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[00:00:00] **Speaker 1** No. No, my dad was the mayor of Lodi for a few years when I was a kid, and so there were some other people in our family that started calling me mayor, your honor, and it's like, no, no.

[00:00:11] **Speaker 2** Not in my family, I'll tell you that for sure. That's right.

[00:00:15] **Speaker 1** Yeah, that was more of a sarcastic, Your Honor, for me or for him back then. All right, and you're good, all right. Well, Madam Chief Justice, thanks for your time. Pleasure to be here, Zach. Let's go back to the start. Can you imagine what yourself in 1995 would think of where you are today, all these years later?

[00:00:43] **Speaker 2** Well, it's been a journey, and the journey, of course, has been traveled by me, but surrounded by family and friends and colleagues. To answer your question, I don't think I would have seen myself as I am today 30 years ago. That's right.

[00:01:02] **Speaker 1** So Shirley Abrahamson was the first woman appointed to the Wisconsin Supreme Court, but you were the first elected. How far have we come in that it's been mostly women on the court today and most people in the modern era just think it's natural for women to sit on the bench.

[00:01:18] **Speaker 2** Well, it's been, we've come a long ways, you know, that's a perhaps a worn out phrase, but it holds some truth to it. When I got on the circuit court in Marathon County, there were only ten women judges in the entire state, and I was one of three north of Madison and Milwaukee. When I became an attorney and went to Wausau, I remember that very first day. Being welcomed by my supervisor with this. He said, I want you to know I have no problem with a woman trying to do a man's job. So it has been a journey from the first days of being an attorney and then being a circuit court judge and till now we have six of the seven members on our court. Are serving as women. So that's a long way. I recall when I was a circuit court judge, I would take sometimes my kids on Saturday mornings to the court so I could get some work done. And I remember my then five-year-old son John asking, Mom, can boys be judges too, you know, and so... The importance of having six women or any women on the Wisconsin Supreme Court is to see what is possible. In that little five-year-old mind, the only judge he knew was a woman, right? So six out of seven, that's quite remarkable.

[00:03:01] **Speaker 1** And it really wasn't that long ago in our nation's history where it was thought women didn't have the temperament in order to sit and be adjusted. And Sandra Day O'Connor, and Ruth Bader Ginsburg, and you, and Wisconsin, like, that really has shifted in terms of what is thought to be the temperment necessary, it's not based on gender.

[00:03:19] **Speaker 2** That's right. In 1875, then Chief Justice Edward Ryan of the Wisconsin Supreme Court denied a motion. A woman wanted to practice law before the Supreme Court to be an attorney. And in most situations that would be, as we say today, a no-brainer. Sure, we'll improve your motion. But that was no ordinary situation because she was a woman. And She was denied admission for the very reason... You're referencing the opinion of the court said that the employment as an attorney for women is really incompatible with the sentiments of womanhood and he ended the opinion, if these things are to come about we will take no voluntary part in making them happen. So 1875, and here we are today.

[00:04:14] **Speaker 1** So it was just a couple of years ago, the night that Janet Protasewicz was elected to be a member of the court, I happened to interview you. And I said, you're up next, have you thought about whether you wanna run? And you told me, I'm going to run and I'm gonna win. Take us from that moment to your decision that this was going to be the end of your time.

[00:04:33] **Speaker 2** Difficult decision, a decision that took me many months. I had engaged services of someone who was going to be helping me run the campaign, but ultimately as I reflected I made lists of, as most people or many people would do, of yes I want to run or no I should not and it was just time to pass the torch. I've been on the court for 30 years. I'm told I have participated in 28,000 cases, 2,400 oral arguments, 600 or so opinions. It was time to pass the torch to begin a new chapter of my life. I don't look at this as retirement because I have a number of things I want to do and accomplish, but it's a new Chapter.

[00:05:30] **Speaker 1** What has changed in how the public views the court? Because at the beginning of your time on the bench, the Wisconsin Supreme Court was looked at as a model for the nation. And then a couple decades later, it was looked as one of the most dysfunctional courts. And we've come a few years since then, but how has that ebb and flow occurred over time for you?

[00:05:50] **Speaker 2** You're right. When I got on the court in 1995, we were considered one of the top state courts in the nation. Other state courts would cite our opinions, and that demonstrates that they really wanted to look at us as leaders in developing the law. And they would also follow some of the administrative leadership in terms of committees and new approaches to access to justice. That they would embrace after seeing Wisconsin having done it. Those were exciting times, but you're right. Over the years, the image has changed a bit, and that's one of the reasons I'm so excited about now, this court, strong, talented people, all seven, including the new Justice, all 7, smart, engaged. And I think this is the time when we will return to that national reputation.

[00:06:53] **Speaker 1** When you first ran for the court, there wasn't nearly the public attention, certainly not the money, or even the partisan involvement. You ran as a non-partisan and criticized one of your opponents for accepting endorsements from conservative politicians. How do you view the elections that occur today? Even your successor had to court the Democratic Party, received millions in fundraising, and yet has to try and claim judicial independence once she takes the ropes. How has that altered how the justices see themselves and how the public sees the court?

[00:07:27] **Speaker 2** In 1995, when I ran that first race, I had as my co-chairs Tony Earle, who was the former Democratic governor, and Sue Ann Thompson, who is the then first lady, her husband Tommy Thompson. Serving as my Co-Chairs, I have strong bipartisan support. And I've had strong bipartisan in all of my campaigns, but it's harder. This is labeled as a non-partisan race. It's in April, right? That's when we have the non-Partisan elections. And I am concerned about the influx of partisanship in judicial races. That's of great concern to me because I think that it has a couple of effects. Number one, it has an effect on the public trust and confidence in an independent judiciary. And being independent not only in substance, but also in impression is important for the public trust and confidence of the people. So I think the influx of political parties and the great amount of money is of concern. But let me say this. Just this past week I was reading a law review article from 1999 in the Marquette Law Review. And it's part of that article. It was talking about judicial elections. And it said, oh, they've become more partisan. And the amount of money being spent, I recall in 2005 giving a major address. And it was called Justice at the Crossroads. And I had great concern about the influx of politics. And by that, I mean partisan politics and money. So, the concern isn't new. But it has increased in terms of amount, both in money and in political partisanship.

[00:09:38] **Speaker 1** Could you imagine any future candidate taking the same route you did in terms of a grassroots campaign, a bipartisan campaign, and still being successful, getting through a primary and then getting through spring election?

[00:09:52] **Speaker 2** When I was considering running, I am a pragmatist. I like to look reality in the face and embrace it. And I knew what the political landscape was for running. But I thought that perhaps I could pull it back a bit. And that would have been part of my campaign. I knew, again, the reality is on the ground. But there has to be a middle ground and that's one of the challenges that we as a court and we as the state face to make sure that our judicial elections are elections that really enhance public trust and confidence.

[00:10:41] **Speaker 1** Looking back at the timeline of Supreme Court elections. It was now Justice Ziegler's race Which a lot of people point to the first time there were multi million dollars spent by third party Yes to influence the election and that means every member of the court now going forward has been elected in an era in which Outside money and partisan politics played a huge part. Is that just a fundamental shift that we have to accept going forward? Is there anything that could draw that back in as you said? Is you could have run and had that old legacy, but it doesn't seem to be existing now for future candidates.

[00:11:18] **Speaker 2** In 2005, I went and met with the Democratic Party chair and the Republican Party chair. I didn't know them beforehand. I had dinner or lunch with one and coffee with the other. And I said, stay out of these races. I'm told that I did the same thing in 2015. Yes, there is a middle ground to be achieved, but there's also, of course, people looking at different ways that we can be selecting our justices and running campaigns, looking for reform. Other states, of, course, they vary on how judges and justices are selected. Some are appointed for a certain term. Some are elected, but the kind of election is different than we have. It's called retention election. So I think there are groups that, and maybe even members of the legislature, who are looking at ways to change, perhaps even the Constitution, to change the way we select justices, statutes that could be changed, different kinds of regulation that could employed that would bring us back from where we are today.

[00:12:38] **Speaker 1** So you've served with all the members we're talking about. In terms of what they're like once they get on the court, do you see the influence of party politics and money from the bench? I don't.

[00:12:50] **Speaker 2** I don't. I see all seven of us. Approaching cases, but how we're supposed to. We look at the facts, we look at law. We may see the law differently. We may have different ideologies or life experiences, but we are unified in our intent to serve the people of this state and honor the rule of law.

[00:13:21] **Speaker 1** Do you think that frustrates some of the people who only view these elections through a partisan lens? They say, well, I was encouraged by my party to support this person. I donated time or money and now they get on the bench and they're not acting like the politicians that I was told that they are.

[00:13:36] **Speaker 2** That's why civics education is so important. Because that kind of attitude, of course, demonstrates a lack of understanding of what the third branch of government, the judicial branch, is about, right? We are not to follow necessarily public opinion. That may be odd for some to hear, but the executive branch does that, the legislative branch does. But the third branch of government, co-equal branch of government, is to be an independent judiciary. Following our North Star is the rule of law. That's our guiding light. And that's important for members of the public to understand that. We need to reinvigorate civics education in this state, I think, and elsewhere.

[00:14:28] **Speaker 1** But even with that North Star, who is elected to the bench matters. And that does change the outcome of some of these decisions.

[00:14:36] **Speaker 2** Absolutely, it does. I mean, I can tell you, Zach, I'm writing fewer dissents in the last two years, right? But the process remains the same. That is, looking at the facts, getting briefs, having oral argument, discussing the facts and the law, and ultimately writing opinions. That process remains the same.

[00:15:01] **Speaker 1** How do you view taking a look at precedent, especially since you've been in a minority that wrote a lot of dissents and you've in a majority that's written them the opinions, there have been some cases that have overturned precedent and there are others that have observed them, whether you've agreed with them or not, but you, I'm certainly, cite a lot cases of if only the makeup of the court had been slightly different, that decision would have been completely opposite.

[00:15:26] **Speaker 2** Yes, the law has certain elements to consider if you are going to overrule precedent. Those include, let's say the United States Supreme Court came out with a new law that reflects a different approach than what we had embraced in Wisconsin in our case law. So if the law has changed, is one reason. Another reason... If it's our precedent has proven to be unworkable. Another is whether it's unsound in principle. So the very fact that there is a new member on the court should not, and in my opinion, is not reason for precedent to be overturned. I believe strongly in the importance of precedent. I may disagree with a prior opinion. But once it is precedent, we are bound by precedent unless those recognized elements are fulfilled, which then allow for cases to be reviewed and changed.

[00:16:32] **Speaker 1** The legal landscape surrounding the court has changed as well. The amount of groups that exist only to file lawsuits with the best hand-picked cases and plaintiffs involved in order to find a crack in precedent to overturn something. How does that change how you react from the bench when you know that this was hand-selected just in order try and reach the opposite conclusion?

[00:16:56] **Speaker 2** Your question brings to mind something my husband once said to me because I mentioned being involved in 28,000 cases and all the oral arguments. He said, well, hasn't it all been decided already? There's so many cases, but the answer is no. I get thrilled by the presence of good arguments and good attorneys because they Help the court develop the law. And when new arguments are brought, then we take a look at the issue in the way it's framed, citing different cases and different issues.

[00:17:40] **Speaker 1** So for the first couple decades of your time on the bent, it's probably safe to say that the public attention to some of these decisions weren't as high profile and therefore the outside influence wasn't as important. As the prominence of the court to solving political questions rose, the amount of outside agitators and money poured in to help influence who sat and made those political decisions. Has that? Corrupted the way the public looks at the court away the court acts or is it the court's still the same It's just people are paying attention and trying to put more money into it. The court is

[00:18:14] **Speaker 2** should be steady as she goes, right? What has happened, at least in the most recent years, we've had a high concentration of what you would call political cases, high profile cases. A political scientist at the University of Wisconsin-Madison opined that the reason for that is if you have the other two branches of government that are agreeing or working. With one another, that those issues land on the desks of the Wisconsin Supreme Court. And I think there's some real validity to that observation. I would prefer on occasion a little more mundane approach, with cases coming to us, dealing with issues of, and I don't want to call anything mundane, so I'll be careful how I label the issues, but the normal issues that you would expect. But we've had a high concentration of these political issues, not that we go out and seek them. That's not the way the court works. We wait. Cases come to us. And once presented to us, then we decide whether or not it's important for us to take the case, meeting the criteria that we have in the statute for taking cases and our rules.

[00:19:43] **Speaker 1** As the public's awareness of the importance of the court has changed over time, has that actually changed the mechanisms of the Court? Or from the inside, is it still operating? You talked about it still in the same track. Is that still present? Or do you think that that high profile nature and people selecting cases has impacted what does come before you?

[00:20:05] **Speaker 2** Well, you mentioned that now we have, on the legal landscape, law firms and attorneys who are just poised to look at political issues, try to find a case and bring it before the Supreme Court. So that has changed. We haven't had that in Wisconsin in the past, but the process remains the same. Those cases come to us. And we deal with them the same way that we would any other case.

[00:20:38] **Speaker 1** I won't ask you to pick any favorite cases because you've got a lot of them to choose from. But are there any important areas or themes of the law that you're proud to have been a part of developing over the years?

[00:20:50] **Speaker 2** Absolutely. I think areas of securing individual rights has been very important, holding government accountable, right? That's part of the role of the third branch of government to review the acts, the legislation of the other branches. I mean, that's the unique role that the and visioned regarding the role. Of the third branch of government. And I think also access to justice, I've written not only opinions regarding access to justice, but also administratively been involved in promoting access to justice for the people of this state.

[00:21:39] **Speaker 1** You are in the majority and you're working to develop the opinion that will formally be published. What's going on in the background in terms of are you trying to reach out to members in order to make the majority opinion larger? Because we've seen a few cases where it's been 7-0 or 5-2 as most recently came out. Does that carry more significance than a 4-3 narrow split?

[00:22:02] **Speaker 2** Yes, I think that it's important to be, as we say, to jurors as a circuit court judge when we send the jury off to decide a case. We end with, we urge you to be unanimous if you can. And of course that's a desired goal. But let me also say, if we were always unanimous, then you would only need one us, and six justices would be superfluous. We do have different opinions and different approaches in the way that we interpret the law, in terms of the way we apply the law I should say. So, it's a wonderful process that's bent on staying true to the rule of law. We may see it differently, but that is our North Star as I said earlier.

[00:23:00] **Speaker 1** So should the public look at a 4-3 case differently than 5-2 or 6-1?

[00:23:05] **Speaker 2** Well, I think most of us try to bring in as many as we can. After oral argument, we go to the conference room, we discuss the case, we take tentative votes, and we listen. And I do. I'll tell you how I do it, but I think the other justices do it the same. We listen to the comments. We take notes of what the other justice's think is important. And then, if I were writing the majority, I would make sure that I want to get that in. So I can make sure to keep that justice as part of the majority. So then we circulate tentative drafts and we get comments from the other justices. This is part of a normal process. And if a justice wants a change here or add more here, I do my best to honor their request because it's important, I think, to have as many justices in a court. On an opinion. If you have so many splintered opinions, then the integrity of the precedent is diminished.

[00:24:12] **Speaker 1** I just wanna clarify something we had talked about earlier about the future of how we might put justices on the bench. Do you support changing the constitution to eliminate elections or alter elections? Or you talked about what other states do. There's a lot of options out there. Do you have a proposal that you would support?

[00:24:33] **Speaker 2** I don't currently have any proposal that I support, but I do support looking at all sorts of different options, as I know groups and legislators are doing right now, because we have a challenge before us and the challenge is to make the selection of justices and the campaigns, if we continue with campaigns, better, not for the sake of making a campaign better. But for the sake of the 5.8 million people who call Wisconsin home, they deserve a judiciary that they have trust and confidence in.

[00:25:14] **Speaker 1** How might that have changed you becoming a member of the Supreme Court? Because back in 1995, you may not have been either selected to become on a list or appointed to this process. You had to push your way onto it.

[00:25:28] **Speaker 2** That's right, and about three weeks ago, I was on an international webinar regarding election of justices around the world. Now there are not many countries that elect their state Supreme Court justices or however they divide, whether it's a province or an area, the United States is one of the And I made the comment then to this webinar, attendees, that I probably wouldn't be on the Supreme Court if it were not through election. I was not one of the favored people. I mean, I didn't have inside track information or path, right? It was good old fashioned retail campaigning around the state and I won. I am not quick to say let's get rid of elections, not at all. I am quick to see how they can become better and if we can't make them what they should then let's look at other options.

[00:26:46] **Speaker 1** And another technical issue that's been coming up a lot is recusal rules. What is your approach, and do you think there should be a larger rule that governs everybody?

[00:26:56] **Speaker 2** I think that we as a court have to take a look at the recusal rules. Our recusal rule was written verbatim by a lobbyist group around 2010. I wrote a dissent to that. It was a strong dissent. In fact, it was covered in a lot of national news. We have to revisit our recusal rules to make them. Rules that I can be proud of and others can be proud of. Sometimes our recusal rules have been referred to as getting a D or F grade and so let's take a look at them, improve them because it's an important part of the judicial process. It goes hand in glove with judicial campaigns and what is said on judicial campaigns and then you have recusal rules. In part to help balance that when appropriate. It's a difficult issue. It's very nuanced. So I think it's time to take a look at them again.

[00:28:07] **Speaker 1** Especially in light of the last two campaigns, Janet Prudice-Awitz was attacked by Republicans for statements she made during her campaign, has been repeatedly asked to recuse herself. Is there ever a moment where other members of the court advise someone, or is it simply left to them alone and then that is just their decision?

[00:28:27] **Speaker 2** Um... It's a, I don't want to get in the weeds too much in this. The decision, according to our rules, is the decision of the justice alone. Period. It's clear. Yet, there's a case called Caperton, C-A-P-E-R-T-O-N, that sets a standard of due process for the court to take a look at the issue also. Generally speaking it is the decision of the justice alone, but there are times when there is such a substantial risk of actual bias, that's the standard set by the United States Supreme Court in Caperton, that it rises to a due process violation.

[00:29:19] **Speaker 1** One of the other things that has changed with the structure of the court in your time is the Chief Justice is no longer based on seniority. You are now the Chief justice, but you were elected by your fellow members. Does that make it more significant or do you wish it had still been the way it always was?

[00:29:36] **Speaker 2** But there are pros and cons. I was against the constitutional amendment, and I was again the constitutional amendment because I thought and still believe that it was initiated to get rid of former Chief Justice Shirley Abrahamson, full stop. I think there's a lot to be said about retaining the seniority. Looked at the way other states select their Chief Justice and the tenure of the Chief Justice position and come to believe that although there is merit and certainly it sounds good. Oh, let's elect our Chief Justice for a two-year term or a longer term. Maybe limit to one two- year term. I still believe that seniority is the better way to go, but The people have spoken and this is the way it is now.

[00:30:36] **Speaker 1** How does it feel for you to end your career as Chief Justice?

[00:30:39] **Speaker 2** Wonderful, in a word, wonderful.

[00:30:43] **Speaker 1** Chief Justice N. Walsh-Bradley, thank you for your time. Thanks, Zach. We are good. Thank you so much for your time. I really appreciate it. Wow, it was good chatting with you. And thank you for your service. Thank you. I didn't want to get too deep into the weeds on some cases, but it would have been more fun to delve into those, but for our audience, it's best to keep it broad.

[00:31:03] **Speaker 2** Yes, that's right. And I understand that. You know, I was thinking about this. I was wondering if you might be talking about security issues, and that probably crossed your mind. But here is a bit of information. Thirty years ago, and I think I may, and Pat Crooks, Justice Crooks may have been the first of your televised debates, and after that debate. I got it. Contact from a Warsaw attorney, because I was still a sitting judge in Warsaw. He said, I just want you to know that a client of mine, he did criminal defense, a client of mine was sitting in the audience during that debate with a gun and he came to kill you, but voices told him not to. Now, that kind of chilled me a bit, and when actually I won and then... Had my investiture. It was loaded with security. So security is always of concern, but boy now, Zach, the threats that are just intimidation is just very pronounced. And we have, as we were talking about, some high profile political cases, and some of the justices get more threats than others. But it's a great area of concern.

[00:32:34] **Speaker 1** Yeah, we've done some reporting on that. I just wanted to keep that on the news side.

[00:32:40] **Speaker 2** Yes, well, yeah, and I appreciate that, but I'm just I was thinking about that and thinking about that debate of 30 years ago with public television there.

[00:32:54] **Speaker 1** We'll find the tape.

[00:32:56] **Speaker 2** No. I think I was okay. My mom was in the audience. I had a lot of family members in the audience, but apparently there was another person in the audience that should not have been there. You just don't know in this job. You don't in any job. As of late, just because of the public dialog is so toxic, isn't it?

[00:33:21] **Speaker 1** It's surprising even when members of the legislature announce, like, oh no, I carry on the floor.

[00:33:27] **Speaker 2** Yes.

[00:33:28] **Speaker 1** And it's like, I guess I never even thought of the Senate president having a firearm while he's up there.

[00:33:33] **Speaker 2** I think Gableman used to, as they say, pack. I won't respond to your comment, but yes, and maybe another justice does too.

[00:33:47] **Speaker 1** Are you disappointed that you weren't able to stay on long enough for Gableman's case to come all the way back up?

[00:33:54] **Speaker 2** Do you think I'm going to answer that question? Actually, I'm relieved. I'm really that I don't have that case before me. You know, the stipulation, and we'll see what the court does with it. The stipulation is for three years. That's pretty hefty, and who knows?

[00:34:17] **Speaker 1** Well, Robin Boss was all for disbarment.

[00:34:20] **Speaker 2** I know, yeah. That will be interesting, it will be interesting to see. One of the reasons I say that is because I am becoming probably the lone voice on this court. This is inside information, are you ready? Plug one ear.