and I have never regretted that either. It was a hard one for me to make at the time, and I think that– I mean that– I am so enormously grateful that I had three children and that I probably wouldn't have had three if my husband hadn't been pushing me to having the third one. I mean I would have had two, but I

don't know if I would have had three. I always thought, "Well, I'll have these two kids, and they'll be pretty close together, and then I'll be able to go back to work." And he said that too, which not all of them were saying at the time.

Professor Jackson: A spouse who, I mean the attitude "I'm the primary person" strikes me as likely extremely pervasive then and probably may well be still today, I don't know. But the willingness to envision his partner continuing the professional life after having children strikes me as quite unusual.

Ms. Bernstein: I think it was, and he was always, and always has been, very supportive of me, was never threatened by it, I think that was probably the key to my marrying in the first place. He's very secure in his own abilities and is very, very capable. He's really an extraordinarily capable clinician. He's a doctor in every sense, a very good one, and very challenging intellectually; he's very smart. So it was not a threat to him. And he always said that he was generally bored with women he had gone out with before, and I found some people boring, too, so whatever else, it wasn't going to be boring. And he always said when the kids get to be a certain age, you'll go back to work. We didn't make any time or whatever and sort of worked that through. Now after I did go back to work and got really very busy, there was a period in which it was a very stressful time in the marriage. First of all, such a big shift, this is shifting ahead a lot.

Professor Jackson: How old were your kids when you went back to work?

Ms. Bernstein: Alec was about 13 or so. Molly was just five, she was the youngest, and Suzie was somewhere in the middle. I had always planned to have only two years between everybody, but it didn't work out that way – there were a little bit bigger gaps. Molly was the youngest, and I actually started going back to work, if you will, when Molly was in

kindergarten. Pat Wald was still home with her kids. And she had some sort of grant from the Vera Foundation in New York to listen to tapes of prisoners or something like that. I don't know what we were doing exactly, but she said, "Why don't you come and help me out and work on this grant with me?" And I said, "Fine." Actually we listened to these tapes; I guess it was whether or not they were getting Miranda rights. I think that's what it was. Somebody up there had taped all these things of people being arrested, and we were analyzing the tapes. Pat was going to write a report about it at the end, and I helped her with that. So I did that for the two hours Molly was in kindergarten in the afternoon. I had my tapes at home and I would transcribe the tapes and edit them and so forth so they made sense, you know, and then give them to Pat. And it was very helpful to do that. It was very useful.

Professor Jackson: Now had you been, from the time Alec was born until this period when Molly was in kindergarten –

Ms. Bernstein: I did not work outside the home.

Professor Jackson: That was a period of about 13 years.

Ms. Bernstein: When I only had two children before Molly was born, I had said to him, "Let's see if I can't get some kind of a job, a non-demanding job, and we can get help in the house," and he said, "Okay." We were living in Illinois in the suburbs. And I saw an ad in one of the legal publications for a lawyer for one of the savings and loan banks in their trust department. So I went over there and they basically said, "Well you're really over qualified for this job, and why would you want to leave your children? Your husband is working, isn't he?" And I just walked out, and I said to my husband, "You know, to have to take that shit from people for a basically boring job, I would just as soon not do that. I'll do other stuff." And he agreed. So I did a lot of volunteer stuff.

Professor Jackson: What kind of volunteer work?

Ms. Bernstein: I did a lot with the PTA. I did the legislative work, the national PTA. And the state PTA had legislative committees on legislation that affects education, and I volunteered to do that. Before I knew it, I was like the chairman of the committee. That was fun and interesting and didn't take too much time. Then the kids were always glad that I was involved with the PTA. And then I was very much involved with building a swim club in the village. I was the only woman on this group of men who put together the proposal, got the land from the railroad, got the permits and all that was needed, and I was membership chairman. And on my dining room table, I have a funny little anecdote – (END OF TAPE)

Professor Jackson: This is July 7<sup>th</sup> and we were describing building a swim club.

Ms. Bernstein: Right. We lived there for nine years, and it's a lovely, beautiful suburb that was laid out by Frederick Law Olmstead and had much Frank Lloyd Wright and Louie Sullivan architecture. It was a very early, one of the first towns laid out to be a commuter community, to work downtown, and it's only eight miles from the city. And I mentioned those things because it was very influential, the physical atmosphere of Riverside was very influential in my son's life and career. I used to walk them around and look at the Frank Lloyd Wright houses and talk about them and weren't they interesting. And it was just kind of my way being with the children and the curving streets and the parks, the green parks and the river (there was a river there by the library)– my kids have all said were just very influential. Alec became a designer, and in part, he always has said, because of my early discussions with him about architecture and design and why it was pleasing to the spirit and so forth. So it turned out to be really a very pleasant place to be. And it was peculiar in the suburbs because it was also very heavily second generation Czech; that meant there were lots of Catholics, there were almost no

Jews, which my children also say that probably was an influence. I don't know whether it was a positive or negative influence. There wasn't any anti-Semitism that we experienced there, but Suzie has occasionally said to me, "I was the only Jewish kid in school." And I said yes, so was I when I was growing up, so that's why I was comfortable with it. I suppose and she became comfortable with it, too. But anyway, so we couldn't belong to the country club because they didn't take Jews, I don't think, I don't know, but we couldn't have afforded it anyway. So I got involved with this swim club because that was going to be very critical to our recreational needs. And they made me the membership chairman because of course I was home. There were mostly lawyers on the board that we constituted, and they were very helpful, capable people, but of course they were working, so Jodie would have all this stuff at home. Fine. I didn't mind. And so I was busy working on proposed membership because we were raising money ahead of time so that we would have money to build the first phase at least, and so forth. And that meant a certain, it was not a big contribution, but it was like \$1,000 or something like that. I would go to the meetings and I would say I got this number of members and blah, blah. And then it came up: were we going to exclude anybody? Well no, we weren't going to exclude anybody, except were we going to exclude blacks. And here it is in the '50s, before the civil rights movement, and I said, "What do we need to worry about that for? There aren't any blacks here. There are none. In two towns. And we're going to restrict membership to Riverside, the town of Riverside, maybe North Riverside also." "Well, what if they come out from the city?" I said, "This is ridiculous. What if they come out from the city, are they going to come out from the city? It's just absurd." So they said, "Okay, we're not going to have any racial restrictions." Fine. So I thought this is great, we're going to open this up and if any blacks move into town, they'll be eligible for membership. If they don't, okay. And in those days if Mexicans came in, that was

considered the same as— they're pretty dark, you know. Terribly, terribly segregated everywhere then. And in fact when we first came back to Chicago, I didn't mention, we had lived one year in Denver and one year in California before we came back to Chicago, that's how I think I got muddled up with some of this stuff. We were looking for an apartment to rent because we had just come back, and I had only one child. And there were no apartments in the west side. My husband had taken a job at the Veterans Hospital as head of GI at the hospital, and so I wanted to live out there nearby. I always wanted to live near the hospital because otherwise he didn't see the children. I started to look for a place, and the real estate people said, "Well, you can't live in Hinsdale; you can't live in various places." And I said, "Why not?" And they said, "Because they don't rent or sell to Jews." So I said, "All right. Well what am I going to do?" Here's what I did. I said I'm going to put an ad in the little papers of two sort of lower middle class suburbs, Maywood and Bellwood, that are two minutes away from the hospital and see if somebody will rent us something, either an apartment or a house. And I'll say it's Dr. Bernstein, and everybody will know we're Jews, and if they don't want to us to be there, they won't call us up. And a man called up and rented us a house which was wonderful. It had three bedrooms and a bathroom, and it was on a nice pleasant street with a playground across the street and some new little houses down the block. And he said to us, "The Catholic church is two blocks away and the other churches too," and I looked at my husband and I said to Cecil, the landlord, "Did you know we're Jewish?" "Oh no," he said, "is that right?" I said, "Yes, Dr. Bernstein and I are both Jewish." He said, "Fine." And that was that. But when we bought our house, we bought the house in Riverside after we had lived in this house for a couple of years. So to go back to the swim club — see I am leaving things out. Maybe we'll straighten it out, maybe we won't; it doesn't matter because most of this, really, is my sense of my experiences. So I got a call one

day, a person came to the door and said to me, "Mrs. Bernstein?" and I said, "Yes." My name is Phil Alderisio, and I understand you are the chairman of the forthcoming swimming club. May I come in?" I knew who he was. "Milwaukee Phil" Alderisio was number two in the Mafia in Chicago, lived in Riverside. Two or three of them lived in Riverside. The number one guy lived in River Forest, the next one over. We all knew who he was. So of course I said, "Yes, please come in." And then he said to me, "I would like my family to be members in this because I have a son who would like to come to the pool. And I know you said there was a membership fee." And he said, "I would like to offer— how much money do you need to build the pool?" And I don't even remember how much it was, \$100,000 or something like that. It wasn't that much, couldn't have been that much. But I was so shaken by this – I had two little children in the house there with me, and I told him how much we needed to build the pool, and he said, "I would like to offer the club the pool. You can pay me back, but why bother yourself by having to raise this money with these members. Just go ahead with the financing; I'll give you the money. And then you can pay back, except for what my membership fee is, with no interest or whatever is easiest for the group. It's a community effort I would like to contribute to." I said, "I'll have to let you know. I'll have to take this to the board. It's a very generous offer Mr. Alderisio." He said, "I have a son who's nine years old, and I would like him to be able to come. I won't use the facility, but I would like my wife or the help to be able to take him swimming." I said, "Fine, thank you very much." I said, "Did you make out an application?" "No, I didn't," he said. I said, "Well, I'll fill it out for you." So I take it to the board meeting, and we had this incredible harangue. I said, "I don't see how we can turn him down. How can you turn him down? You don't have to take the money." I thought we couldn't do; we had to take his money the same as every body else's. We couldn't let him finance the club. But he was not under arrest, he had not

served any time. Why did we know he was number two in the Mafia? That's what the newspapers said he was. But you know, you couldn't make judgments based on what the newspapers said, I didn't think. But they were all horrified. They were just horrified. So we ended up with a membership for the son to let the little boy come to the pool for the same amount of money, but it was just an incredible harangue. I saw these big cars waiting for him outside, these mobsters outside in the car, it was just— I followed his career ever since. He died in prison.

Professor Jackson: The little boy?

Ms. Bernstein: No, no Milwaukee Phil.

Professor Jackson: That's a great story. What happened to the kid?

Ms. Bernstein: I have no idea.

Professor Jackson: I take it he took the turndown okay, as long as you let the son swim.

Ms. Bernstein: He did and also I forgot to tell you this— my sense of humor did prevail then. It was such an intense discussion, and I said at the end, “Okay guys, if you're going to turn him down, I'm not telling him. I'm not putting my name on that letter. You guys can call him up and tell him we're turning him down, not me.” And they said, “Oh Jodie, you're the chairman.” I said, “Yeah right, we're going to work this out.” In fact, Alec, on his way to school, he started school in that house, kindergarten – do you have a boy, children?

Professor Jackson: I have two boys and a girl, the same age spread as yours. Eight years from top to bottom. My 17½-year-old is in Ecuador,

Ms. Bernstein: And is your oldest one a boy?

Professor Jackson: He's a boy.

Ms. Bernstein: Do you recall the extent of lack of coordination or ability to get any place in a hurry when little boys are like four and five?

Professor Jackson: I have seen a similar phenomenon at 17.

Ms. Bernstein: Yes. We lived two blocks from the school. I could see him coming home from the school. That was partly why I bought the house, I could see him coming home from school. And that's such a big wrench when they go to school by themselves. And he was five years old and was going to walk by himself and come home by himself the two blocks. And I got over being a wreck, but I watched him and it would take at least an hour for him to walk home. There would be a worm or there would be another kid he would play ball with for a while, then he would sit down and stuff. One of these mobsters' houses was along one of his ways to go to school. There were two ways to go to school. Sometimes he would pick up George Fortelk and go the long way. And he used to take a stick and run it along the fences, you know. There were fences, and it turned out he was setting off an alarm, so I got a call about that too. "Would you have your child not do the stick?" and I said, "Alec, no sticks on the fences." So I had a lot of fun in those years with the children. They were wonderful. They still are, but they were all wonderfully interesting kids, to me anyway.

Professor Jackson: Were there other mothers, I assume, at that time who were home with their kids?

Ms. Bernstein: Everybody was home. I didn't know anybody who worked.

Professor Jackson: It was the very strong norm.

Ms. Bernstein: Yes, everybody showed up for the PTA meetings; everybody was available for car pools, well not everybody, but you know there wasn't anybody who worked. No one. Even when we came to Chevy Chase in 1967.

Professor Jackson: Okay, that's 1967. Why did you move to Chevy Chase?

Ms. Bernstein: Here's why. Lionel, I think I told you, was first head of Gastroenterology at the Veterans Hospital, then sometime in that 9-year period, he became the chief of medicine at the Chicago West Side VA Hospital. He was a full professor of medicine because there were affiliations between the medical schools and the big VA hospitals. And it was the University of Illinois Department of Medicine, and he ran a huge medical service. Because of that he got well known to the bureaucracy in Washington that ran the Veterans Administration's hospitals. And he would be asked to be on committees and various things, and he was offered a job in the VA in Washington to be basically head of I believe it was Research and Education. There is a Chief Medical Director that reports directly to the Administrator, Secretary now, but the Administrator of the VA, and Lionel reported directly to the Chief Medical Director, so it was a very high-level post, and he got offered that job and we talked about it. We never thought we would leave Illinois. His family was there, and my father was in Illinois, and yet it was a very exciting prospect for him. So we decided to do it.

Professor Jackson: So Alec was what?

Ms. Bernstein: He was almost 13. Well he was barmitzvahed before we left. He was barmitzvahed in July, and we left right after that, in August. So the VA gave us a week; they paid for us to come look for a house. I went to see Pat Wald immediately and she said, "There's no problem here. You have to live within walking distance of us because I don't drive and I want to be able to walk over with the children. And there is no sense looking anywhere except right around here because you'll need to go to the schools here."

Professor Jackson: And that was in the village, Chevy Chase Village?

Ms. Bernstein: Yeah. I said to Lionel, in a week we have to settle on. We can't

go into the District. Friends of ours live in the District, and they loved it in the northwest side of the District, and they said it's wonderful, and I said, "What about the schools? Alec is practically ready for high school; we can't afford private schools. We don't know if we can get him into private schools. We've got to be somewhere where we have the option." And Lionel agreed we had to live on the Maryland side. It was just a matter of practicality. And with Pat's advice we spent the week looking for a house right there. And we found one in Chevy Chase, which I loved and adored and we owned it 20 years. It's a wonderful house.

Professor Jackson: Which street was it on?

Ms. Bernstein: Melrose. East Melrose between Connecticut and Brookville.

Professor Jackson: It's a gorgeous block.

Ms. Bernstein: Gorgeous block. You should see what the people who bought that house did to it. It's gorgeous. It's just absolutely spectacular now. They invited us out last Thanksgiving for a little cocktail party. There was an annual neighborhood cocktail party on Thanksgiving that we always had. We didn't have it all the time, but we had it and it was just great fun. They invited us. Both our girls were here, and we went back to see the house and to see the neighbors – lots of them still live there. So that's how we got to Chevy Chase.

Professor Jackson: So at that time you hadn't been working for 8 or 9 –

Ms. Bernstein: More than that, 12, 13 years.

Professor Jackson: And you came to Washington where you knew Pat. Did you have other friends from law school?

Ms. Bernstein: Yeah I did. I had a quite a few. Several of our classmates were there. Pat and Bob were my best friends. We had been to Washington to visit several times, and I saw them when we were here. We didn't write letters but we were in touch. And so then I

worked on that Vera thing, and Molly started school. Molly's going to school was more traumatic than the others; I suppose it was because she must have known I was going back to work. She was, and I think it was, because we moved in and her little safe environment was disrupted and here she was in this big house on this big street, and all different. I had to walk her to school every day. And wait until the door opened and the teacher came out. And then I had to be there when the door opened.

Professor Jackson: Which school was she in?

Ms. Bernstein: Chevy Chase Elementary. I went there every day. Do you live out there, Vicki?

Professor Jackson: I live in the village. I live on Grove Street which is the other side of Connecticut Avenue, at the corner of Cedar Parkway.

Ms. Bernstein: The Wards used to live over there. Alan and Mariette Ward.

Professor Jackson: You know who lives there that you might know is Merrick Garland with his family, and Tommy Hogan lives there. It's a nice area. But my kids, we lived in the District until '91, and my kids started in a private school where they've continued, but I love Chevy Chase so much. And my husband used to live there. It's lovely.

Ms. Bernstein: Did he go to Chevy Chase Elementary?

Professor Jackson: No, his family came down when my father-in-law was an assistant secretary of HUD for Lyndon Johnson. I think Bob went to public school for one year in high school and then he went to St. Albans, so he went to BCC I think maybe for one year. Then over to St. Albans. I think his younger brother went to Chevy Chase Elementary.

Ms. Bernstein: What's Bob's last name?

Professor Jackson: Taylor. He's over at DOD with Judy Miller. One question I guess

is how the matrix of choices – this is kind of an out-of-time question but – when you had your children in the fifties, you were in a world where even if you had professional training you stayed home with your kids. And if you looked at that world and the world today, the choices that women have, do you have impressions about that?

Ms. Bernstein: Yes I do. Do you mean impressions about women today?

Professor Jackson: Yeah and the changes.

Ms. Bernstein: Oh yeah, I guess I do have some. I think our choices were, it was really foreclosed for us. I mean not only did everybody say you must to be home with your children, but the employment opportunities were foreclosed. They were just foreclosed. And so you didn't think about much. If you didn't have any choice, you didn't have any choice. You know you just did it. Today, I think there are many choices in some senses and fewer choices in others. By that I mean I don't think that I would advise anybody to stay out for ten years or 12 years like we did. I think it would be almost impossible to come back and to be able to have any range of choices. I think you could come back and do something probably, but I think it would be extraordinarily difficult. And that's why I say I think in some ways there is more choice and in some ways less choice. It may turn out to be the same kind of foreclosure on the opposite end that we had. That is, you better not take more than a very short period of time or you will put yourself at a tremendous competitive disadvantage. I don't mean that anybody would say, "We will never hire you." I just think it would be extremely difficult to take any extended period of time. Now the women here mostly take three to six months, that's mostly what they take. That doesn't mean they get six months maternity leave. That's just how it gets worked out. And I think that's probably more generous than you could do in most law firms and other institutions, where it's very much more difficult to cover the work and do all the things you

have to do.

Professor Jackson: Do you think there was a period when you think it was easier for professional women to stay home the ten or twelve years with their children and then come back?

Ms. Bernstein: I think we hit it, Pat and I and others. I identify with her because we did come back at the same time. She had five kids when I was having three. She did some stuff in between that I hadn't done. She worked on that bail bond study with Danny Fried and the DOJ and she may have done other stuff as well. But it wasn't full-time work. She was still a full-time mother. We went back at the same time. And I'm sure you heard me say that before, it was extraordinarily important to me, and critical to my courage to try to do it, personal courage, personal confidence to try to do it again, that she was trying to do it again too. And the other factor was that it did become quickly a time of real opportunity for women who had any training. That was later on, you know, really into the '70s, but we both were wonderfully positioned for the Carter administration. There was hardly anybody who was trained and had experience. In fact, there were some disasters because they put women into jobs that didn't have sufficient experience really. So I think we kind of lucked out in that sense. We kind of hit it at a time in which there was demand for lawyers. I see in the *Washington Post* today that there is a huge demand for lawyers; there's a big story about that. And the other, I think, significant factor for me, and probably for Pat as well, is we did know people. There were a lot of Yale people here. Many of them were already partners. Steve Pollock I remember calling me up one time, and he had been already an assistant attorney general, and here was I schlepping along you know, trying to figure out how to practice law, and I had probably been a year or two ahead of him. So that kind of thing kind of hurt but we knew those people. They were more than willing to help

us. They didn't think it was crazy. They didn't think or say, "What do you know?" In fact, my first job was for one of our classmates.

Professor Jackson: And what was that?

Ms. Bernstein: A classmate of mine and Pat's and Bob's— William B. Wolf, Jr. was a sole practitioner in the District of Columbia. His father had been a lawyer, his grandfather had been a lawyer. They were very successful. They really had more than a law practice – they were into financing real estate, and so forth. He gave me a job.

Professor Jackson: And this was after Molly's kindergarten year?

Ms. Bernstein: Yes, first grade.

Professor Jackson: When you said sole practice, I was thinking Fifth Street lawyers but that doesn't sound –

Ms. Bernstein: No, no, no. It was 1001 Connecticut Avenue where they owned the building. Dad had a big law library. They didn't even practice together really. They ended up practicing together. Neither one of them could really get along with anybody. But they are both brilliant. Billy particularly is just absolutely brilliant – wonderful lawyer, wonderful lawyer. Miserable to most people but not to me. He paid me hardly anything. I really didn't care for a while because I had to do everything. He and I practiced law together – whatever came over the transom, which was a variety of civil practice. We had big real estate stuff, and I would help out with that. But then we'd get divorces and other disputes, contract disputes. We had one big case involving removing a conservator for somebody's estate that I really did the litigation on. I got a judge to sign an ex parte injunction, you know, to remove this guy, just like that. We did innovative stuff. I said to him, "You know the courts of Maryland stiff have equity courts," and he said, "Of course I know that, what's the point?" I said, "The point is I think we can file an

equitable suit to reform a written instrument,” you know, stuff like that. And he would say, “Good, go for it.” I learned so much practicing law with Billy Wolf. It was astonishing.

Professor Jackson: How long did you practice with him?

Ms. Bernstein: Two and one-half years.

Professor Jackson: So roughly, '68-ish to '70-ish?

Ms. Bernstein: Exactly, because I came to work here at the FTC in October of 1970. These dates I do remember.

Professor Jackson: All right. And how did you decide to come to the FTC?

Ms. Bernstein: Here's how. As I said I was practicing with Billy. I was obsessively, I think, absorbed in the law, obsessively. I say this in retrospect. I was desperately trying to make myself into a lawyer again. And I really had a hard time thinking about anything else. The smallest thing would engage me. And I know what it was. I felt I was on the brink of either making it or not making it. To me it was I either go back to being Mrs. Lionel Bernstein and a housewife and mother for the rest of my days or I get myself confident. And I think I neglected by husband and my family during that period. I think I really did. Billy pushed the hell out of me to do more and more because I think he knew also that I needed myself being competent, and he wasn't a bit sympathetic to my domestic needs. It got to be very, very, tense.

Professor Jackson: Did you have household help?

Ms. Bernstein: Yeah I did. I did not have meals prepared; everything got done. It was where my head was.

Professor Jackson: Your emotional energy.

Ms. Bernstein: Uh huh.

Professor Jackson: Were you working nights and weekends away from home?

Ms. Bernstein: Not too much weekends, except that I developed in the course of that a rather extensive domestic practice. I got experienced, and it was at that period that there were a lot of marriages with women who had been led to believe they would always be taken care of who were being not taken care of, lots of divorces that wouldn't have occurred at a different time, and all of a sudden people were looking for women lawyers. It was just at the point – who gets taken care of, who doesn't get taken care of – just an explosive period, I mean it was the sixties.

Professor Jackson: So this meant a lot of phone calls at home?

Ms. Bernstein: Yes.

Professor Jackson: Nfitch Rogovin, for whom I have great affection, once said to me that I needed to have at the phone near my bed the telephone number for a good divorce lawyer and for a good employment lawyer. He was right.

Ms. Bernstein: That drove my family crazy. And they would call on Saturday, “He didn't pick up the kids. He's violating an order. What do I do? Should I call the police?” – all of that.

Professor Jackson: Was your domestic practice in Maryland and D.C.?

Ms. Bernstein: It was mostly in D.C. I never got admitted in Maryland, although I got admitted on motions a couple of places and things like that. We had one big case in Howard County, I remember, and I was admitted on motion.

Professor Jackson: Did you have any experience at that time with what is now called domestic violence problems?

Ms. Bernstein: No. These were mostly upperclass people whose husbands walked out on them and so forth. They had no visible means of support and it was just horrible.

I hated it. I mean I was engaged in doing it and I was in court every week down there in the Superior Court, whatever it was called then, just a “dinky” court, and of course the clerks would say to me, “Are you the plaintiff?” “No, I'm not the plaintiff; I'm the plaintiff's lawyer.” “Oh, we better get a button; you're the plaintiff's lawyer.”

Professor Jackson: Okay so you had been doing this practice very intensely and very wrapped up in it, and you ended up at the FTC by the end of the year.

Ms. Bernstein: It really happened because my husband said, “This can't go on like this.” And made very good rational arguments that if I were in a larger organization I would have more ability to have free time, to have vacations. He was not wrong about that, as I began to look at what toll it was taking. The kids were getting older, so I talked to Bob Wald. Well first I thought it through, and I thought I should really go into the government because at that time I thought they hardly worked at all. They go home at 5 o'clock, and so forth, though Lionel didn't go home at 5 o'clock, so I don't know why I thought that. I guess by then he was out at the NIH. And as I thought it through, I had a friend, Matt Watson, who ended up being, I believe, IG of the District of Columbia or something like that later on. I know how I got to know him. He was a younger lawyer, but he was very smart, and he had been opposing counsel in one of my divorce cases. And he and I had the extraordinary experience of having a joint motion fail because the judge didn't like what – it had something to do with a stipulated divorce and he wanted us to – . He was one of those old fashioned judges who said if there aren't adequate grounds here, I'm not granting this, a divorce. It was just hilarious. Can you imagine Judge denying a joint motion? And we got to be friends through the course of that, and I would have lunch with him, and we would talk. So I said to him, “Listen, if you were going to try to find something else, what would you do?” I thought I need to find something fairly new because if I

go into one of these government agencies, and they all know the law from 25 years, and I'm trying to play catch up, it would be very difficult. What's new, what's happening where I could sort of be on the ground floor? I am an experienced lawyer now. I know how to try cases. I know how to take a deposition and examine witnesses. So Matt mentioned a couple of things, and one of them was Consumer Protection. It was 1970, the Nader report had happened already, and they're hiring down at the FTC. What about that? And I said, "Oh my good friend Bob Wald used to be at the FTC."

Professor Jackson: Oh I didn't know that.

Ms. Bernstein: In the '50s, he was at the FTC. And his law firm had always specialized in FTC work. But there wasn't any consumer protection until the seventies. So I called him up, and asked what do you think? And he said, "Oh you want to work there," and I said, "Yeah, I think I do." By that time I had read some stuff and so forth. So he called up Basil Mezines who was the Executive Director at the FTC and a good friend of Bob's. Bob Pitofsky was just first coming to be bureau director, I didn't know that, I didn't know who he was or anything about that. The new chairman was coming, Miles Kirkpatrick was coming. Basil has changed his story about this over the years, but here's my recollection of it. So Basil said to Bob [Wald], "Send me her resume. We are hiring, but you know this guy Pitofsky is only hiring really first-rate lawyers, he's really snobbish. He's not hiring anybody from Tennessee any more." So Bob Wald said, "Her resume is fabulous, you can't pass it up. She's got fabulous recommendations from everybody." So Basil said he called up Bob Pitofsky, who was still not here from New York, and said, "I've got this resume," and this is just the way Basil talks, "I've got this woman whose got this resume, and she went to the Yale Law School, and she was on the *Journal*, and she's been in practicing," and Bob said, "Stop right there, and make her an offer."

“And Bob Wald recommends her highly. Do you want me to send her up to New York to be interviewed?” And Bob Pitofsky said, “Don't be silly, she's coming as a staff attorney, isn't she? Yes. We'll make her an offer.” So he made me an offer within the week. I accepted as GS-12. He could have given me GS-11, and I would have taken it, except for my good friend Selma Levine, whom I have not mentioned, who was a wonderful friend to me through this period, well always until she died, but she really befriended me when I started to work for Basil in the most wonderful ways. She was already a partner at Wald, Harkrader. She was 3 years ahead of us in law school, was an FDA practitioner, highly respected, wonderful woman. I didn't know her before. My only connection was through Bob Wald, and she was wonderful to me in every way, helpful, you know, just considered me like an equal, which I wasn't, or I didn't think I was anyway. It was a wonderfully helpful relationship to me. So that's how I came to the FTC.

Professor Jackson: You mentioned her name when you said you came in as a GS-12.

Ms. Bernstein: She told me not to take less than a 12. I said, “It says if you're entry level it's an 11.” She said, “You ask him for a 12. I'm telling you ask for a 12; they'll give it to you. If you don't ask them, they'll give you an 11.” So that's why I mentioned her name.

Professor Jackson: So you started here in October 1970. Now at that time – I was looking at this just before we came in.

Ms. Bernstein: I have to stop promptly at 12 today because I have a meeting.

Professor Jackson: As do I. So we have 8 minutes. All right. We're in agreement. I was looking over this, the statement of policy that accompanied the statement of basis and purpose for the Care Labeling Rules. And well, I think of you very often. I have to tell you, as I'm sorting laundry, looking to see, I thought, even if one had done nothing else, to have effected that which has helped so many people.

Ms. Bernstein: I don't take credit for the strategy of the way Bob conceived of it so that it would not to be challenged in the courts, because if we had a challenge, I think we talked about that the last time – it could have had an adverse result.

Professor Jackson: Not on the tapes, so we should talk about that. Why don't I ask a more general question about how you did get involved with the care labeling rules when you came to the FTC.

Ms. Bernstein: Here's what happened. I was assigned to what was called the Division of Food and Drug Advertising, headed by Jerry Thain who teaches law now at Wisconsin, and a guy who had been here for quite some time. I was a staff attorney, and I quickly became acquainted with another woman here named Nancy L. Buc, who was also a staff attorney there in the division, and we became friends. She was a lot younger. She had graduated from law school, I think, in '69. One of our initial assignments was to review toy advertising. You see I came in October, Jerry Thain had assigned me and Nancy to review toy advertising to get ready to see whether or not there were cases that could to be brought before Thanksgiving, because that's a big toy advertising period, and really revving up this whole organization, which I didn't really realize at the time. But so Nancy and I– I used to say this in little talks that I gave subsequently– having gone from being a full-time housewife where one of the things that I had to do was watch television with the children, so I was not unfamiliar with toy advertising because, of course, we saw all that stuff. I thought when I went to work – no more kids' TV. Wrong, that was one of my first assignments!! We sent out access letters, we got the ads in, and we sat around and watched the television ads and looked for violations, and we found them. We brought two cases, Topper and Mattel. We sent them to the commission. There was a huge press conference the week of Thanksgiving that Bob Pitofsky headed, and it was just

unbelievable press coverage. The FTC had never done anything like that, and there were not assurances of voluntary compliance, which was the way the commission had always proceeded—that was the first bite of the apple.

Professor Jackson: We will obviously not to be able to finish this today, but it's helpful to start. So you have this very successful press conference, the FTC does not offer them a chance for voluntary compliance, is that right?

Ms. Bernstein: AVCs, assurances of voluntary compliance, had always been the way the commission proceeded on these insignificant cases that they brought in the '60s and then if they violated the AVC then the commission would get a consent order by settlement or by litigation. And if that was violated, then you get a penalty. So it was a long, long process. The cases were not important cases, and Bob and the chairman had told the staff not to seek nor accept assurance of voluntary compliance. The order will to be sought in the first place. We ended up settling the toy cases afterwards, but we announced them as administrative complaints and got a huge amount of publicity, very positive. And it was very exciting stuff. Nancy and I did those cases by ourselves. We wrote them up, got them up to the commission in three months. Previously it had taken two years to get anything like that through the internal process. Interesting enough, this is just a side line, when I came back here the processes had slowed down again, so it was like molasses here when I came back. Bob said, "It's deja vu all over again. We've got to rev the place up." So that was the first thing we did and we'll have to quit I think.

Professor Jackson: Okay, we can resume next time with the FTC, so we made good progress, I think, today.

Ms. Bernstein: I think so.