

Interview of ROBERT T. STEPHAN, by Mike Matson, October 21, 2020
Kansas Oral History Project, Inc.

Mike Matson: Hi, I'm Mike Matson. The date is October 21, 2020. We're in the home of former Kansas Attorney General, Robert T. Stephan, in Lenexa, Kansas. We're here to conduct an interview that will become part of the Kansas Oral History Project. David Heinemann, a member of the Oral History Project Board of Directors, is serving as videographer.

The Kansas Oral History Project is a nonprofit organization created to collect and preserve oral histories of Kansans who were involved in shaping and implementing public policy during the last half of the 20th century in Kansas. Recordings and transcripts of these oral history interviews are accessible to researchers, to educators, and the general public through the Kansas Historical Society and the State Library of Kansas. The Kansas Oral History Project is supported by donations from individuals and grants from Every and Humanities Kansas.

Robert T. Stephan has the distinction of being the longest-serving Kansas Attorney General, serving from 1979 to 1995, and being elected four times in that capacity. Prior to serving as Attorney General, Stephan served as a Wichita Municipal Court Judge, and then as Judge of the District Court for Sedgwick County. He has been a licensed attorney for more than fifty years.

Bob Stephan is a Kansan of Lebanese descent who was born and grew up in Wichita. He is a 1950 graduate of Wichita North High School and earned his Bachelor's Degree in Political Science in 1954 and Juris Doctorate in 1957, both from Washburn University in Topeka.

Mr. Stephan was admitted to practice law before the Kansas Supreme Court, the United States Federal District Court, the Tenth Circuit Court of Appeals, and the United States Supreme Court. As Attorney General, Mr. Stephan worked tirelessly to implement a number of important issues including enhancing victims' rights. He first established a Kansas Attorney General's Victim Rights Task Force in 1987. Through the leadership of Attorney General Stephan, this multidisciplinary task force developed recommendations that led to many changes for victims in Kansas and culminated in the 1992 Kansas Constitutional Amendment for Victims' Rights.

During his career, General Stephan has taken on many different leadership roles that illustrate his unique ability to effectively serve the public. He served as Chairman of the Kansas Sentencing Commission, Chairman of the Kansas Governors' Domestic Violence Fatality Review Board, and Advisory Committee Member to the United States Department of Juvenile Justice and Delinquency Protection, and as President of the National Association of Attorneys General, just to name a few.

Throughout his career, General Stephan has actively participated in local, state, and national boards and civic organizations, including Access to Justice Committee—he was appointed by the Kansas Supreme Court, the American Cancer Society, the Kansas Bar Association, Big Brothers and Big Sisters, Kansas Legal Services, the Johnson County Criminal Justice Advisory Council, and Special Olympics Kansas.

General Stephan is the recipient of a number of honors and awards, most notably the President's Citation from the National Association of Attorneys General, a State Ally of the Year Award from the Kansas Coalition against Sexual and Domestic Violence, Kansas Trial Judge of the Year, and winner of the Fred Ellsworth Medallion, which represents the highest honor to service to the university from the University of Kansas Alumnae Association, a Distinguished Service Award from Washburn University, and the Allied Professional Award from the National Organization for Victim Assistance.

After his service as Attorney General, Bob Stephan and his wife Marilyn moved here to Lenexa, and he worked as a Corporate Legal Consultant until his retirement in 2018. Good morning, General Stephan.

Robert Stephan: Wow, that was a long deal.

MM: That's an impressive career, and we appreciate your willingness to sit down for this project and allow us into your home for this conversation.

RS: I'm honored to be able to do it. Thank you.

MM: Let's start by talking about Bob Stephan, the young man. You grew up in Wichita.

RS: I did.

MM: Tell us about Wichita back in your formative years.

RS: I was born and raised in Wichita. The Wichita hospital is where I was born. I don't know if it's there now. My grandparents came to the United States from Lebanon, emigrated here, and my father was born in Lebanon and came here. I was busy in Wichita, but there was a lot of prejudice. People didn't like Lebanese people. You couldn't belong to any country club except one. There was one, the Rolling Hills Country Club.

The prejudice was just unreal. In grade school, sometimes we'd get beat up, my brother and I. In fact, one day they beat Don up—that's my brother—so I go get a sledgehammer, went across the street, and they were building a rowboat, these guys. I took the sledgehammer and busted it up. I shouldn't have done that, but I did.

And the prejudice just increased. Once some guy called me a dirty Syrian. I didn't know who he was, but that's the way it went. Being of Lebanese descent was a bad thing in Wichita. Everything kind of went along. I made it.

MM: What you described, those challenges from folks who didn't appreciate your ethnicity, what did that mean for your parents when they saw their children being inflicted with some of these challenges?

RS: I'm sure they were used to it. They put up with it, just accepted that that was going to happen. My father, he was not a nice guy. He was an alcoholic. They had a little grocery store. They both worked in the grocery store, but when he was drunk, he beat my mother up, and he would beat me up. I don't think he ever did that to Don and Jeanette, my brother and sister.

They got along. They worked the grocery store together. I still dream about the beatings that she endured, especially once when the police came to my grandparents' home. My mom was in bad, bad shape, screaming on the couch, "He's going to kill me." The police took my dad off. It's something I'll never forget. It's something I dream about today.

MM: When you think about your brother and your sister, your siblings, the children of these two, did that bring you together as siblings closer perhaps than otherwise might have been?

RS: I don't know if it did or not. I don't think they were subject to the abuse from my father that I was. In fact, when he died, he was living in Fort Wayne, Indiana then. They went to his funeral. I didn't go. I didn't have any use for him and frankly don't today. It was a tough childhood.

MM: We appreciate your honesty in sharing that with us. It's an important part of what made you the individual that you eventually became.

RS: It might be, yes.

MM: Talk to us about when you first had the notion of the law and making a career out of the law.

RS: It's hard to know exactly when all of that came. I graduated from North High School. I was going to go to college. I decided that the law was my forte. I went to Washburn and Washburn Law School and graduated as a law student.

MM: Do you remember what it was about the law that intrigued you?

RS: You know, I really don't remember. Maybe it was because of my father and how mean he was. I wanted to do something to stop that kind of activity. I think I did stop some of it years later.

MM: You bet. We'll talk about that in a minute or two. After law school, did you come back to Wichita to practice law?

RS: I did.

MM: What did that look like?

RS: Well, it was different. I went with a law firm there and did legal work, the usual stuff, and became a Municipal Court Judge, which was neat, and I enjoyed it, and then became a Judge of

the District Court, and that was also a great experience. So things went along well. I decided to run for Attorney General. I'm not sure why, but I did.

MM: That would have been 1978 in your first campaign for Attorney General.

RS: Right.

MM: Let's talk a little bit about the position of Attorney General. It's sort of a unique position within state government with respect to the power and the authority and the duties and the responsibilities. When you thought about running, did you have a sense of what the actual duties would be and the power and the ability you would have to help move policy kind of stuff? Was it career ambition? Give us a sense of what drove the decision.

RS: I wasn't really sure what I'd be doing if I won the race for Attorney General, but it was a good position, certainly good for a lawyer. I wasn't sure that I could win the first race, and I did. Then I won three others after that.

MM: When you won that first election back in November of 1978, you were a sitting District Court Judge.

RS: Yes.

MM: In Wichita, in Sedgwick County. You had to move. You had to move to Topeka.

RS: Right.

MM: Move your family and create a whole new basic life. Was that difficult?

RS: No, it really wasn't. I won. I was the Attorney General. So I was in charge. It was a good responsibility.

MM: As scholars I'm sure are aware, people who are looking at this interview, the Attorney General for the state is basically the state's lawyer.

RS: That's right.

MM: Anything legal will pass through the Attorney General's office if it has to do with state government. That was a pretty big responsibility.

RS: It was. I enjoyed the responsibility. I thought there was a lot to do, and I was going to do it as Attorney General. I don't know. I really enjoyed the responsibility.

MM: When you think about how state government is structured, it's like American democracy, three branches of government. There's an executive branch. There is a legislative branch, and

there is a judicial branch. The Attorney General in Kansas is part of the executive branch, yet you are connected at the hip almost with the judicial branch just because of the nature of the work.

RS: Right.

MM: Then the legislative branch will look to you or the Attorney General for legal opinions. The Attorney General's opinion became a pretty big deal. How did you approach that sort of responsibility?

RS: I did issue legal opinions, and I expected them to be followed. If the individuals I was targeting didn't, I went to court. I was in court quite a bit in those days.

It was a lot different then because there wasn't the Republican Attorney Generals Association and the Democrat Attorney Generals Association, and the General Association. Today, there's the Republican Attorney General, the Democratic Attorney General, and the Attorney Generals Association. When I was Attorney General, we all got along. I don't think they do today. I think that's unfortunate.

MM: Let's talk about that for just a second. How do you ascribe that change?

RS: I think it's just the way times change. It's unfortunate because a lot of ill will goes with that. I don't think today, and I don't want to be too judgmental, but I don't think today that the two sides get together, the Republican AGs and the Democratic AGs, and I think that's unfortunate.

MM: Let's talk about some of the specific issues that came before your office that you handled and that you led the way on in many ways. Let's start with tribal casinos. If you think back to the late eighties and the early nineties, four tribes within the boundaries of Kansas that were established by treaties, a lot of questions about how all of that is going to get managed. What do you remember from those conversations and those arguments?

RS: The one thing I do remember was that the Governor at one time was Joan Finney. She entered into an agreement with an Indian tribe where they could gamble. She didn't have any legislative authority to do that. I filed suit against Governor Finney to straighten that out. Unfortunately, we didn't ever get along. She was not happy that I did that, but I did go to court, and I did win, and they had to go to the legislature, the Indian tribe, to get permission. That was unfortunate.

MM: It's probably important to point out, and I can remember those times. I was a journalist at that time, if you recall. I remember covering those conversations. My sense was you didn't file these suits to be personal against Joan Finney, the individual. You were simply upholding what you viewed as your role as Attorney General as the right way to basically implement the law.

RS: The Governor didn't have any right to do what she did without legislative authority. I tried to tell her that. She wouldn't listen. It led to a bad situation.

MM: On the subject of relationships with other elected leaders, you were always amiable. You left a good impression with the public.

RS: I hope so.

MM: One would make an expectation and an assumption that that was by design. You knew what you were doing with respect to the way you wanted to relate, not only to the public and to your constituents, but your colleagues who were also elected officers. Is that fair?

RS: I think so. I should mention that one of the former Attorney Generals was Vern Miller, who grew up two-and-a-half blocks from me. Another Attorney General was Kent Frizzell who grew up across the street from me. The three of us were within two-and-a-half blocks of one another. I liked them both. Vern and I got along, but I reversed one of his opinions. I don't think that made him very happy. That had to do with serving alcoholic beverages on airlines. General Miller said, "You can't do that over Kansas." They quit serving drinks. Then I became Attorney General, and I changed the opinion. I said it's none of the states' business. It's the business of the federal government. So they started serving drinks, and that made me popular with the airlines and with their passengers.

MM: You knew these folks. You had longstanding relationships, in this case, with General Miller, but you also understood that there was a law, and you interpreted it differently. So you didn't let personalities or friendships get in the way of doing what you felt was right.

RS: No, I just thought the state had no right to make a decision like that, that the federal government was going to be in charge of the airlines.

MM: Let's talk about the Arkansas River. That was a battle that's been going on for decades, and you were deeply involved with that. It basically came down to Colorado versus Kansas. What do you remember about the early years of those conversations with the folks in Colorado?

RS: Colorado didn't want to get along. They refused to admit that they were taking advantage of the Arkansas River. We should have been working together, but we weren't. So I ended up in court. That's what courts are for. I sued Colorado, and I won.

MM: You were never shy about going to court when you felt you had a good case.

RS: No. The same thing happened in the Supreme Court in the United States. That had to do with an Indian reservation, Negonsott, I think was the Indian name. It was whether or not the State had the right to prosecute on a reservation for a violent crime. I ended up in the Supreme

Court of the United States. The Supreme Court said, "The State does have the right to take on violent crime on a reservation." So I won the case. That was a great experience.

MM: That had to be a highlight of your career.

RS: Yes, no question about it. I think of it often.

MM: What was it like?

RS: It's hard to put into words, but to know that there you are, just a little old Kansan in the Supreme Court of the United States, arguing a case. I didn't know how it would turn out, but what a wonderful experience, and it turned out that I won. That made the experience a lot better.

MM: When you're actually in the room and you're standing up there making that argument, and there are nine justices of the United States Supreme Court listening to you, that's got to be pretty significant, sort of lifetime memory.

RS: Yes. I'll never forget it. I'll guarantee that. As I look back on it, I can't believe that I was there. I was fortunate to have the opportunity.

MM: Let's talk about open meetings and open records. You were involved with some of those conversations.

RS: Yes.

MM: I may be oversimplifying this, but one side wanted to keep things secret, and another side thought that this was a public record. Is that a fair assessment of the argument?

RS: Yes.

MM: And your involvement with that was aimed at helping to ensure public accountability?

RS: Open records. That was one of my important endeavors as Attorney General so that the public was aware of what was going on in state government. It was tough to go there because the different entities wanted to keep things secret, and I said, "Unh unh. You don't do that." I was able to stop it.

MM: One more piece of evidence, if you will, that fills in the narrative of your career of recognizing that even though it may be difficult and even though you may irritate some people, you were going to do the right thing.

RS: I was going to try to do the right thing. Of course, I ended up in court again. It seems like I had to go to court a lot because state government and federal government didn't want to listen to me.

MM: What was the reaction from those who were married to the way they'd always done it, and all of a sudden, here comes a guy who says, "Nope, you can't do it that way." Did they take it personally? Or did they understand that this was simply a policy issue that needs to work its way through the system?

RS: No, they took it personally. Unfortunately, it caused some ill will with members of state government, but I felt like I had a duty to carry out, the rights of people to know what was going on.

MM: Did all of these fights, did you develop a thick skin? What personally as a human being, how did you react to these circumstances where people would take it personally, and yet you knew you had a firm belief in what was right.

RS: Well, if they wanted to be personal, that was their problem. I regretted it because I really did respect those in state government, but I couldn't stand by and let them do whatever they wanted to do, if I thought it was a violation of the state Constitution or the federal Constitution. So I would proceed. I would issue a legal opinion, and if they didn't follow it, I'd go to court to enforce it.

MM: Consumer protection. The average consumer may not be aware that they may be taken advantage of. Your office under your leadership beefed up that role a little bit. Talk a little bit about that. What do you most remember about your efforts related to protecting consumers?

RS: Many times somebody wanted to make a big killing, they'd say they had an item for sale that wasn't any good. There were millions of dollars involved in those things. So I felt it was my responsibility to go after people that I thought were thieves and taking advantage of Kansas citizens. There were millions of dollars involved.

MM: What I remember most, a very personal memory of your work with consumer protection, you would say, and I still remember this, "If it sounds too good to be true, it probably is."

RS: Yes.

MM: That was such a great line. That exactly describes what you just talked about relating to consumer protection.

RS: No question about it. The consumer protection guys that were taking advantage of Kansas citizens were making millions of dollars. So I filed suit to stop them.

MM: Before you became Attorney General, victims of crime weren't paid much attention to.

RS: Right.

MM: You changed that. Why did you want to address that?

RS: Well, it just seemed so unfair to me that the victims of crime were treated differently than anyone else under the law. They were there. They were hurt. They needed proper judicial action. So I took on the responsibility of forming a victims' rights organization in the Attorney General's Office.

MM: If you think about crime victims as a cohort of people, people who have suffered at the hands of a criminal, there's really no—apart from government, there's really no system that would allow them remuneration. What you were doing was simply taking the existing vehicles of government, especially in the judicial system, and just beefing them up a little bit, in addition to shining a light, giving them a little bit of recognition that they've been through something here. Is that a fair assessment?

RS: Yes, I think that's true. When they're a victim of crime, there really isn't any fully recognizable assistance that can be given. So I formed a Victims' Rights Board and made sure that they had someone to listen to them, and that victims would be heard.

MM: Let's talk about sentencing reform. That seems to crop up once a generation, but you took that on. There were some challenges related to criminal sentencing reform, and you had some strong thoughts there, as I recall.

RS: It's difficult to remember everything, but I do remember that unfortunately criminal justice took on a role that really wasn't very responsible. People suffered as a result of it. I took correcting that on as one of my goals.

MM: You can't talk about criminal justice reform in Kansas without talking about the death penalty. The death penalty is one of those issues in Kansas politics that seems to always be prevalent in every generation. It clearly was when you were in office. Do you remember some of those conversations?

RS: I was a death penalty advocate. There were a lot of mixed emotions with it, but I advocated the death penalty, and it was there. As I recall, I don't think anybody was ever really executed when I was Attorney General, even though I was for the death penalty.

MM: I remember those battles. I can remember your office getting involved in them in a pretty public way. Right?

RS: Oh, yes.

MM: You had an opinion, and you wanted people to know it.

RS: Absolutely.

MM: When you think about it, did you consciously think of the bully pulpit of the Attorney General's Office, especially on some of these issues that were legal in nature?

RS: I didn't think about it when I became Attorney General, but they stared me in the face. I mean, there was so many issues that needed to be addressed by the Attorney General, and they never were addressed. So I took them on.

MM: Children's issues. Children are another group of human beings that have traditionally been underrepresented in the legal system. You clearly wanted to make sure that changed.

RS: I did. I formed a group to assist children who were subject to brutality or the criminal jurisdiction, and hopefully I made a difference.

MM: The last couple of issues here, when you were Attorney General in the far western part of the state, there were some challenges related to the American Agricultural Movement and fringe groups that some thought to be pretty dangerous.

RS: Right.

MM: What's your most vivid memory of those battles?

RS: The Posse Comitatus was the outstanding battle. This was a White Supremacist group, and they advocated violence. They got arms. They had activities that helped to promote violence. They were anti-Semitic. They were anti-racists. So I took them on. Unfortunately, I have to tell you today the same kind of activity is there. There was White Supremacist groups just like the Posse Comitatus. But we need to keep fighting these groups. Unfortunately, I don't know whether we're going to win the battle.

MM: What do you think motivates those groups, especially back then?

RS: They think Whites are the Supreme Being. They don't like anybody of color, Latino or African American. I was able to identify, I think, because of the prejudice that I had against me when I was growing up in Wichita. So I took them on. Sometimes I won, and sometimes I didn't.

MM: It sounds like based on this conversation that so many of the issues that you dealt with as Attorney General were informed by events and circumstances of your upbringing. You saw unfairness. You saw prejudice. You had an opportunity as Attorney General. When you saw those things, you didn't hesitate.

RS: No, I didn't because I knew how unjust it was and frankly un-American. So I took those issues on, and hopefully I was successful, but it was not a very pleasant responsibility.

MM: You touched earlier on your appearance before the US Supreme Court as a career highlight. Are there other career highlights from your time?

RS: I think the Supreme Court was the top thing. It gave the state jurisdiction for violent crime on Indian reservations. But most of it seemed to come on. Every time I saw an injustice, I thought we could do something to stop that, and that gave rise to a lot of side issues.

MM: There's a lot of people who feel that way, but not everyone is Attorney General of a state. So you had not only the feeling, but then you had the power and the authority and the responsibility to take them on.

RS: I do think so. I'm pretty proud of my sixteen years as Attorney General because I took on a lot of issues that were neglected. Hopefully, they're not being neglected today.

MM: Do you miss it?

RS: Not really. I will say when I left the office of Attorney General, I became a consultant to various companies. I have to tell you, one of the companies had a fellow for sixteen years. His name was Donald Trump who came and gave a speech. I didn't like him then. They'd drop him off at the auditorium in whatever state we were in once a year, and they had a red carpet when he got out of the car all the way to the stage. He did that, I saw, for sixteen years before he quit.

MM: What advice do you have for aspiring lawyers who want to get into government?

RS: It's hard to say what I would recommend a lawyer who wants to get into government, but it's an exciting venture. There's a lot that can be done. Unfortunately, I think the limit is there because they have the Democratic AG Association and the Republican, and I don't think the twain meets. That makes it pretty difficult.

MM: Last question. When you look at the way jurisprudence is practiced today in America in Kansas, and you compare it to when you were active in your career, are there big stark differences, or is it the same? Talk to us about that, the comparisons.

RS: I think there are differences. Part of it is that there's ill will between the Democrats and the Republicans in the office of Attorney General. They don't meet together that I know of. There's a lot of ill will that comes from that, and that's unfortunate.

MM: Is there something that you wanted to bring up that I have failed to ask you in this conversation?

RS: I think you've run the gamut.

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MM: Fair enough. General, we are grateful for your time, and we appreciate you inviting us into your home, and tearing up your den to allow us to do this conversation.

RS: You bet.

MM: On behalf of the Kansas Oral History Project, thank you, and thank you.

RS: Thank you very much.

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