

Promoting Diversity in the Courts: Hon. Milton A. Tingling

John Caher: Welcome to Amici, News and Insights from a New York Courts. I'm John Caher.

In today's Diversity Dialogue segment, we are honored and delighted to welcome to the program a truly historic figure, the Honorable Milton A. Tingling, the keystone of a nation's first three-generation family of Black judges. The Tingling family history and legacy is truly remarkable.

Justice Tingling, graduated from law school in 1982, the same year that his father, Milton F. Tingling, was elected to New York City Civil Court. In 1996, he became the first Black person ever elected to a New York City judgeship in a district encompassing Harlem and Washington Heights.

In 2000, he was elected to Supreme Court, and just two months after he was re-elected in 2014, Justice Tingling stepped down when the Appellate Division, First Department, appointed him New York County Clerk, Commissioner of Jurors, and Clerk of the Supreme Court. Today, his daughter Aija is a Civil Court judge.

Judge, thank you for coming on the program. We have a lot of ground to cover, and the beginning is usually a good place to start so let's start there. Where did you grow up?

Judge Tingling: I grew up in Harlem, Washington Heights. Started out on 148th Street between Amsterdam and Convent on the sixth floor of a walk-up. I have an older sister and a younger brother. And when my younger brother was born, I was three, my sister was five, and my parents sent me to South Carolina to live with my mother's mother and her sister. At the time, they couldn't afford all three of us. Since my sister was starting kindergarten and my brother was a baby, I got to go.

When I came back to New York, my parents had moved to Washington Heights into, of all things, an elevator building. And I will never forget the first day I came back. I got on the elevator and I pushed all the buttons and I just stayed on the elevator riding from floor to floor for about half an hour!

John Caher: That's a great story. So as a young kid, were you somewhat estranged from your family being, I don't know, about a thousand miles away or so?

Judge Tingling: Yes, yes, very much. And it's funny, so many things happen and a lot of things happen and you don't realize them until later on in life. My parents

and my sister were the only people I really knew up until I was sent to South Carolina. But going to South Carolina helped form, I realized later, the person that I am and many of the things that I believe in. Interestingly enough, that experience exposed me to, because it was South Carolina, legal segregation. Everything was Black and white. Blacks lived on one side of the railroad tracks, whites lived on the other.

But probably the most amazing thing that happened when I was down there was, because Blacks were not allowed to swim at the city swimming pool, they actually built a swimming pool for Negroes. And I'm one of the few people that I grew up with in my life that actually knows how to swim.

John Caher: That's remarkable. I'd never thought about that. And there's a similar story with, and you may have known him personally, Franklin Williams...

Judge Tingling: Of course.

John Caher: And as a child, Franklin had a similar experience. He was hanging out with his friends, who were white. He wanted to go to the public pool and they let everyone in but him.

Judge Tingling: Right, right. It's the most amazing thing. Franklin Williams was truly one of the great people that I look up to, and he was also very close to my father. We'll get into that. But through my father, I've actually met so many of the great people in the history of the court system and have been blessed by it, totally.

John Caher: Let's get into that right now and then we'll catch up where we were. Your father knew and you knew Franklin Williams?

Judge Tingling: Yes, I did. Introduced to him as a young man, and then of course became aware of him when they formed the Franklin Williams Judicial Commission. They used to have father/son dinners for most of the Black lawyers. And quite frankly, out of all of the sons and daughters, only a few of us actually ended up going into this world. There was myself, there was [future Assemblyman] Keith Wright, there was [future governor] David Paterson, there was Bailey Jr, whose father had been on the MTA board and he went into it [Lawrence R. Bailey Sr. was a lawyer in Manhattan who was the first Black member and officer of the Metropolitan Transportation Authority]. And his mother was Cora Walker, who's a very famous Black female attorney who worked for the unions. She won a few big cases and was well renowned. But out of all of

the Black lawyers, and I still have some of the pictures from the dinners, only a few of us actually went into the legal profession.

John Caher: That's interesting. What were your early impressions of Franklin Williams and what were your father's impressions of him?

Judge Tingling: It is strange looking back on it. As a young man, you don't understand the strength of that generation, the things that they faced. We had no cognizance because in many ways they tried to teach us and protect us from the racism. At the same time, my impression of Franklin Williams was that he was determined to make a difference, even if that difference didn't occur in his time or even in his lifetime. Every journey begins with the first step. And this was a generation dedicated to addressing the issues at the time but also looking forward. A lot of people don't understand the big picture. It's not always about the immediate. And so that was my impression of him, just a great man.

John Caher: You mentioned your father's generation. Your father was admitted, I believe, in 1953, a year before *Brown v. Board of Education*. He came of age when Jim Crow era was alive and, I don't want to say "well," but alive. That experience must've shaped him, and by extension you.

Judge Tingling: Yeah, very true. It show you how stupid you are as a young person. My father gets admitted and he's there, and my mother of course is from South Carolina, so I've always said that I'm a product of mixed marriage, Jamaican and South Carolinian! But that's another story.

I didn't understand it at the time, but he expressed concerns about us as children being sent to South Carolina, not just when I went to live, but we used to go every summer. My mother was a school teacher, and so they were off for the summer. And so she would take us and we would go to South Carolina where we knew the racism, we knew the segregation, but in many ways we were protected from it. As I said, we had a pool, we had sports, we had neighbors, we had church, but there were places that we couldn't go.

For example, Howard Johnson's, which was my favorite restaurant. Howard Johnson's used to have a Friday night fish fry, 99 cent, all you can eat. And I loved it. And so when I went to South Carolina, Friday would come and they'd go, "Where do you want to go eat?" And I would go, "Howard Johnson's!" And they would have to basically segue me to some other place where we could go to eat.

My father, he was a very stubborn West Indian man, which is probably repetitive, but he had a hard time with segregation and racism, a very hard time with it. He was always determined that we should be judged on who we were. My father always taught me that you're not better than anyone else, but you're not less than anyone else. It's really an amazing thing.

But let me tell you about how stupid I was. When I got older, I had roommates in college that were all from the south, and I remember the first time I went to visit, they lived in beautiful homes, they had property. And I'm 18 years old, I'm the vice president of the Black Students Union, and I had the audacity to go and ask my father, "Yo, dad, you were smart. Why didn't you move to South Carolina? Man, we could have been living in a big house and all the rest of it." My father said, "Well, son, they were lynching people at the time, and I thought maybe we should stay here."

John Caher: Oh, good Lord! To back up a little bit, when you went to South Carolina, you were how old?

Judge Tingling: I was three, came back when I was seven.

John Caher: Okay. And so what years are we talking?

Judge Tingling: We're talking 1956, and I came back in '60.

John Caher: By then, *Brown v. Board* is decided, if not exactly accepted, but you're still facing segregation?

Judge Tingling: Without a doubt. My mother lived to be 96, and when I speak to students or groups, I always remind them, "My mother lived half of her life in legal segregation. You have to understand how important the law is in terms of addressing issues of bias and segregation and discrimination. The law really is the one thing that has progressed. And without it, I don't believe many things would've happened."

I speak to gangs, I speak to gang members, I speak to people trying to get out, and they talk about discrimination and segregation, and I tell them all, "Listen, do any of y'all have scud missiles? What are you doing? You cannot militarily address all of these things. You can't do it by just stocking up on Glocks and MAC-10s. You have to do it within the structure, and the law is the avenue to do it."

John Caher: I mentioned earlier that your father was admitted before *Brown v. Board of Education*.

Judge Tingling: Yes.

John Caher: He was, I don't know, he was probably 15, maybe 20, when Jackie Robinson broke the color barrier. How did someone in that era, in that generation, position themselves to become a judge, or even have it in their mind that that's a possibility?

Judge Tingling: You know John, and thank you for that question, when I was elected and became a judge, there was a member of my mother's church that had a printing company, and I went to him to print up the invitations. And I'm sitting down talking to him, and he was an elder at the church, and I had never had this conversation before, but he told me that it wasn't my father's dream to become a judge or whatnot, but it was actually his father's dream that his children and grandchildren would become judges because of the importance that judges had in his native Jamaica.

And I was shocked when Mr. Stevens told me the story. I never knew that it was my grandfather's dream, and he obviously passed it on to my father about becoming a judge. My became a judge late in life. He became a judge when he was 62. Under our Constitution, you have to retire when you're 70 unless you're an elected Supreme Court judge. So he became a judge when he was 62, and he died right before he turned 67. And people say, oh, wow, he didn't even get the full eight years and whatnot. But I tell them he realized his dream. And when he got it, he was the happiest judge I've ever known, either before or since. He was simply a happy man.

John Caher: Now, that would've been utterly unattainable to your grandfather, I'm sure.

Judge Tingling: Oh God, yes. Yeah, absolutely.

John Caher: What did he do?

Judge Tingling: My grandfather was actually a pharmacist in Jamaica, which in many ways was the equivalent of being a doctor because it's not like you had doctors on every corner. And he told me that he came to America because his being a pharmacist did not guarantee that his children would be anything. They could end up working in the fields, cutting sugar cane, picking fruit. It didn't guarantee anything. He also had one brother and 10 sisters, all of whom he brought to America. He came to America in 1918, intending to go to med school and become a doctor. The next year, he sent for my grandmother, who he had only met one time, had been introduced to her family, and he sent for her. She got on a boat and

came, they both came through Ellis Island. I have their records. They got married and a year later my father was born.

Now he had a family and so he went to work in the insurance industry, and he worked for a company called Unity Mutual Insurance Company. And they've long since gone out of business, but that's what he did to support his family.

John Caher: In many ways, it's a typical immigrant story. The color is different, but other than that, it's just-

Judge Tingling: Oh, it's the standard immigrant story. And the amazing thing is that during that great period of migration, only approximately 120,000 people emigrated from the Caribbean. And most of them came with that same dream. And so many of the ones that I met coming up who were contemporaries of my father, who became professionals--doctors, lawyers, bankers, things like that—they all came from that same Caribbean grouping. And they all came with the same mentality that they were coming to build. As you said, it's the typical immigrant story. You come to build your own life, but you're building for your family and your future generations.

John Caher: Of course, what your ancestors dreamt of coming from Jamaica is exactly what my ancestor dreamt of coming from Ireland.

Judge Tingling: Yeah, yeah, exactly. Exactly.

John Caher: Who were your early role models? You were a little kid when Martin Luther King was at his heyday. No, you were starting to come of age. But anyhow, to back up, who were your early role models?

Judge Tingling: My father. My father was my early role model. It's so funny. He used to have this thing that he never made a promise he didn't keep. That's something that he taught me that was very important. And then I think I was 13 and I think he promised me something but didn't remember, and I held it over his head for the next five years. Yeah, you promised me that. I think it was a bike or something, but I kept it over his head!

But interestingly, some of my early role models, I remember in 1963 I found out about Nelson Mandela, and it may seem strange at the time, people didn't really know who he was, but just the very thought of being imprisoned at the time and so far away in a place that we had no connection to was simply amazing to me. I had had some incidents of discrimination, even as a kid, that stuck with me. But at the same time, to

realize that I had at least an opportunity to go out and do something about it, to address it made his situation seem even more dire. And that admiration continued up until the time that he was released.

John Caher: Were you “race conscious” early on? Or were there incidents that made you conscious of race?

Judge Tingling: Very race conscious because of my experience in South Carolina. Like I said, it was legal. It wasn't like it was hidden. It wasn't like it was subtle. When I was a child and we would go to South Carolina, we used to take the train and we would take the train right into Chester. It's a small little town actually closer to Charlotte, North Carolina than any big city in South Carolina. And I'll give you one story.

I remember when I was eight years old, I was in the train station and the train station had whites only/ coloreds only sections. I wanted some water, and I walked over to the water fountain and my aunt started yelling and screaming at me to get away from there and to come back over. And I got worried, and I came back over, and she gave me a whipping right there in the train station, because I had gone to the whites only fountain. And I mean, I could read, but I just wanted some water.

I remember the first time I went to the movies in Chester. There was a colored section, which was the balcony, and we were not allowed to enter the theater from the front. We had to enter the theater to the balcony from the rear and climb up the fire escape. So yes, I was very race conscious.

When I came back to New York and started going to school, I was fortunate in that I was not in a school that was predominantly one culture or color and my classes were mixed like crazy. I had Black teachers, I had white teachers, I had Jewish teachers, I had Baptist teachers. And that helped me address whatever anger I had over race consciousness because somebody was your friend. It wasn't your “white” friend, it was just your friend. And so I'm very, very, very lucky.

John Caher: And what school was that?

Judge Tingling: I started out at P.S. 192, and they used to have these different classes. For my sister, it was called “Special Progress,” mine was called “Intellectually Gifted Children.” There were citywide exams that were given and if you passed, you would go into these special classes. And so I switched schools, ended up going to P.S. 129 to the IGC class. And what made it special was we were taught a foreign language. We also had

music. I learned to play the violin from fourth grade through sixth. I studied violin and continued when I ended up going to junior high school. And we were taught American history. It was really exciting. It was very exciting. So I've been very lucky.

But as I said, my father was a lawyer, my mother was a teacher. And if you'll allow me just a little bit, my mother is really a heroine on her own. She has such wonderful accomplishments, which I was unaware of when I was a child. My mother graduated with her master's degree from Columbia in 1951, and she graduated when she was pregnant with my older sister. She actually gave birth one week after she graduated. It's the most amazing thing. I have her master's degree here.

John Caher: It must've been extremely rare for a woman to have been in that position at that time, but a *Black* woman?

Judge Tingling: Exactly. And I was totally unaware, John. I tell you, one of my most prized possessions, when my mother graduated from college, she went back to South Carolina and applied for and received her teaching license. I have her teaching license here and where it says that she is licensed by the state of South Carolina "for the teaching of elementary school children," it's crossed out and handwritten in "for the teaching of elementary *colored* children only."

John Caher: Oh, my God!

Judge Tingling: It sits right here in my office, right here, and I show it to people.

John Caher: With your background, your parents' obvious interest in academic matters, the experience you had in the elementary school and in the high school, which seemed to be generally positive in a lot of ways, is that what positioned you to apply to an Ivy League school?

Judge Tingling: Well, that actually was something different. I had never heard of Horace Mann School. But in sixth grade, because we were in this IGC class, and at the time, the city had open enrollment, which meant that once you got your documents, you could go to any junior high school in the city to apply. It was almost first come/ first served, but what happened was, because I was in this IGC class, we were exposed to and educated about some of the private high schools—Trinity, Hackley, Horace Mann, Riverdale, Fieldston. And so I heard about Horace Mann and I read the brochure, and John, they had two hours of mandatory gym. And so I was like, "I got to go here!" Because see, in elementary school, when you

screw up and they want to punish you, they don't let you have recess. You don't get a chance to go out and play handball or run around.

John Caher: Oh, but that never happened to *you* did it?

Judge Tingling: Well, let me say, I still have a red card in my file at P.S. 129 for when I screwed up! But I ended up getting into and going to Horace Mann. It was a class of 106, and there were only four Black students. It was all male at the time. And there was a dress code, and there were only four of us. And one of them was with me from elementary school, but I didn't know he was going until we showed up at Horace Mann.

To get to your question, at Horace Mann, let me put it like this, when I graduated, I believe there were 98 people in my class, 92 of them applied to Harvard, Yale, and Princeton. And 20 of them got into one or more of those schools. Columbia was your fallback. And so applying to Ivy League schools was, that was just standard applying. And I liked Brown, I was interested in it. I took a trip up there with one of my teammates from the football team. We went up there, and Brown had a very interesting dynamic at the time. Ten percent of the incoming freshmen class was reserved for students of color.

John Caher: Wow, we're talking in 1970, right?

Judge Tingling: 1971. 1971-

John Caher: That must have been extraordinarily unusual.

Judge Tingling: *Extraordinary* unusual. So out of a class of 1,300 incoming, 130 of them were students of color. And so I was not alone. And then the other thing was their basketball team. They had a cheerleading squad, and it was all Black women. And so I went to a basketball game, and John, they were dancing and swinging and swaying, and I was like, "I want to come here!" After six years of an all-male school...

John Caher: If you hadn't had the experience you did in grammar school, if that domino hadn't fallen into Horace Man, and if that domino hadn't fallen into a whole bunch of others and then Brown, the whole scenario changes. Your whole story changes.

Judge Tingling: Yeah, there's no question. There were students, there were people that I went to elementary school with that fell off the wagon, did not pursue those opportunities. We were in the same class, which meant we were exposed to the same thing. I was not the top student in the class, but I

think I was well-rounded. I know that many of them never applied to a Brown or to others... it's a different mentality. My parents always taught us, you never tell yourself "no." You let someone else tell you no. But if you tell yourself no, no one else has to. And everybody didn't have that kind of support or mentality.

My best friend throughout that entire period, who ended up going to Brown with me, and he was on the basketball team, and who ended up doing just fabulously for himself, was one of two children with a single mother who worked as a student aide at our elementary school. They didn't have all of that, but she was one of those mothers who was like education, education, education. And so when you talk about the dominoes, I've been blessed. I always told people that the first great decision I ever made was being born to my parents.

John Caher: Very good decision. Then you graduated from Brown, and was it always your intention to go to law school?

Judge Tingling: No, I had no intention of going to law school. I hated law. My father was a lawyer, which, oh my God, when a parent is a lawyer it either makes you want to go or it makes you want to run away from it entirely because it colors so much of how they raise you, your interactions, your conversations, the logic. When they sit there and they out logic you, it's very frustrating. I wanted nothing to do with the law, nothing whatsoever. That was that.

John Caher: In your household, was your father the court of last resort, or was your mother the court of last resort?

Judge Tingling: My parents were old school, so whatever disagreements or other stuff they had, it took place in their bedroom behind closed doors. But I learned later on my father would be the one to deliver the news but my mother had a lot of decisions that she made.

John Caher: Why North Carolina Central School of Law?

Judge Tingling: I'd been out of school. I didn't go straight through school. I actually left Brown after my junior year, got married. I had set up a program where I only needed four more credits. And so I was working and going to City College at night, and I got the four credits. I sent them back up to Brown pursuant to their protocols. I went back up to go to graduation. I went to the registrar's office to make sure everything was straight. And they said, "Milton, it's so great to see you. Where have you been?" And I said, "Well, I've been on this program. I already completed my major, and the

school allows you to just do the extra credits and send them in." So she says, "Well, we have you listed as 'left school. No explanation.'" I'm like, "What?" I said, "Well, I'm going to go see Dean Brown, who I set it up with." And they said, "Ah, there's a problem. Dean Brown had a massive stroke, and he's in a convalescent home in California, and all of his files have been sealed."

I had to go home and tell my father I wasn't graduating. That wasn't easy. I was going to be the first one in my family to graduate in four years. I had to tell them, but I was very mature about it, John. I decided I was going to show them. I decided I'm not going back to school, very mature. I spent the next few years driving a cab, was selling Good Humor ice cream. I went to work for the IRS. Then eventually, I think it was a year and a half, maybe two, I just decided to go back and do the four credits at Brown. And that was it.

John Caher: I think I skipped ahead a little bit. Last we heard in this conversation, you wanted nothing to do with law.

Judge Tingling: Nothing.

John Caher: How come you're applying to law school? You didn't like being a cab driver or a Good Humor man?

Judge Tingling: No. Well, it wasn't a lot of, listen, I drove in the day where we used to get paychecks. We used to get a paycheck at the end of the week based on what it is you brought in. Today everything is individual contractors. You lease the cab and they don't care if you make a penny or not, you pay them upfront. In the old days, you did the meter, you got a paycheck, they took out social security, they took out taxes. No. Today they're all independent contractors.

But over that period of time, I decided that I wanted to go to law school because it was going to be best for my family. After I'd gone back to Brown and come back, I bounced around doing different things and I decided to apply to law school. And the other thing was I had my daughter. I had my daughter so that made a big difference.

John Caher: And necessity being the mother of invention...

Judge Tingling: Absolutely. Absolutely. I actually, I got into New York Law School and I was working for the Transit Authority as a token booth collector. I could have gone there during the day and worked during the evening, but there was some things with my wife and she wanted to leave. And so I applied

to North Carolina Central and, John, tuition for an out-of-state student was \$2,500 a year. In-state tuition was \$500 a year, and they gave me &1,000 scholarship. So, goodbye, I'm going.

John Caher: That sounds like a good reason. Then you get out of law school, and then I believe you clerked for, I don't know, a few judges in Harlem before going into practice by yourself. Is that correct?

Judge Tingling: Well, I clerked for three the year I came out. My father got elected, and one of the people he got elected with was a gentleman named Milton H. Richardson. He got elected, and I actually found out I passed the bar the same day my father was having his party, his ceremony. Of course, we go and my father's like, "This is my son. He passed the bar. He needs a job.". Judge Richardson said, "Well, come in, have an interview." I went in and interviewed. He had someone else who he was going to hire, but that person never showed up. And so he ended up hiring me, and then he and I became like father and son. He had no children. And after about four years, he told me it was time for me to leave, that I needed to grow.

And so I then went to work for a judge named Dennis Edwards, Jr. And Dennis Edward Jr. was a historical figure who nobody really knew about. In 1946, Dennis Edward Jr. was appointed as a Supreme Court law secretary to a judge in Brooklyn. He was the only Black Supreme Court law secretary in the entire city of New York. And he got it through politics. He spent 43 years in the court system, whereas Milton Richardson had never worked for government until he became a judge. He had been in private practice. I saw both sides of it. Dennis retired and I went into private practice.

Interestingly enough, I got an office from a man who had ran against my father for a judgeship in 1978 and beat him. And he had retired, and he gave me my first office and sent me my first client.

John Caher: So what year are we talking about now?

Judge Tingling: We're talking 1988.

John Caher: Okay. At that point, you're a Black man with a solo practice. Who are your clients? Are your clientele primarily Black or not?

Judge Tingling: Yes, primarily Black. And they are coming to me through contacts. There's something today which is almost a lost cause, it's what I call "people law." Somebody's in an accident, somebody has a contractual dispute, someone has a landlord tenant issue, someone has an issue with the

cleaners, someone has an issue with the bank, or they have a criminal case. When I grew up, these are the lawyers that I knew. They had private practices. They weren't corporate, maybe they couldn't get in. They weren't necessarily government. And I would tell you something, I loved it. I loved it. It's one of the great experiences of my life. Just loved it.

John Caher: In that context, a lawyer is a problem solver, and you're solving problems in the community you're familiar with, right?

Judge Tingling: Yeah. And my office was right next to the Apollo. I got to look out my window and see all of 125th Street and everything that was going on. Like I said, it was just wonderful. Didn't make a lot of money, but I loved it.

John Caher: Did you experience racism early in your career as a lawyer?

Judge Tingling: Absolutely. Absolutely.

John Caher: In what form? In what way?

Judge Tingling: It's almost a standard story in some ways. When you go into a courtroom, the front row was reserved for attorneys, and I remember the first time I went in on a criminal case, and I went and I sat there, approached by a court officer and was told, "Excuse me, you can't sit there, this is for attorneys." I'm dressed in a suit. I've got a briefcase. Why would you presume I'm not? There's that type of thing. And it continues. The problem is some of it is so subtle, and it's not that people are doing it intentionally. They don't know they're doing it. But if you don't know you're doing it, how do you rectify it?

As a lawyer, yes, and definitely as a judge. One of the things that used to gripe me was I would have, first of all, there are very few attorneys of color in Supreme Court, very few attorneys of color in Supreme Court. Criminal, yes. Civil, absolutely not. And what would happen is, for example, I might be hearing something on a motion, and invariably, if I had two white attorneys on a big case, one of them would always say, "Well, your Honor, this is a very difficult case and it's very hard to follow." And I'm sitting there thinking, "Why are you opening up with that? I'm incapable of learning or following?" What they didn't know was that I always read the papers ahead of time, and I would always ask them a question once they started speaking.

John Caher: But they presumed that you were not their intellectual equal.

Judge Tingling: Absolutely. And it's so patently obvious, John, and that's just it.

John Caher: Those sort of experiences have to shape you as a man, as a lawyer, as a judge. How does it affect the type of judge that you became, you grew into?

Judge Tingling: Well, what it did for me was this: People say, "Well, they don't respect me." But you don't *command* respect, you *earn* respect. That's one thing that my parents, my ancestors, taught me. You *earn* respect. And so when you says, "How did it shape you?" it made me always want to make sure that what was being done to me did not inform my decisions, that if I felt I was being insulted or discriminated against or biased or whatnot, I did not let that inform my decision. I didn't take that and be like, "I'm going to show this person. How dare they do that?"

One of my rules for being a judge was every case is its own case, because every case involves a different person. It can be the same set of facts, but every case involves a different person. When you say, "How did it shape me?" It made me even more intent on not letting what other people do control me.

John Caher: Did you have judicial role models, federal and state at that time?

Judge Tingling: Oh, yes. Thurgood Marshall, but also George Bundy Smith. George Bundy Smith, I knew him from the time I was a child, just a wonderful intellectual, so brilliant. What a remarkable story, him, his twin sister being the only Black students at Yale Law School in their class, having been arrested, having been convicted during the Civil Rights marches of the '60, having had his conviction vacated by the Supreme Court of the United States, which allowed him to become a lawyer. Because he was convicted of a felony, he couldn't have been admitted in the State of New York. Just a remarkable man. And to this day, I can think of no other jurist that was so involved in his community. The man was on every board, every committee, every PTA, every tenant association. I don't know how he did it. I really don't. It's just remarkable.

And then there was another judge later on in my career, a Judge Marx, and when Judge Marx retired, he dedicated his life to addressing wrongful convictions. And I always just looked up to him, what a remarkable man. What a remarkable man, vision.

John Caher: Now you served in Supreme Court for, oh, about 14 years, I guess. And much of that time overlapped with my time with the *New York Law Journal*. Two decisions kind of stand out to me. One shot down Mayor

Bloomberg's attempt to bar food service establishments from selling large sugary beverages, and another put an end to the practice of shackling youths being transported to Family Court. In both cases, what stands out to me is you sided with the individual against the might of government.

Judge Tingling: Yeah.

John Caher: What should I read into that?

Judge Tingling: Well, you would have to read a couple of my other decisions when I sided with government.

I'll tell you what was funny. When the soda case came up, I had all the parties in and I told them one of the amicus was by the NAACP of the State of New York, and I belong to a local NAACP chapter. I told them, I said, "Listen, I belong to a local chapter. I'm not a member of the litigant." And I said, "I'm not a lifetime member." I said, "But I'm telling you all of this to give all of you the opportunity to file motion for me to recuse and I will address it." Nobody filed the motion and the city eventually told me they didn't file the motion because of an earlier decision I had made when I sided with the city, so they figured I was going to go with the city.

It was that had to do with vendors in Central Park. And the city had set up a new program where it was basically like a cattle stampede to parks headquarters to get one of the hundred different licenses that they would give out daily. And you had to stay in a specific spot that was marked by a medallion, both in and along the sidewalks of the park. And the vendors had brought a lawsuit on various grounds, and I ended up siding with the city. It was appealed, and I was affirmed. And so I believe the city thought that I was basically a government man.

John Caher: Well, as you said earlier, you took every case as it come in, and every case was to an extent in island. I understand every case is governed by precedent and other things, but that illustrates to me what you said earlier about treating each case as an individual matter.

Judge Tingling: It's a different thing. I sat in criminal my first few years, which was during Giuliani time, and I mean, you wouldn't believe how they resurrected every municipal ordinance you could ever think of. Do you know it was illegal to wear miniskirts? There was still law in the book from the 1700s about the length above the knee. I remember there was a delivery guy who was arrested because his bicycle didn't have a bell. That was a

violation. It was illegal to ride your bike through a Washington Square Park, but the “no bike riding” signs were hidden behind an array of flowers. We used to have people brought in because they'd be sitting reading the newspaper in a part of the park that was reserved for children, and that was a violation of park rules and constituted a Class E misdemeanor, and you could be arrested.

We had people with the open container, all kinds of things, and there was a lot of racism there in how it was applied. And that was the big difference. So those decisions about every case, you could have someone who's reading the *New York Times*, totally innocently, and why are they getting a record? Okay. And then you could have someone else who was in there for the wrong purposes.

So, like I said, every case is its own case, it's not about the charges. And the most overused part of CPLR and CPL is in the discretion of the court. Judges have wide and varied discretion because, quite frankly, if we didn't, what do we need judges for? Just plug it into a computer and you'll get a result.

John Caher: With artificial intelligence that may happen someday.

Judge Tingling: Exactly. Exactly.

John Caher: Why did you leave all the trappings of being a Supreme Court judge to become a County Clerk?

Judge Tingling: Well, I got reelected to my last 14 years on November 7th, 2014. I had been working on it for two years because, quite frankly, I planned to retire the next year and just move. I would've had my 30 years in, I would've been grandfathered into Social Security, and I would've left. But a number of circumstances came up, and the county leader asked me to put my name in until he found a good candidate, so I put my name in. But I have a rule. One of my rules is make friends, not enemies. You don't have to make enemies, you already have them.

John Caher: It's a great rule.

Judge Tingling: Anyway, so I go to the interview. I have no intentions of doing this, but I go up there and basically I know everybody at the Appellate Division. I knew them or they knew my father, and everybody's like, oh, this is great. They didn't have to make a decision. The next thing I know, they're calling me, telling me, you got it. And I'm like, but I didn't want it. Okay, but I got it. I don't know what to do. The other thing was I did my

research and they had never been a Black County Clerk in 235 years in 62 counties. They had never been a Black Commissioner of Jurors in the same period in the state of New York. There had never been a Clerk of Supreme Court, same period, same time.

And so one of the things that my mentors taught me was you always have to let your people know that these things are possible. And the fact that it was going to be the first and it had never been done, and I was succeeding a man who'd been here 45 years...

John Caher: Norman Goodman?

Judge Tingling: Yeah, Norman. I had to do it. Do you know what's the most amazing thing, John? Monday I began my 10th year on this job.

John Caher: Wow. It's been that long!.

Judge Tingling: I know. I couldn't believe it myself, couldn't believe it myself. January 1st, 2015.

John Caher: A few years ago, Jeh Johnson, the former U.S. Secretary of Homeland Security, issued a report finding that the New York State Court system remains infected with racism to the extent that there is a "second class system of justice for people of color." Does that come as a surprise to you in any way?

Judge Tingling: No, not at all. In practice, I'd been to all the courts. I had the opportunity to sit in criminal, in civil. I did cases, I did trials in family. And what he was talking about when you talk about second class, I referenced earlier that you see very few people of color in Civil Supreme Court, and so much of the assets and so much of the innovation and technology goes into Civil Supreme Court, which is really about money. People of color are basically in Criminal Court, they're in Civil Court with landlord tenant, and they're in Family Court. And that is where you have these two-tiered systems of justice.

There is a lack of uniformity in many ways throughout the state. When you read the Commission on Judicial Conduct reports every year, some of the stuff you read you don't believe this still goes on. But we in New York tend to forget this is a big state, and there's a lot of differences all throughout the state. So Jeh Johnson's report was crucial in that it had to be said. Some people tried to use it and misinterpret it, which was wrong from my opinion, but as for being surprised, absolutely not. Live it every day.

John Caher: But there has been progress, hasn't there? Less than a year ago, Judge Rowan Wilson became the first Chief Judge of color in the history of the state. What does that say about the progress? Is that something you could have imagined when you started practicing law?

Judge Tingling: Oh God, no. I had the same feeling when Obama was elected president. I've been blessed to have a wonderful professional and personal relationship with our new Chief Judge. And it is a blessing because it's him. And when you get to know this man intellectually, he's without peer. He simply is. As a person and what it is he wants to try and accomplish, it's so heartwarming. For me, it's a final cap on my career. I honestly think that if this hadn't happened, I'd be looking to leave, but he told me I can't go. I keep telling him, "Man, you can't tell me what to do!" But, hey, he does anyway. He told me I'm hanging around until he tells me I can leave.

John Caher: This is a very exciting time for the court. It's very exciting.

Judge Tingling: It truly is. And what he's doing, and the team that's been put together, and they've only been there eight months and so many things have happened, with so many more things on their plate.

There's so many huge decisions coming up this year that people aren't aware of. Everybody knows about the redistricting, but what about right to shelter? What about the New York City tax scheme? You're going to have congestion pricing. God forbid, you're going to have all the Trump appeals. There are so many things that are on their plate of significance and with ramifications not just local, but statewide and nationally with the redistricting. That is incredible. But let me say that Judge Rowan D. Wilson is the man, the right man for the time, and I'm blessed to know him the way that I do.

John Caher: Yes, you are. Let's turn back to you. Tell me about your wife, Lisa, and your, is it five children?

Judge Tingling: Oh God, yeah. Yours, mine, and ours. I've been married three times. I have my oldest daughter from my first wife, who's the judge, Aija. Then I have my two sons with my second wife. And she had a daughter who I adopted and raised. And then with Lisa, she had a grown daughter who I've taken in as, because she didn't have a father in her life, so I've taken her in as my daughter, making me crazy.

But as for as my wife, Lisa, I was done, I wasn't looking, and she just showed up and she got me. I told her, I tell everyone, she stalked me until she finally got me. But I usually get a smack in the back of the head.

I think that I have a certain amount of experience and wisdom. But she is absolutely brilliant. And it's so interesting, she's eclectic in what her interests are, whether it's art or the law, or oh my God, just procedure, whether it's cooking or anything. She's brought a whole new phase into my life. And again, I'm a very, very lucky, man. Very, very lucky.

John Caher: I'm glad. I'm happy for you. You mentioned Aija. How did it feel to watch your daughter take the oath of office as I think first a City Court judge, and now a Family Court judge.

Judge Tingling: Civil Court judge. She was assigned to Family Court, so she's elected to Civil Court. One of the things, when I was first elected to Civil, it's the largest non-county district in the city, and I was the first Black ever to run, and obviously the first one ever to win. And now all these years later, that's the seat that she holds. Watching her, thinking about my father and how proud he would've been because none of the other grandchildren were alive when he died. I'm sorry, one of my nephews, but he was like two. It made me think about my father, how happy he would've been. But it also made me think about my grandfather, about his dream of generations. And we research it, and we ask all the time, but to our knowledge at this point, we are the only three generation Black family of judges in the history of the nation.

John Caher: Your father's American Dream, or your grandfather's American dream, has come true, maybe more so than he could have imagined.

Judge Tingling: I know, I know. And now my youngest son just graduated law school. He's in North Carolina, and he's a waiting admission to the bar. Might get another one, see what happens.

John Caher: That would be fantastic. I know you've been very, very active with a number of bar organizations, but also community groups like the Greater Harlem Chamber of Commerce, the West Harlem Development Corp, and other organizations. And you founded something called "The Initiative," which we'll discuss in a moment. But first, why with your extremely busy life, why do you get so involved? Why is it important to do this sort of thing in the community?

Judge Tingling: Well, that's where we started. I grew up with parents and relatives that were always community activists. They joined organizations, they led

organizations. And it's really something that I grew up with throughout my entire family. We don't have enough time, but my family on both sides is really unbelievable. But it's just part of who I am. And you should never forget where you came from.

I've told young attorneys, I said, "I've had the opportunity to deliver meals, deliver Kentucky Fried Chicken box lunches to poll workers on Election Day, and also to argue for candidates at the Court of Appeals." That spectrum of experience is everything. You get elected by the people from the clubs, you get elected from the people that do the work. And so if you forget that, then you're going to be lost. At one time you're going to need them, and they're going to remember how, after you use them, you turn their back on them. And that doesn't fly with me. I wasn't raised that way, and quite frankly, I'm very comfortable. I'm very comfortable with it, giving back. I've had a blessed life, you got to give back

John Caher:

Right. Now, I mentioned "The Initiative." What is it?

Judge Tingling:

I founded a organization called "The Initiative," and my original purpose was to educate and to assist the formerly incarcerated in restoration of their civil rights, not so much with misdemeanors, but with felonies where you lose all your rights. One of the rights that you lose was the right to vote. But what happened was we were pushing on that to where Governor Cuomo issued pardons iff you had a felony conviction and you couldn't vote. If you were released and on parole, you still couldn't vote. What happened was eventually Governor Cuomo signed a bill where he pardoned everybody who was on parole solely for the purpose of allowing them to vote. The laws of the State of New York have now been changed to where the only way that you are not allowed to vote is if you are currently incarcerated pursuant to sentence. If you've been convicted but haven't been sentenced yet, and you're being held, you can vote even though you've been convicted.

And by the way, I did this in conjunction with New York County Lawyers, and I have to give a shout-out to Anthe Bova, who is General Counsel of New York County Lawyers. I call her my partner in crime. She has been with me from the beginning, and we've been everywhere. We've done church basements, we've been to Rikers, I've been to Otisville. So now today we have all of these people that are on parole that now know they're eligible to vote and they come out and vote. And in many of these elections, 100 votes here, 500 votes there makes all the difference in the world. I've worked with Fortune Society. I've worked with all of these organizations and it has continued.

Also, Judiciary Law says that if you have been convicted of a felony, you can't serve on a jury, but that's not quite true. You *can* serve on a jury if you receive a Certificate of Relief or a Certificate of Good Conduct. And once you receive that, then the Commissioner of Jurors is the sole determinant of whether or not you were qualified to serve on a jury.

John Caher: I didn't know that.

Judge Tingling: Most people don't. I had 40-year-experience criminal attorneys that didn't know any of this, but I know it and it's one of the things we do. I have people volunteering. We assist them in applying for their Certificates of Relief and Certificates of Good Conduct. I became part of the Clean Slate Coalition and that now has become law. The Governor signed it into law, takes effect in November, which will be sealing records, which was another great impediment to coming out and re-entry into society once you've done your time.

John Caher: Ultimately the goal of the initiative is to re-enfranchise people who've been disenfranchised?

Judge Tingling: Absolutely. That's the perfect description. Perfect description.

John Caher: Judge, I'm getting a sense that if I asked you what advice you would give to young people who want to follow the Tingling Family Trail and Legacy, you'd tell them that life isn't a spectator sport. Is that accurate?

Judge Tingling: It is very accurate. I'm like Gibbs on NCIS. I got all these rules, my own personal rules, but one of my rules is the hardest thing in life is making decisions because you're either right or you're wrong. But if you don't make a decision, you think that you're out of it, you're not. A decision will get made for you and that is why you get involved. You get involved to see it for yourself so that you're not just hearing from this side or that side. It allows you to make what I believe would be an informed decision. And I go back to my rule, make decisions because if you don't, they'll get made for you. Get all the information you can and make a decision, you're either right or you're wrong. But I'd rather I do that than someone else do it.

John Caher: I think that's what Yogi Berra was saying when he said, "When you come to a fork in the road, take it."

Judge Tingling: Yeah, exactly. How many people just stop? So many people stop. Or how many times, John, how many times do you hear, I'm not involved or I'm not interested? And then you think it doesn't affect you, but it does. It

really does. And again, and my other rule was, make friends, not enemies. You don't have to make them, they are out there. You have enemies you don't even know.

John Caher: What a great way to sum it up. Judge, thank you so much for your service, your history, your family, and your time today.

Judge Tingling: John, thank you so much.