

Introduction to the Oral History of
RICHARD C. MAXWELL

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It is of course impossible to recapitulate or summarize in a few pages what Richard C. Maxwell accomplished in his eleven years as dean of the UCLA School of Law. His was a truly prodigious performance. The limitations of the printed page being what they are, I shall try to convey some feeling for what he wrought by comparing briefly the state of the law school when he became its dean with its condition when he left office, and by trying in a few words to describe the personal attributes that in my view made it possible for him to effect the changes.

I regret that my account is inadequate. The story should some day be writ large and *in extenso*.

When Richard C. Maxwell became its acting dean in 1958, the UCLA Law School was nine years old. Those early years had been marked by difficulties that transcended the normal growing pains of a new institution. By 1958 the school had not only stopped growing but had been in a state of administrative receivership for several years. There were but nine regular faculty members the preceding year; the arrival of three new members (of which I was one) in fall

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1958 increased the roster by one-third. Of the 432 students in the law school, 182 were in the first-year class, which met in one section.

The educational policy of the school was revealed in the architecture of the building, which had been completed in 1952. The educational facilities consisted of three classrooms of decreasing size, for the first-, second-, and third-year classes (in that order), and a handsome courtroom, used primarily for a Practice Court course taught by a federal judge or practitioner on Saturday mornings.

Only third-year students had any choices in the courses they took, and those choices were few and far between. Nor was student life greatly enriched by extracurricular activities. A handful, at most, of prospective employers interviewed the top ten percent of the senior class (on law review, as well) for the few jobs available upon graduation. The school had no formal relationship with the academic life of the rest of the university, and there were few contacts with the external professional world. In the view of the national law school community, UCLA had not met the expectations raised when it was created as the first major new law school of the post-World War II era. It was widely regarded as a school in deep trouble.

The appointment of Richard C. Maxwell as dean did not come easily. Those internal difficulties that had resulted in the creation of the administrative receivership of the law school also produced a great reluctance on the part of important members of the University of California Board of Regents — a body in which echoes of the loyalty-oath fight between regents and faculty still reverberated — to approve an “insider” as dean. Indeed, in his first year as chief administrator, the title was *acting dean*; it was not until the next year that the regents were willing to confirm him as dean.

Richard Maxwell’s deanship lasted from 1958 through 1969, eleven years of change and expansion. Although the passage of another fourteen years or so since 1969 scarcely affords a sufficient retrospective to appreciate all the accomplishments of his leadership — and statistics alone cannot possibly convey them — it may be instructive to describe the law school when he left office in 1969, for comparison with the institution in 1958 when he took office.

By 1969 the student body numbered 727; the faculty some 37. The administrative staff had increased, although for its size the school had one of the smallest administrative staffs in the country. In 1969 the school became the first in the country to undertake a substantial minority-student admissions

program (in 1958 it was almost entirely white with a small number of women students). The school was one of the few to have a woman on its faculty, and in 1969 one of the few to have appointed several minority law professors.

The instructional program had loosened and expanded. Only the first-year courses were required, and all were divided into sections; all courses in the second and third years became optional, with several sections for the larger courses. The optional part of the curriculum took on meaning as some ninety courses and sixteen seminars were offered in 1968–69.

The increase in the number of students (mandated by the Board of Regents in light of the growing pressure for law school admission) was made possible by an addition to the building in 1966. The building of that addition in turn made possible the reconstruction of the existing classrooms to provide smaller ones, seminar rooms and facilities for special programs. The law school's architecture no longer assumed — or required — a high rate of student attrition.

The law school moved into the university. When it became part of the Academic Senate, its faculty served with the faculty from other departments on that body's many committees. Law school faculty held such positions as director of the UCLA Institute of Industrial Relations, director of the African Studies Center, chairman of the Chancellor's Advisory Committee for International and Comparative Studies, associate director of the Latin American Center, and associate director of the Institute for Government and Public Affairs.

As the reputation of the school grew, so did the opportunities available to its graduates. UCLA became one of the regular stops for the increasing number of firms and institutions that regularly recruited at law schools.

This account of Richard Maxwell's administration does not adequately communicate the magnitude of his accomplishment. The story is not just one of the incremental development of an educational institution, with the usual problems of assimilation of today's policies, programs, and personnel, even as tomorrow's are being proposed and implemented. (Consider the problems associated with expanding a faculty from twelve to forty in a decade.) The UCLA story of 1958–69 is truly one of a metamorphosis. To put it in general terms: in 1958 Richard Maxwell became dean of a law school whose academic and professional training models were the traditional law schools of the 1930s and 1940s, a law school that fell far short of being first-rate when measured

against them. When he left the deanship in 1969, the school had not only achieved distinction according to traditional criteria but had also become one of the most innovative schools in the country.

How did this unassuming Midwesterner bring this about? Intelligence and a capacity for hard work — which he possesses in the fullest measure — are necessary but hardly sufficient conditions. In my view — from the vantage point of close observation over the entire course of his deanship — the other attributes were near-boundless enthusiasm coupled with infinite patience, willingness to engage the administration or anyone in fierce battle on behalf of the law school, insistence upon emphasizing the strengths of those he led, ignoring their weaknesses, and an unusually high receptivity to innovation.

Although I shall not embarrass him by elaboration (this is a eulogy not an elegy), I will state, by way of illustration, that when I reviewed the years I have known and worked closely with him, it was hard to recall a single occasion on which, in public or private, he spoke negatively about another human being (and this includes more than one who in my view had given him ample reason to call the wrath of heaven down upon their heads).

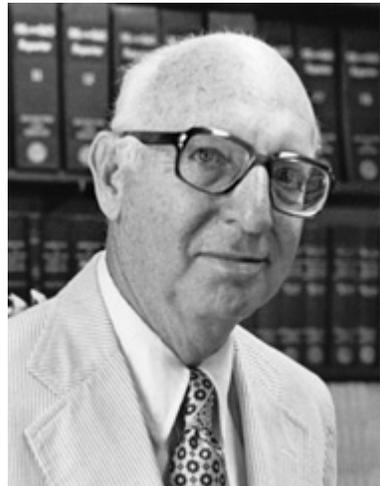
While my assignment has been to recount his accomplishments as dean, I think it fitting to point out that he is also the holder of the one law school chair at UCLA, the Connell Professorship of Law, and a distinguished scholar.

He has been the winner of one of the coveted UCLA Distinguished Teaching Awards and has been chosen Professor of the Year by the senior class. He has continued to be one of those faculty members to whom students and colleagues alike turn for advice and support. Shortly after he retired from the deanship, he was elected president of the Association of American Law Schools, a recognition that comes to one law professor in the entire country per year. It was an accolade that recognized not only his accomplishments at UCLA (and derivatively the law school itself) but also his qualities as a human being.

There is an apocryphal report that Alexander the Great wept after he conquered Persia because he then had no more worlds to conquer. Unlike Alexander, Richard C. Maxwell has decided that there are other worlds to conquer; the time has not yet come for him to weep for want of a new challenge. But for us to compliment his character or praise his achievements is not necessarily to accept with equanimity his decision to leave UCLA. For his departure causes us to weep.

From the Oral History of
RICHARD C. MAXWELL

RICHARD C. MAXWELL (1919–2016) served as the second dean of the UCLA School of Law from 1958 to 1969 and is credited with bringing the school to national prominence. He served as professor of law at UCLA from 1953 until his retirement as Michael J. Connell Distinguished Professor of Law in 1981 and thereafter at Duke University as Harry R. Chadwick, Sr. Professor of Law.¹



RICHARD C. MAXWELL

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THOMAS BERTONNEAU (UCLA ORAL HISTORY INTERVIEWER): Dean Maxwell, it is the usual style to begin these oral histories by finding out a little of the interviewee's biography. I would like to ask you to describe the circumstances of your childhood. Tell me a little bit about your family and how you got started out in life.

¹ For further information, see the Editor-in-Chief's introduction on page 1 of this volume: 11 CAL. LEGAL HIST. 1 (2016).

MAXWELL: Let's see, I was born in Minneapolis, Minnesota, in 1919. My father was at the time a Presbyterian minister; I believe that at the time of my birth he was overseas with the United States armed forces as a chaplain. I grew up in Minneapolis, and it happened that my mother and father were divorced when I was at a fairly early age. So I was raised during most of my life in the home of my grandfather, where my mother also resided. It was, in those days, a kind of extended family that probably doesn't exist anymore — a constant going and coming of uncles and aunts and cousins. It was a big old house in South Minneapolis, about a half a block from Minnehaha Creek. It was about as pleasant a place to grow up as you can imagine.

BERTONNEAU: Sounds a little bit like a Mark Twain story, or maybe a small-town America —

MAXWELL: Well, Minneapolis is not a small town, but actually that part of Minneapolis in those days was lovely.

BERTONNEAU: Let's find out the names of your father and your mother and this grandfather that seems to be important.

MAXWELL: My grandfather was Sherman Wesley Callender; that's on my mother's side. My father was born in Russia and emigrated when he was quite young. His name was Bertram Wayburn Maxwell. My mother's name was Blossom Callender. This is the spelling that we use, although you can find the name spelled in a variety of ways. The Callenders have been in this country for a very long time.

BERTONNEAU: Was your grandfather an educated man?

MAXWELL: Well, I think for his time he was an educated man. His father was — you mentioned Mark Twain — his father, John Callender, was actually a Mississippi riverboat captain. That, of course, goes well back into the nineteenth century; my grandfather must have been born about 1866. They came from somewhere in Massachusetts and settled in Minnesota. My grandfather was educated in the sense that he went to business school, and he was an independent, quite well-to-do businessman in Minneapolis during most of my childhood. However, during the Depression, he was much less well-to-do, and my later growing-up years, although still quite comfortable, were far from affluent.

BERTONNEAU: What kind of a milieu was it to live in? What are your early memories of that life?

MAXWELL: Early, early memories are really of wonderful winter snowfalls, of Minnehaha Creek at freshet level, with fish coming in from the lakes; early memories are of going north to the fishing lakes in Minnesota, hot summers in Minneapolis, really very good school experiences — absolutely no complaint. I worked in the sense that I had a very large and quite rigorous paper route, which I think is the source of the back problems I encountered later in life.

BERTONNEAU: I was curious when you said that your father was a Presbyterian minister: it seems to be a fairly typical part of the biographies of the first generation of administrators here at UCLA. Many of them came from clerical families.

MAXWELL: Is that right?

BERTONNEAU: Do you think that has anything to do with someone going into education or administration?

MAXWELL: I doubt it very much, although I was very close to my father, particularly in later years. He actually left the clergy and took a Ph.D. from the University of Iowa in history and political science, and was for some years a professor during the Depression at Washburn College in Topeka, Kansas, where I did not live. Then he became an editor for Macmillan and lived in New York City for — oh goodness, he must have gone there when he was fifty, and he died there at about eighty-two. So he spent a large part of his career in a metropolis.

So I can hardly claim that I had a clerical influence, although I must say that my grandfather was a typical Scottish Presbyterian — a member of the session, which is the governing board of the church — and until I was at least sixteen, I was thoroughly schooled in Presbyterian doctrine and was a regular attendant at Sunday school.

BERTONNEAU: What, in your character, would we recognize as a vestige of that time?

MAXWELL: I am really not sure how much. Well, I think you would — it is true that I probably am to some extent a victim of the American work ethic. I think that as much as anything. And also, there are certainly

vestiges of the very rigorous moral atmosphere, in at least surface terms, of that environment.

BERTONNEAU: Could you be a little bit more elaborate on that point?

MAXWELL: Well, I can recall that when, at a mature age, I began to go to movies on Sunday, I would feel a twinge of guilt. In other words, I came from an environment where in my early years the Sabbath was observed. One walked through the snow in the winter to church; one went to Sunday school and then later to church; one came back and had roast beef, mashed potatoes, gravy, and carrots.

You could then go out and engage in skiing down the sides of the gully in which Minnehaha Creek flowed, or you could read; but you did not go to the movies. You did not engage in that kind of frivolous activity. Drinking, by my immediate family, was not condoned during my earlier years, although in his later years my grandfather, though he certainly did not become a moral libertine or anything of the sort, would occasionally have a drink with my uncles on holidays.

BERTONNEAU: The society of Presbyterians has to be a rather ordered society. It's a typical Puritan kind of society in that sense, is it not?

MAXWELL: Well, yes.

BERTONNEAU: Are you an ordered sort of person?

MAXWELL: I think that I am, yes; I think that's correct. I am meticulous about a great many things — that certainly is true — and that probably is an aid to administration. I'm not sure that it's a particular aid to teaching and scholarship, although in some ways it is. I miss a class only under the most extraordinary circumstances — put it that way. [laughter] Undoubtedly that goes back to subliminal influences.

My grandfather, although his business went down the American drain with nearly everybody else's in the early thirties, . . . had become a great expert in handling railroad traffic and the shipment of produce. So he was able to work and earn a living until he was almost ninety, as a specialist in this area. So that's the kind of atmosphere in which I was raised.

BERTONNEAU: You described yourself, I suppose somewhat ironically, as a *victim* of the work ethic. What do you mean by that?

MAXWELL: Well, even today, I work almost constantly. (My wife has gotten used to this.) But I do. I work weekends. I will watch a baseball game at night, if one is on, but then at eight o'clock when it's over I will go in and work, in the sense of an academic's work: I will prepare for classes; I will do reading that I have to do; I will look at advance sheets; I will write letters.

BERTONNEAU: Let's find out a little bit about your own education and what influenced you to take up the study of the law.

MAXWELL: My goodness, it certainly wasn't an early desire to be a lawyer, because I had none. I started out with a very good high school education — Washburn High School in Minneapolis is a simply excellent place. I believe I came from that institution with a superior ability in certainly the verbal skills. I was influenced there primarily — verbally, yes, I belonged to the writing clubs. I also was a very minor athlete. I was on the track team and high-jumped; in those days in high-jumping, if one could clear six feet it was remarkable. But I went to the University of Minnesota to take chemical engineering.

BERTONNEAU: Is there any connection that you can see between this desire to study chemistry and what you eventually studied: law?

MAXWELL: Actually, the analytical — In those days, inorganic chemistry — and I gather it's changed enormously — was extremely analytical. If one likes to work with a problem that can be solved in relation to a background of propositions, and a problem that you can move in a rational way, from A to Z or wherever it ends, chemistry is not unlike some kinds of legal problems. I did not like mechanical drawing, I did not do well in shop; and I did very well in chemistry and very well in mathematics.

But I finally decided that I ought to become a premedical student, so I did a bit of that for a while. I discovered there that I did very well in the theoretical sciences, [but] I hated dissecting dogfish and determined that, all things considered, perhaps the best thing for me to do was to go to law school. In those days at Minnesota you could enter law school without a degree, if you had a sufficient number of credits, and then take four years in law school. I adjusted myself and took some philosophy, took some political science, in other words, opened up my rather heavy scientific and mathematics background a bit and then entered law school.

BERTONNEAU: Can you relate for me some of your impressions of law school, as a student? Were you strongly motivated as a law student?

MAXWELL: Motivated largely by pride, I think. I found some people very stimulating. I was extremely fortunate in one, William Prosser, who was then professor at Minnesota. When he died he was the retired dean of Berkeley [Law] and one of the world-class legal scholars of his generation. I became moderately close to him, and he was very stimulating. I found Everett Fraser, who was the quite famous dean of the University of Minnesota [Law School], and who taught Property, which I now teach, to be a very challenging human being. And there were others.

The man that influenced me most I did not have in class until I got back from the war. That's Stefan Riesenfeld, who is now a retired professor at Berkeley. I began to collaborate with him when I was a senior — but that gets ahead of the story. Because after the first two years of law school, I then had put together enough credits to take a bachelor's degree, and I had done well in law school. I was near the top of the class, on the [*Minnesota Law Review*], and all the rest of it. Of course, I had not finished, but at that point World War II began, and I actually went into the armed forces in October 1941.

BERTONNEAU: And you served in the Navy, is that —

MAXWELL: I went into the Navy, largely because the Navy was willing to give me a rating. My eyes were not good enough for — I tried the Marines, the Air Force, the naval officers' school. I could not pass the eye exams for any of these, and I went into the Navy then as a second-class yeoman. I was immediately assigned, without a large amount of training, to a patrol squadron: PBYS — actually they were PBY-5As. [I was] given some training, in addition. Of course, a yeoman is an administrative noncom.

BERTONNEAU: Let me check myself here: PBY is some kind of airplane?

MAXWELL: PBY was the famous flying boat, the basic patrol plane of the Navy in those days. They had — oh, I don't know — probably no more than four or five squadrons of them, twelve planes apiece, and I was assigned to one of those squadrons. [I was] given some training as an aerial gunner, in addition to my — your eyes got better and better as the war got closer. [laughter]

Then I was at the time engaged to the woman I am still married to. We were obviously very young: I was twenty-one, and she was then nineteen.

But immediately after Pearl Harbor, I got sent across the country, from Providence, Rhode Island, to actually Oakland — what is the air base up there, the naval air station? Alameda is the naval air station up there. It was clear that from there, we were — the Pacific [Theater], of course, to say that it had exploded was an understatement, and our type of craft were needed immediately. We were one of the few squadrons in shape to go; and we had been in training since October. We went immediately, then, to get our final planes and [to get] checked out. We were then, let's see, transshipped about February 4, 1942.

In the meantime, I was married in Oakland on January 27 — [laughter] a most unpropitious activity, but one that was common in the time. Actually I then went with a contingent that went by ship; only a part of the squadron could go by air. So we were on the old ammunition ship. In fact, I saw it the other night on some news program: the *Pyro*; it's still in existence. But we took the ammunition ship *Pyro* to Pearl Harbor. We were there — flying out of there and out of Kauai — until after the Battle of Midway.

BERTONNEAU: This is late '42, is that right?

MAXWELL: Midway was the fourth, fifth, and sixth of June, 1942. I don't know how much of this history you want.

BERTONNEAU: Well, I'm curious just to find out “what you did in the war, Daddy,” as the saying goes.

MAXWELL: Well, I flew some patrols out of Pearl Harbor and out of Kauai. I was not on the famous patrol in which our squadron spotted and shadowed and sent back the information on the Japanese fleet, which of course one knew was coming because the code had been broken. But the PBYS found it and reported the information, and of course the air force came out and flew over at thirty thousand feet, bombed the Japanese, and came back and reported that they had wreaked great havoc. And, of course, then the Battle of Midway began. [laughter] That's a very partisan statement of the Battle of Midway, but it comports with history, by and large. The Air Force missed everything, and it was finally necessary to close, and people conducted that battle on a very personal basis.

BERTONNEAU: What did you learn from the experience of the war?

MAXWELL: Oh, this was just the beginning of the war. We went south, flew out of the [New] Hebrides [Islands], in and around Guadalcanal; I was commissioned down there, finally. As I say, your eyes got better and better the further south you got.

Back to Pearl Harbor, I was on staff there. I went back, then, to the States for a time and was trained as an amphibious officer. I went back to the Pacific and commanded a small amphibious control vessel for a time. I was an operations officer with a transport division. I was in the war five years. I mean, you could write a substantial volume, "What did I learn?"

BERTONNEAU: Let me ask you this: what questions were you asking yourself during all that insanity?

MAXWELL: It's so hard to explain what the attitude was then, particularly to your generation.

BERTONNEAU: Well, let me glean something if I can. Give it a try, if you will.

MAXWELL: As a matter of fact, as far as questioning, what you questioned occasionally was how administratively fouled-up the Navy was, and how you rocked in this lagoon and that lagoon, and how all of the time that was wasted. But in terms of having the slightest doubt as to whether what you were doing was the right thing to be doing, there just was none.

BERTONNEAU: I'm glad you said that word *administration*; I'm looking for connections between past and present.

MAXWELL: Well, as a matter of fact, when I came back to Pearl, I did serve for about ten months on the staff of the commander of Pearl Harbor, largely superintending the tremendous inflow of people coming to the Pacific. I boarded ships; I got people from one place to another.

I was an ensign during most of that time and then a lieutenant j.g. [junior grade]. Then I was shipped back and finally given some training as a line officer, amphibious officer, which means landing craft, landing operations, all of that activity. Then, back to the Pacific. But of course there was a period there when I was executive officer of the amphibious training base on Waianae, on the coast of Oahu. So there I administered a fairly large operation for a time and then was sent back to sea.

BERTONNEAU: From that practical experience, were you able to extract things that were of use to you later in life, in administrative pursuits?

MAXWELL: Oh, heavens, yes: in terms of getting on with people and working with individuals in difficult situations, putting together plans and carrying them out. I wrote operations orders for a transport division; we took the first occupation troops into Japan. We went in in full battle order and landed to what was an amazing welcome, that is, people acted so civilized that one could hardly believe it — that is, the Japanese. At Wakayama, on lower Honshu, where we landed, the Japanese were friendly but dignified; policemen saluted the American naval officers. [laughter] I suppose this is the result of what was then an authoritarian society. The emperor had said the war was over, and everybody obeyed, at least those that I encountered.

BERTONNEAU: How much time did you spend in Japan?

MAXWELL: About two days — long enough to get the Ninety-Eighth Division ashore. Then we went to Okinawa and picked up some troops and took the long, long voyage back, all the way to Juan de Fuca Strait into Seattle. I had so many points — you know, we got out on points, and I had enough points for a whole squadron to be released. So I went back to Seattle and then to Chicago, where I was actually discharged — not discharged; I really wasn't discharged, I was separated. I'm still a retired naval officer.

BERTONNEAU: You went back to school in Minnesota, didn't you?

MAXWELL: I went back to school in Minnesota just as rapidly as I could get there.

BERTONNEAU: What kind of resumption was it? Was it a smooth connection?

MAXWELL: Very easy. Like most people of that generation, we had been away so long. Of course, I was married, and I had seen my wife occasionally in San Francisco, San Diego, and while I was training on the East Coast.

Actually I got back about October, I think it was, and I actually was so anxious to get to work, I sat down and wrote a note for the *Minnesota Law Review*. [laughter] I wasn't in school yet; I didn't start school until January. They were then on the quarter system, after the war.

BERTONNEAU: What was the subject of the note that you wrote then?

MAXWELL: As I recall, it was something in the field of wills. But it just felt so good to be doing something that seemed to have a permanent importance again. I became actually, then, editor of the law review, at that point. I had been a law review editor before the war.

BERTONNEAU: Was it unusual for a student to be editor?

MAXWELL: No, that's normal. That's normal in law school, that you have a student editor. I guess if you're going to follow that [line of questioning] through at that point, I began to associate with Steve [Stefan] Riesenfeld, and actually at that point I also was working with John Bauman, who was associate dean of this law school [UCLA School of Law] until recently, when he became executive director of the Association of American Law Schools. Strangely enough, he and I worked on the *Minnesota Law Review* together and both went into teaching.

So at that point, really everything was in place. I really started a scholarly career. Bauman and I began to work with Riesenfeld on a long series of articles; and after I graduated, I collaborated with him on a quite important book [*Cases and Materials on Modern Social Legislation*]. It was a book for use in law school classes on modern social legislation.

BERTONNEAU: I see. What had caused you to become interested in that particular field, or was that Riesenfeld's?

MAXWELL: Well, it was Riesenfeld's. Riesenfeld was interested in this, and he had taught courses along this line. I had been working with him in other areas, and it was a kind of a natural continuation of this collaboration. He was a very senior, obviously the very senior, collaborator in that collaboration, but I learned an enormous amount from working with him. He is an extraordinary human being.

BERTONNEAU: You graduated, I think, in 1948?

MAXWELL: Actually, it was finally in '47.

BERTONNEAU: And what did you do upon obtaining your degree?

MAXWELL: I felt that I needed to take accounting because I'd had very little. And I was right; it's a very useful adjunct. But the University of North Dakota, where I had decided to go and teach for a while, just because it somehow appealed to me at that moment, wanted me then to come up

and teach summer school. So I went to North Dakota, and I taught two courses that I had neither taken in law school, nor, of course, ever taught before. They were Legal History and Damages. I had ten hours of teaching preparation a week — a very hard summer — and at the end of the summer term, I came back to Minneapolis and took the Minnesota bar exam, studying for it in my mother's basement for a couple of weeks. Then I went back to North Dakota. It was really almost a *Giants in the Earth* situation, if you remember that novel. Well, you probably do better than —

BERTONNEAU: Mr. [O. E.] Rølvaag.

MAXWELL: That's right. We lived in what was actually a Quonset hut with a pointed roof. It was the typical student-faculty housing that was put up after the war, and we really had a marvelous time for two years, although the winters were just — I grew up in Minneapolis, so I knew what snow was like, but I had never seen anything like these winters. The storms rolled down over the prairies and covered the hutment. Our first child was born the second year up there, in '48. I think my wife worried all winter that we would run out of the fuel oil that we put in the stove by hand, and that the child would freeze to death, but that never occurred.

BERTONNEAU: Did you see yourself at that time primarily as a practicing lawyer or as an academician?

MAXWELL: I saw myself almost entirely as an academician at that time.

BERTONNEAU: And that would change later?

MAXWELL: Actually, yes, it could have changed, because I did go into practice for a time — a kind of practice.

But I clearly saw myself as an academician. Looking back, I am absolutely sure I would have been as happy in many kinds of practice as I was in teaching, but perhaps it was the war. You somehow had had, already, a rather demanding career. I mean, you had met a number of crises; you had had to be really quite mature at a very early age. I was a twenty-five-year-old lieutenant commander by the time the war was over, and I think you didn't have quite the need, for — I don't know how one would describe it — for the kind of driving activity —

BERTONNEAU: You wanted to put your feet up on a desk.

MAXWELL: Maybe, and think about it a little. That may well be. I found, of course, that I had to work terribly hard, which everybody discovers when they go into law teaching. I had little time to contemplate, but you get bound up in it and begin to work at it, to write a little, and at the end of my second year at North Dakota, I had an offer from the University of Texas. That was, of course, a very fine school, but there were other factors. When I went down there to be interviewed, I flew out of the airport in midwinter, with a North Dakota blizzard swirling around a propeller-driven plane, landed in Austin after a long propeller-driven flight, and it was eighty degrees and the birds were singing! [laughter]

BERTONNEAU: Kind of persuasive.

MAXWELL: That did it. [laughter] Although I think I greatly overestimated the charm of the warmth as opposed to some of the glories of the upper Midwest —

BERTONNEAU: What were your duties in Texas?

MAXWELL: In Texas I simply became professor of law; that is, I became an associate professor of law. I didn't have tenure when I got there.

BERTONNEAU: Is the law bigger in Texas?

MAXWELL: Yes, everything is. There's no question, it was an infinitely larger stage to maneuver on. At North Dakota, you're sitting up there — it was a pretty good little institution; there were some very good scholars in some fields, very nice people — but you sit up there all winter, you know, with the snow practically up to your chin, in steam-heated offices. You're really remote, but it's a great place to start teaching. I taught an enormous amount of stuff and managed to do a little writing. I taught summer school at Minnesota on my way to Texas, after the two years at North Dakota. We just drove down there, and I actually began to teach Oil-and-Gas Law, simply because they needed somebody to teach it.

BERTONNEAU: What were the specific circumstances in which you were drawn into Oil-and-Gas Law?

MAXWELL: The specific circumstances were that the University of Texas, at that point, got the full flow of the World War II veterans. We had a school that was physically built for about five hundred students; there were

eleven hundred students in the school, and a faculty of about twenty. There are a thousand students in this school [UCLA School of Law], and a faculty of sixty-some. They needed somebody to teach Oil and Gas, so during the semester break I did an in-depth, one-month study of the subject and then began to teach it. That's not unusual; it's the way a number of people in the law school world begin to teach their subjects. We're quite different from Ph.D.'s, who begin to teach as young people. We are more likely to be given an unfamiliar assignment; a specialty may simply evolve out of one's initial daily work.

BERTONNEAU: You became staff attorney for Amerada Petroleum Company in those years.

MAXWELL: Yes, on leave from the University of Texas. That came about because the Williston Basin, which is North Dakota, Montana, Saskatchewan, and South Dakota, was, and is, a tremendous oil play. It had just come in, and the Amerada needed both someone who knew some oil-and-gas law and also had some acquaintance with the politics of the upper Midwest. And I was the only one in the country. [laughter] I was from Minnesota, I had taught in North Dakota, I had become something of an oil-and-gas expert after three years at the University of Texas; so I was a natural for that position.

BERTONNEAU: I wonder if it was more than just circumstances. Did you find something particularly challenging in the field of oil-and-gas law?

MAXWELL: Well, in those days, and presently, it was extremely interesting because it is a particularly involved and intricate form of property law, with a regulatory overlay and some interesting policy questions. For a person who does, really, the kind of law that I do, it was a rather satisfying subject. Not particularly in a moral way or a policy way, but it was just interesting to work with.

BERTONNEAU: Intellectually interesting.

MAXWELL: Intellectually interesting, in the way that chemistry was.

BERTONNEAU: Yes. And what were the questions that were being asked of people in the field of oil-and-gas law at that time?

MAXWELL: The questions — this is why I say not morally or from a policy point of view — the questions are micro questions. Now, not all of them

— I mean, many of the questions that I answered in my practice [involved] whether this particular piece of land was, from the point of view of its title, safe for Amerada to drill on.

But I spent a part of that period as the counsel to the executive vice-president of Amerada, and we were resident in Bismarck, North Dakota. What we did was to act as lobbyists in — again, not in the sense of the dancing girls and the money under the table, but in the sense of talking to legislators about the substance and merits of a whole system of statutes relating to the conservation of oil and gas, statutes relating to the taxation of oil and gas, all of that. There were thirty-two bills, I believe, before that legislature, and we had an interest in all of them. They all were highly technical bills of the sort that you would expect a state that was in the midst of an oil boom to be interested in. And I engaged in drafting, talking, explaining, influencing, if you will, all of one winter up there.

BERTONNEAU: Let's round out this session by finding out how it was you came from Texas and Amerada to the Pacific Coast.

MAXWELL: The way this occurred: I had had an offer to come and talk to UCLA before I left Texas. I told them it was an interesting enough prospect, but that I was going to go and spend some time in the oil industry. After I got near the end of that period, I got another call from Dale Coffman, and he said, "Will you come out and talk to us?" And I did.

There were many people here that I liked; I will say that I did not like Los Angeles nearly as well as Austin. I had learned to like a small town much better than this — what then appeared to be an enormous metropolis. But when you think of how Sunset Boulevard was really a pleasant country lane from UCLA to [Pacific] Palisades, we didn't know what we had, I guess, in those days.

But I can tell you the reason I moved from Texas to UCLA: the University of California offered me twice as much money as I was being paid at the University of Texas. [laughter] It would no longer operate that way, but Texas was still, although a good university, just coming into the modern era, in terms of its salary structure.

I came to UCLA in 1953; I arrived approximately in August. I didn't think that Los Angeles was really my cup of tea, but actually the situation in terms of salary levels at Texas and UCLA was so different in those days

that to one with two small children and no external resources, the fact that one's salary almost doubled, coming to UCLA was too much to resist. Of course, as is true of the modern young person coming out here, I soon discovered there was a tremendous catch in this, because housing was almost unavailable to one that didn't have a large piece of capital. I had owned a house in Texas, but it was a GI [Bill of Rights] house, and I got almost nothing out of it when I sold it. So I had really a very difficult time.

BERTONNEAU: Were you recruited because of your background in corporate law?

MAXWELL: I was recruited, I think — I have no idea what induced them to do so, but I had at that time some reputation for a young person. I frankly think that I appealed to the then dean, Dale Coffman, because my expertise was in the field of oil-and-gas law and property law, and I think he probably felt that with that went a conservative view toward all aspects of life. And he thought, "If I can get someone who is accepted in the academic world, who also is conservative, that's exactly what I want for this faculty." Now, I don't know [for sure]; certainly that wasn't expressed to me.

BERTONNEAU: But you have a certain feeling that that was the case?

MAXWELL: Well, this is looking back. Though I'm far from what you would call a flaming liberal, I am clearly what would be characterized as a liberal in terms of civil liberties. I certainly was not in favor of racial segregation; I certainly believed in free speech; I was not at all a conservative in that respect, although I suppose in terms of economics, I might be thought of as a conservative in those days. But I had spent a large part of my scholarly life up to that time studying modern social legislation, with my professor Steve Riesenfeld, and the really important publication I had when I came to UCLA was the book on modern social legislation with Riesenfeld, which was published in 1952. This was really a kind of landmark publication, because it was the first time that social security, unemployment compensation (the then-called workmen's compensation), fair labor standards, the first time all of that had been brought together in a form that was suitable for teaching in law schools. And that book had been a great artistic success. So perhaps Dale Coffman hadn't —

BERTONNEAU: Hadn't read your book.

MAXWELL: Hadn't looked at that, because I clearly was, in those days at least, one who believed that that legislation was useful and important and generally for the social good.

BERTONNEAU: How soon after you became a faculty member in the UCLA law school did you become aware of the controversy —

MAXWELL: Well, I knew the controversy existed, but actually I was convinced by people that I respected, such as James Chadbourn, Ralph Rice, and others on this faculty, which was really a faculty that had fine people on it, I was convinced by them that there were problems, but that things were straightening out, and that there was a chance to build an excellent law school here. I talked to them for hours about this, and I finally decided perhaps that was right. And, as it turned out, it was. I didn't realize that the process of accomplishing that would grind up a large part of my own professional life, but that's what happened.

Now, Rice and Chadbourn, for example, were really the senior people on this faculty, and they were both individuals who were respected in every way, throughout the law school world. Those were the people, really, who recruited me to this institution. One found it hard to say that if they were here, somehow it was inappropriate for you to be here. Now, I think things were worse by far, in terms of relationships between faculty and administration, in the sense of the administration of the law school, than I had realized. And one thing I certainly didn't realize was how terrible the relationship was with the general university.

BERTONNEAU: This is a theme that you touch again and again in that brief history you wrote for the law school self-study.

MAXWELL: Yes, it was awful. I remember one night Allan McCoid, who was the youngest member of the faculty and really — he, again, was a first-rate young law professor. Allan and I went to a general faculty function of some kind. It was, I think, as was not unusual in those days, an all-male function, some kind of social affair in the evening. And when the general faculty of UCLA discovered that we were from the law school, they would hardly speak to us. If I had known that this existed, I think it clearly would have turned the tide in my mind, and I never would have come.

BERTONNEAU: What was the root of it?

MAXWELL: The root of it, strangely enough, was a position that Dale Coffman took (that I later had to take for somewhat different reasons, at least I thought I had to take it). And that was the nonparticipation of the law school in the Academic Senate, in the sense of submitting the law school's appointments, curriculum, et cetera, to the supervisory — in a policy sense, and in really more than a policy sense, in an operating sense — to the supervisory activities of the committees of the Academic Senate. He, Dale, went to the Board of Regents and convinced them that the law school was in danger of not being accredited. That, I think, was a tremendous exaggeration, but if you looked at the standards of accreditation, which said that control of appointments has to be in the law school faculty, clearly, they were not, on paper at least, and are not today, because of the impact of the Senate committees. And he convinced the regents that the law school ought to be removed from the control of the Academic Senate and that its appointments ought to go directly through the administration without stopping, as all appointments did before that time and do now, with the committees of the Senate.

BERTONNEAU: And the general faculty perceived this apartheid as a kind of insult or something?

MAXWELL: Actually, this aspect of the University of California, which exists in a formal sense in many institutions, is real here. The committees of the Senate really do exercise a tremendous influence on appointments. They can make or break one, unless you have a law school or administrator who simply will not allow it to be broken. I had continuing, constant battles with this whole system while I was dean. I think it was wrong to take the law school out; I think what should have been done was to try to work within the system, because taking it out created this terrible schism. And once the schism had been created, to put us back in, as Clark Kerr did, very early in my deanship, put us in a terrible situation.

BERTONNEAU: It only compounded the trauma.

MAXWELL: Yes. For us black sheep to come back into the fold.

BERTONNEAU: I'd like to come back to this, but let's get you to your deanship first. You were a faculty member from '53 until '58.

MAXWELL: I was a faculty member from '53 to '58. In the first couple of years I simply worked, and I worked very hard. I did a tremendous amount

of scholarly work in those days. However, I was renting a house, and frankly, if I hadn't had my furniture out here and no money to take it back, I would have called the University of Texas and gotten immediately on the road to go back, simply because I saw no prospect of getting — to look at this theme back in those days is to really look at the current situation of many people who come to UCLA. I saw no prospect of getting decent housing.

Well, I think I might have [gone back], except that in 1955 my friend and actually now longtime scholarly collaborator, Howard Williams of Columbia, invited me back to teach at Columbia. I was, in a sense, replacing my other long-term collaborator and friend, Charlie [Charles] Meyers, who was also then at Columbia. Charlie is now retiring as dean of the Stanford Law School. But Charlie had tuberculosis, and he was back recovering in Texas. So I went to Columbia; in a sense, to replace him for a period. So I spent a large part of 1955 at Columbia, and during that period, of course, Howard Williams and I, and Charlie in absentia in Texas, put in place the foundation of our oil-and-gas casebook. Actually, we put in place the foundation of what became the most important oil-and-gas treatise.

I then went back, after that year — Columbia invited me to stay, but I just was too much of a Midwesterner to see trying to raise two small children in New York — so I went back to California. I suppose it was that period when, for a variety of reasons, I was in my most marketable state. I had feelers from Harvard, Chicago, Texas again. I even went up to Harvard for two or three days, and perhaps foolishly told Erwin Griswold that I wasn't interested in visiting, that I had been through the tenure process, and I didn't plan to do it again. [laughter]

BERTONNEAU: And in '57, then, you came back to UCLA.

MAXWELL: Well, I came back actually — I missed spring '55, when much trouble occurred, but I came back in '55–56, by way of Texas, as a matter of fact. I taught summer school in Texas on the way back. Just as an aside, if you want asides, I spent the summer worrying about the fact that I had shipped the manuscript for the oil-and-gas casebook from New York to Austin, Texas, and it appeared to have been lost. It was the only copy we had, since it was before the days of Xeroxing. This would have been the loss of —

BERTONNEAU: A few years of work.

MAXWELL: A tremendous amount of work. As it turned out, everything was all right. My father, who was to some extent a scholar himself, was greatly concerned about this. He lived in New York. He went up to Columbia to investigate it and discovered that the Columbia representative of American Express, the shipping person, had been simply taking in the money for shipping stuff and putting all the stuff that was to be shipped in a back room. My father went in and found this manuscript, and it then was on its way. [laughter] But I had six weeks of utter torture over this. But we got the manuscript, it was published, and the book was a great success. But then I went on back to California.

BERTONNEAU: Would you say that you arrived during the denouement of the whole confrontation?

MAXWELL: Things were in terrible, terrible shape. I mean, things had deteriorated during that year.

BERTONNEAU: Well, Coffman was, at that point, being investigated by a committee led by Vern Knudsen.

MAXWELL: Actually, that did not begin until I returned. I can't speak of spring '55 except by hearsay. When I left, the faculty and the dean had a modus operandi, which had been in place and which had the thing moving along in a fairly decent state. People were polite to each other when I left, but that had completely broken down. The situation was such that no one in one camp was speaking to anybody in the other camp, except under almost duress.

Into this I came with my family. I had given up, of course, the house that I had rented, and we had a terrible time finding even anything to rent. I was clearly ready to leave. I'd had all I wanted of this. But we found a place; we rented a place in Westwood Village, which was really a poor place for two small boys, although it had a very pleasant vista down there, on Levering [Avenue] with a view of the campus. For a young couple with no children it would have been marvelous. It was a nice two-level apartment; it really was beautiful. I suppose it would rent for three thousand dollars a month today; but it was, at that time, such that I could afford the rental because I had a fairly high income, for a young person, but no capital. So we rented there for the year, and that was the year, of course, that things began to deteriorate completely. I mean, that's when actually charges were

drawn up and committees met and hearings were held. We had one of the biggest messes in the history of legal education. Basically the problem was that Dale Coffman simply could not divest himself of old discriminatory notions.

BERTONNEAU: This is what Knudsen says in his testimony in his oral history.

MAXWELL: That was the problem. You know, you could have gotten along with a fairly dictatorial dean, you can work these things out; but the exclusion of Jews from the faculty and the patronizing of Blacks were no longer acceptable practices. He seemed happy to have a good Black student, but he would say, "This man is a credit to his race." [He would] not realize that what he said grated on some of his listeners and sickened others. You should understand that this man was a charming man in many respects. He was simply acting the way some people of his generation acted. In another context, in another place, in another time, he would simply have been one of the boys at the local gentlemen's club. At UCLA —

BERTONNEAU: He was a profound embarrassment.

MAXWELL: In the 1950s, with a decent academic group, it would not work. You could put up with authoritarian methods and understand his reasons for taking [the law school] out of the Academic Senate, but you could not put up with: "The one hundredth member of this faculty will be Jewish." You either had to decide to fight about it or leave.

Frankly, at that point, I suppose, in a sense, the dispute kept me here. I was ready to leave: I'd had enough of trying to get housing; I never had particularly cared for all of the attractions of large metropolitan areas. It was a temptation to go back to Texas, and I seriously considered it; but then we all got embroiled in this thing. We carried it through, and I think humanely.

Dean [Coffman], of course, went to Washington to head a study on internal security procedures and was gone for a year. He came back to this faculty, perhaps because he had no place else to go that he would consider. We had, of course, an interim administration of Chancellor [Raymond B. Allen] as dean and James Chadbourn and Ralph Rice as an advisory committee to the chancellor. And we had Albert Harno come in — Let's see, this was '57, '58. He was the former dean at Illinois, a highly respected man

in legal education. He came in as visiting dean, and he was such a fine old man that he was in many ways very helpful and useful.

For one thing, he participated in the recruiting of Murray Schwartz and Addison Mueller, which I think was probably the best recruiting that any academic institution ever did in one year. These were not just good law professors; these were the best that could be had. Murray Schwartz was the first Jewish law professor recruited here. It just staggers the mind today. [laughter]

BERTONNEAU: I wonder how far the conflict between Dale Coffman and the law school faculty was also a conflict between the wishes of the Board of Regents and the law school faculty.

MAXWELL: I don't think that was the case. The regents certainly didn't support Dale Coffman for racial or religious reasons. The Board of Regents had the usual conservative economic views of business people, as far as I could tell, and the Board of Regents, as a group, was strongly anti-communist. I think that's why they appointed Dale Coffman: they saw in him a staunch conservative, an anti-communist. UCLA had a kind of reputation, you remember, the "Little Red Schoolhouse."

BERTONNEAU: Yes, indeed.

MAXWELL: So they thought they would build a law school here that at least had a chance to be conservative. In an academic institution, this is a position that is totally unrealistic, but many boards of trustees or regents had this idea. But it won't work and really shouldn't work. What you ought to try to create is a faculty of great diversity, and you can't pay attention to politics in the appointment of that faculty, or you're just asking for trouble that will cause you years of grief and postpone the development of any kind of academic greatness. And it didn't work, obviously.

BERTONNEAU: You said that you were a kind of a "reluctant groom" when it came to the deanship.

MAXWELL: Well, leading up to it, we were looking for a dean the year that Harno was here. And I was instrumental in bringing out Howard Williams from Columbia, who was, I would think, one of the two or three best younger law professors in the country. We got him out here as a visitor for a semester, and I did my utmost — I can remember Ted [Edgar] Jones and I

working on this very hard — to recruit him as a dean. I think he was ready to become dean of this law school; it would have been a great appointment. And I'll be damned if the regents didn't turn him down; that is, not formally, but they just decided they didn't want to pursue it. For some reason or another, he wasn't quite right for them.

BERTONNEAU: Do you have any idea of the reasons?

MAXWELL: I haven't the slightest idea; probably they thought he was too liberal. He was the most distinguished oil-and-gas lawyer in the country, a liberal in the sense that I was a liberal. I mean, he believed in the United States Constitution as the Supreme Court had interpreted it. I suppose that they were still looking for their conservative person. These regents were decent people, really. But I think that was the attitude, and I think that's what might have happened.

I was disgusted beyond belief. Again, if an appropriate opportunity had come along, I would have left. Although by that time I had managed to buy a house, and the way I did this was to teach the "cram course." I taught the bar cram course long enough to gather enough money for a down payment, and I bought a house in Pacific Palisades. So this blunted my discontent somewhat; if it hadn't been for that, I'd have been gone. In fact, I was disgusted with the academic world. What I really regretted was that I hadn't gone into practice in Minneapolis.

BERTONNEAU: Well, that's a kind of unusual statement, because you'd wanted so much to get back into academia.

MAXWELL: I had wanted to get back into academia, but the experience I had had here with academia during those two or three years had pretty well convinced me that I had been in academia, and now I ought to go and do something else. And frankly, looking back, I'm glad I had the opportunity to be dean of the UCLA law school, but I'm not at all sure that it would have been so bad to go back and practice law in Minneapolis. The opportunities that might have come from that, in terms of interesting activity, could well have been fine; but I had a house. And frankly, I had worked very hard that year: I'd been chairman of the Curriculum Committee; I'd been deeply involved in the administration of the school with Harno.

But out of the blue one day — to me it was out of the blue — Harno called me down to that office, and he said, "I have the president of the university

on the phone, and he says that the regents have agreed to appoint you acting dean. Will you take it?" Now this was difficult. He had the president of the university on the phone.

"Well," I said, "I've got to think about this for a day or so." So they gave me a day or so to think about this.

I really was not terribly interested in doing this. It was a very unpropitious situation. I really had no particular desire to be a law dean; I certainly hadn't applied for the position. I was thinking seriously of leaving academia. Except for the hard-won house in the Pacific Palisades, I wasn't pleased with Los Angeles or the University of California. I was disgusted with it. I mean, all of this is true.

I was not disgusted with my colleagues, for whom I had gained, really, a tremendous respect. When you added Mueller and Schwartz to Rice and Chadbourn and McCoid and [Kenneth] York and [James] Sumner and Ted Jones — they were great people. They were willing, and they wanted me to take this post. Apparently, they had worked on this. They thought I would be acceptable. So I said I would. [laughter]

At first, I thought I wouldn't move into the dean's office; I was really very reluctant. I'd stay in my office up in the law school. For example, I was involved with Charlie Meyers and Howard Williams in writing an oil-and-gas treatise. I was involved with Charles McCormick of Texas in rewriting his hornbook on damages [*The Law of Damages*]. This is what I wanted to do and what, academically, in terms of both career and accomplishment, I ought to do. But obviously, you couldn't be dean in the situation we had here and continue such activity.

BERTONNEAU: How long did it take before you came to that realization?

MAXWELL: Oh, I knew that at once. I knew it, but I didn't face it. I didn't withdraw from these things during that year I was acting dean. And I finally moved down to the office and began to do the best I could with it. I think it was toward January or so — we were having a meeting of some sort of the Curriculum Committee — and I made some comment: "Well, after all, I am only acting dean."

Mueller said, "You better start to think in other terms."

I really didn't think, given the circumstances, that they would appoint anybody from the faculty [to be] dean. It didn't, in many ways, make sense.

Coffman was here and he was writing little notes to some of the regents about the leftists that were being appointed and one thing or another. The chancellor called me over, Raymond Allen, whom I had come to like very much personally, and he said, “You have to make up your mind. Are you going to stand for dean or aren’t you?” [laughter] I had a tremendous desire at that time, really, to say, “To hell with it.” I had discovered the level of activity that was going to be necessary to be a successful dean here, and I was smart enough to know that with that level of activity, if I’d gone back to Minneapolis or Dallas or wherever to practice law, I could soon have made a great deal of money. I could have gone back to the oil business with a good chance of moving on to high executive office.

Frankly, I am uncertain why I stayed. I suppose I had started out on an academic career, I had gotten involved with this law school, and I was very much attached to the people who were here. So I said, “All right.” I put it this way: “If you want to consider me as dean, you consider me, and you consider me now. If you’re going to consider me, and you’re going to bring people in for interviews, forget it. If you want to offer me the job, I’ll take it. But you decide right now.” That’s the way I put it; I was not going to run for dean. I was not in that frame of mind at all, and I didn’t have to do that, frankly.

I had all kinds of opportunities. For one thing, I could have gone back to the University of Chicago, where Ed [Edward] Levi, for one reason or another, was trying to recruit me over that whole period of time. That wouldn’t have been a bad idea either.

BERTONNEAU: Was your appointment as dean a major step in reconsolidating the law school faculty, or were there still tasks that you had to perform?

MAXWELL: Oh, heavens. The tasks I had to perform stemmed from the fact that the school had such a terrible reputation. This was not a reputation based on any form of educational deprivation that the students were going through — I think it was a good place for students — but its reputation in the nation as a whole was not good.

Well, here I was; I was kind of stuck with it. I didn’t have to be stuck with it, but in a sense, you get involved, you have other people who were now, by this time, relying on you, although you hadn’t particularly given

them any reason to do so. And so you're carried along. This seems to be the way careers develop. But I certainly did not set out to become dean of this law school, and I must say that once the regents got to looking at the question of appointing me, had I not then been stubborn, I would have withdrawn.

[The regents] assumed that since I had been involved in this affair with Coffman, there was a good chance that somehow I must be supported by the forces of the Left; they investigated every aspect of my professional and "political" life. I got letters from people saying, "What in the world is going on?" Well, the fact was that I had never been at all political. I had plenty of opportunities to be political: I was very close personally to people like Orville Freeman back in Minnesota, and through Orville to Hubert Humphrey. Orville wanted me to go into law practice when we graduated from law school. If I had done that, I might have become political, but frankly I wasn't political. Orville wanted to run for governor of Minnesota, and he did. Hubert Humphrey wanted to run for something else, and he did, too. But I had no particular personal interest in politics.

So [the regents] investigated this; they discovered that what I was, was a law professor who had been a successful oil-and-gas lawyer, and that I had no real political history. [laughter] I was a Democrat, all right, and it was obvious. that I had an attachment to the Bill of Rights, but beyond that there was nothing to report.

But this investigation, particularly one incident, which focused on the fact that my father had come from Russia, was difficult to take. Now, my father was a Presbyterian minister, but someone suggested that because my father had emigrated from Russia, I must be Jewish. [laughter] Imagine this kind of stuff!

BERTONNEAU: It's stunning.

MAXWELL: The chancellor called me over and, in an embarrassed way, told me about this. I said, "Really, if this question makes any difference one way or the other, I would like to get out of this mess." But he calmed me down. I do not remember how. At that point I was very angry, but he kept me from exploding, and the regents went ahead and appointed me. I think some of them did so with reluctance, because I had been a part of the faculty that had started the process that led to the end of the Coffman

deanship. I suppose, too, there were lingering doubts as to whether I really was some kind of a leftist. This problem continued for some time, and I paid as little attention to it as possible.

BERTONNEAU: How long would you say that it took before all the ramifications of it had —

MAXWELL: Oh, I would say never.

BERTONNEAU: Never? Still today there are repercussions from it?

MAXWELL: No, I think today it is over. Ten years have passed since I was dean. Understand that we didn't pay any attention to this lingering doubt. We went right on, and we appointed the best people we could find.

In the early sixties I cooperated with the ACLU [American Civil Liberties Union] on a program, and I did this because it was on free speech in the media, which was then an important topic (it still is to some extent). I got all kinds of — it was a rather dangerous thing to do in the circumstances, and I suppose if I had been older I might have said, "Why do this?" This was still the early sixties, and I had people saying the ACLU is on the [U.S.] attorney general's list, it's a Communist organization. It was the kind of nonsense you heard in those days. The notion that supporting the United States Constitution is subversive is an idea I never have cottoned to.

But I did this; I got involved with other activities in the state, such as a project to improve the teaching of the Bill of Rights, which I still am involved in. I appointed some people to the faculty that were considered to be radicals: Michael Tigar. I appointed Michael Tigar because I thought he had a fine mind. He didn't turn out too well on the faculty, but the legal mind is still there. He's one of Washington's most sought-after trial lawyers. But I took terrible brickbats for that, and I think this was all part of the UCLA situation, as far as the law school was concerned. But we went ahead. As a matter of fact, as the years went on, I tried to do my job, and the fact was that in terms of alumni and faculty and status in the community, I developed considerable leverage as dean. In the mid-sixties I thought there was damn little that I couldn't do, if it was the right thing to do. I fought with the [Academic] Senate during that era; I fought with the [university] president; I fought with nearly everybody. But the fact was, with the help of my colleagues, we were able finally — in part because I did some of these things — to get forth the notion that this had become at least a standard

American law school, and that really it was a pretty good place to go. We began to be able to recruit wonderful people, and it snowballed. We got an inadequate but a new building, and so on.

But the problem, oh, I say it was never gone, but certainly right up to the time I appointed Tigar in the late sixties — when the devil was it? It was about '68, 1967–68, and I was still getting such stuff as Mrs. [Catherine] Hearst saying that Tigar had led such and such a revolution over on the steps of the Federal Building against HUAC [House Un-American Activities Committee]. Well, as a matter of fact, he didn't. At that time he was taking a chemistry exam over on the Berkeley campus. But I still got all of this stuff, and I'm sure that there was a tie-in with the origins of this school. By and large, that's all gone now. That's just gone with the wind.

BERTONNEAU: It wasn't even necessarily a problem of Coffman himself, but the whole poisonous atmosphere of that time?

MAXWELL: Well, it stayed for a while; it stayed for a while. But it did not keep us from building a really fine law school. We appointed liberals; we appointed conservatives; we appointed people that we thought had the most to offer. And it worked. Really, what went on is rather remarkable. For a period of time you had complete cooperation; at least the faculty were all pushing in the same direction, for quite a time. There was very little nonconstructive controversy. [There were] differences of opinion, but the rancor among the faculty [had disappeared]. Coffman kind of moved off to one side; [Rollin] Perkins, who was a fine teacher, but simply felt he was Coffman's friend, never really became attached to the faculty and moved off to Hastings [College of the Law]. Harold Verrall went off to Hastings; Coffman was left here alone, but more or less adjusted to the situation.

BERTONNEAU: I'd like to do that brief history of the law school that you wrote, and I'm going to use that as a guide to express some of the structural problems of the administration.

MAXWELL: All right.

BERTONNEAU: One of the sentences that I've extracted is this one. It says from page 3: "The academic structure of the University of California in its UCLA manifestation contributed grave problems as well as furnishing strong support for the new law school." What does that mean?

MAXWELL: The grave problems were simply that UCLA, of course, was founded, as some people have said, by pioneers from Berkeley, and I think — although I'm sure a number of people would tell me I'm wrong — I think that the UCLA version of the [Academic] Senate, at least as far as it impacted on the law school, was much more rigorous than existed at Berkeley. Now, the fact was that Berkeley could put through appointments of an appropriate sort, for the law school, at salary levels — and remember, in those days, the salary levels were all the same, in terms of at least the facade that was presented to the university. So if you were talking about appointing someone at a certain number on the scale, to people in the Senate this meant someone who had been out [of law school] a certain number of years, who had done scholarship at a certain level and in a certain amount — they knew what a “Professor II” was.

Now, the fact was that when you began to talk about appointing law school professors, the person whom you might have to appoint at that level would be likely to be a young person who had graduated very high in his class at Harvard, who had been clerk to a [U.S.] Supreme Court justice, who had spent two years in the Department of Justice, three years with Covington, Burling, [Ruble, Acheson and Shorb], perhaps writing some kind of a law review article during that period, and then deciding he wanted to go into the academic world. Well, if all the other personality and intellectual attributes were there, this was a person that at that stage — of course, this person today would be making eighty thousand dollars [a year] in the practice. [laughter] Well, in those days he was also, in terms of that level of monetary structure, was doing about the same, although actually practice salaries were then not as far out of sync as they are today with the academic salaries. But that person would have to come in, if you're going to appoint him, at quite a high level, say, Professor II. And the chances of getting such a person through the Senate committees, and the administration, was nearly impossible. [The response was:] “You can't appoint that person at that level.”

The problem was that law professors, not only [because of] the market situation — don't come out of the same kind of egg. They're not the Ph.D. who spends five, six years, frequently, taking his graduate work, during which he produces a book-length study, out of which normally he can carve a series of articles and finally a book. That person looks totally different.

He is a trained scholar at that point. Law professors don't come out of that mold. There isn't any — sure, there's graduate work in law; what it amounts to is that if you want to go and spend a year at one of the large universities, you can go and spend a year, take a course or two, write a thesis, and certainly that's useful. You come into contact with some able people, and you get, if you write a good enough thesis, you can get a J.S.D. [doctor of juridical science degree], and it is kind of an additional stamp. But that is no more essential for a person becoming a law professor than to have an LL.D. [doctor of laws degree] for having been an important university donor. It is certainly something that would be important in terms of [indicating] the work that had been produced while someone was doing that.

But the normal situation is that you have a particularly brilliant, particularly high-level experienced young person who wants to teach. Sometimes it'll be someone that's been six, seven years in practice, as Bob [Robert] Jordan was, ready for a partnership in one of the great firms in, say, the field of securities regulation. Well, if you're going to appoint that person, you can't pay him what he's making there, but you've got to pay him more than a person of the same age who came through the Ph.D. program. Yet, the person who comes through the Ph.D. program looks like and *is* a far more experienced scholar. You can see what the problem was.

BERTONNEAU: I can sit here — and I'm a reasonable person — and I can understand this, but I can also see why it would cause resentment on behalf of the general faculty.

MAXWELL: You don't even need to call it resentment. It's just that the committee of the Senate meets and looks at this guy, and it says, "Professor II?" — Acting Professor II, it would have been, since you're not going to give him tenure until he does something as a scholar. But even then, in three or four years, [after] learning to teach, which is what he's doing, getting a hold of an area of scholarship in which he wants to work, and then training himself as a scholar — because these people are trained lawyers; they're not trained scholars. Most of them have worked on a law review and done a little scholarly work, but they're nothing like the trained scholars that come out of Ph.D. programs. Some of them become that kind of scholar after years, but they're not when they're appointed, and in the early years of promotion they're not. And you can see that building a new

school; having to make perhaps forty appointments, you can imagine, it was a constant, unending, everyday battle of paper and words, and sometimes acrimony, for almost every appointment. Had it not been for the constant, expert work of my assistant, Frances McQuade, I would have had time for little else.

BERTONNEAU: You described it as challenging and grueling. I wonder if it's more challenging or more grueling.

MAXWELL: It was more grueling than challenging. It was the same thing over and over again, because the committees changed. I got along well with the vice-chancellor, Foster Sherwood, who became a good friend; but he had, of course, his own necessities, and he often made it very tough. But if this law school was to be built, to build it within this system was nearly impossible. That's why I tried to stay out of the system.

BERTONNEAU: So tell me how you would go about convincing your colleagues in the Academic Senate that this person should be appointed.

MAXWELL: Well, I would simply go through all of the stuff that I've gone through with you, and finally, if they turned me down, I would then go to the administration, and I would insist. I eventually would simply say, "If you're going to build this law school, you've got to do it differently; and if you're not going to do it, let me know now, so I can go elsewhere." That's exactly how it worked. You had to bulldoze most of this through, day after day. It was, say, challenging, grueling, unpleasant, constant.

I tried to stay out of the Academic Senate, but Clark Kerr brought us back in; but actually, before we were in, what the university did was treat us almost as though we were in — getting some advice from the Senate structure. It would have been better, however, I thought, to stay out, not because I liked the idea of being separate — I think a law school's interrelationship with its university is very important — but in my opinion there's no doubt, though some of my colleagues would disagree, that the Academic Senate helped us only in the sense that when we were back in it, we were accepted fully in the university, which was very important. In terms of helping us in making appointments, or keeping us from making mistakes, they were simply an unnecessary level of administration that had to be got by. Some of the problems may have been caused by the fact that we had been out of the Senate officially, and now, somewhat reluctantly, we were back in.

The process was a constant, unremitting pain, over the entire period of my deanship. Now, along finally about the mid-sixties —

BERTONNEAU: You achieved a separate salary scale, eventually?

MAXWELL: I achieved a separate salary scale, and this helped, because it allowed honesty. The problem was — I don't blame the Senate and the people on those committees, because if you looked at those numbers representing salary levels, and you looked at the experience and scholarship we were presenting, our presentations didn't fit with the numbers we had to use. The reason was that the salary scale was completely out of sync with our needs; you couldn't have a good law school this way. If you wanted to have a single salary scale, then don't have a law school. That was exactly the way I put it. The fact that salaries were handled differently in the medical school was no help. It's strange, but there's no problem treating doctors differently. The problem with academic lawyers, and I understand it, is that they are too much like philosophers or political scientists. They don't cut anybody. Why should this particular kind of word merchant make more money than this other kind of word merchant? And, of course, in terms of intrinsic merit, they shouldn't. But that wasn't my problem. My problem was that I had been given a law school to build, and I was trying to build it. So I did get a separate salary scale.

BERTONNEAU: What were the steps in accomplishing that?

MAXWELL: I had to go through the [Academic] Senate. They approved, after hours of argument and gathering of factual material. The chancellor understood the problem and helped; the process of putting people onto the new scale was painful, largely because the numbers meant so much to the university that there was no way of our placing people where they ought to be on the new scale. They had to go onto the new scale according to the professional-level number that they then had, which resulted in some terrible inequities. People that had been appointed at high numbers, because of the constriction of the old scale, got tremendous raises. Other people just got ordinary raises. This was not the way I wanted to do it; I wanted to bite the bullet and put people where they ought to be, but the university wouldn't let me.

BERTONNEAU: Did that cause any kind of internal trouble in the law school?

MAXWELL: No, because salaries were quite private. This notion of the numbers was considered part of what a person had in his position. If you were a [Professor] II or III, you were a II or a III, and the fact that you got a new salary scale didn't change that. The results were not rational. But, of course, it removed any discretion from me; it would have been more unpleasant to do it the other way. It was painful to do it this way simply because the results were, I thought, inequitable in some cases, because we did it mechanically. We put everybody on the new scale according to the number they carried.

What I had been willing to do, and what I had worked out, I can tell you, in great travail with my Advisory Committee, was to place people according to merit. The Advisory Committee in the law school, which still exists, is an elected committee of the faculty. It sits with the dean on all budget matters. This is again a residue of the Coffman era, because he clearly was using, at the end at least, his budgetary powers to punish people. For example, in the summer of 1957, I was scheduled to teach summer school. He discovered that I had told a visiting professor that I doubted that he ought to put himself in line for appointment because I didn't think the faculty was supporting him, and I didn't think the dean had the power to put through the appointment, which was, I think, good advice. And this idiot went and told Coffman that I had told him this. Coffman took me off the summer session.

We had an advisory committee to sit with all deans; from the end of Coffman's time as dean, no dean in this school makes any move in relation to salaries or budget but what an elected committee of the faculty sees it. And it's worked well; it's been a great aid all along the line. But the process is not open to the faculty; I think that would be ridiculous. This would just cause all kinds of jealousy, backbiting, people's wives complaining. But having, now, three people sit with the dean, and the dean uses this very effectively — all the deans. Murray Schwartz and Bill Warren have used it very effectively. What it means is that the faculty knows their elected representatives see exactly how budget allocations are made in the institution.

BERTONNEAU: There is, it seems to me, an inherent problem in the law school in that it has to be part of the general campus, and yet it has all these separate requirements. I mean, are these problems ever to be solved?

MAXWELL: Well, you mean the problem of salary differentials, et cetera?

BERTONNEAU: What obligations does the law school have to the campus in general? What is its relation to the whole?

MAXWELL: Actually, now, I think we've reached the point where it is a fully operating part of the university. Just look at the situation now. Harold Horowitz is vice-chancellor for personnel. Murray Schwartz is the upcoming chairman of the Academic Senate. Herb [Herbert] Morris, I believe, is going back on the Academic Budget Committee. The law school is as deeply involved with the running of the campus as any part of the university. And that, of course, is the positive side of all of the pain that I went through working with the Academic Senate. I mean, I guess it may have been worth it in the long run, but it was the bane of my existence for eleven years. But it is true: today the law school is a wholly accepted part of the university. People participate wholly, and that is of course the way it should be.

Now, one of these days I suppose we're going to discover, given the way — do you realize that some law students four years out [of law school] make more money than the highest-paid professor in the law school? Some, not all, some; the best. Given this situation, we're going to discover one of these days that we can't appoint the kind of people we want any more. People know, when they enter the academic world, that they're going to make one — well, in the old days you would say half; but now, heaven knows — and they choose that, but there is a limit. The academic is often a person that has a family to support, and there are limits. Not that a law professor's family needs or deserves more than a philosopher's family, but the fact is that just the comparative market position is such that you can't get the law professor unless you pay him. So what I'm saying is one of these days we're going to have to make a new run for a new salary scale, and this may stir up animosities again.

BERTONNEAU: But you don't want to be here to shoulder that responsibility. [laughter]

MAXWELL: Well, I won't be here to shoulder that responsibility. Even if I were here, I would be certainly a spear carrier in that drama. [laughter] I don't use spear in any spirit of animosity. But I think that will happen one of these days, and it will be necessary, for the good of the law school. And

I hope that it doesn't disrupt the fine relationship the law school now has with the campus, because it does have. Ben [Benjamin] Aaron, for heaven's sake, is the chairman of the Academic Council. I mean, there isn't any department in the university that has more active people in high general university positions.

BERTONNEAU: Is this a reflection of the trend in society in general for lawyers to move into positions of higher administrative responsibility?

MAXWELL: I think it just is a tribute to the general ability of the law faculty. Not that they are more able than other members of the faculty, but they are people who have the ability to do well in the kind of situation into which people are placed when they become deeply involved in Academic Senate affairs. Ben Aaron does magnificently. Ben Aaron can sit with the regents, and in dealing with him in relation to those questions, they don't just have an able faculty member, they have a world-class arbitrator, negotiator, scholar, et cetera. I mean, Ben Aaron is the kind of person that a president chooses to solve his difficult problems: the *bracero* problem; the problem of automation in relation to labor. I mean, this is the kind of person that's involved. When you have that caliber of person, who has the skills of a lawyer, obviously, if they're also a devoted academic, they're going to be used in the university.

BERTONNEAU: Let me cite the brief history again. On page 6, in relation to budgeting and funding: "It proved impossible, in the context of the university budget-making and appropriations process, to get a substantial increase in the law school budget allocated to the library needs. Money for library expansion existed only in one place at UCLA, and that was in the budget of the general UCLA library. It was clear that the price of getting the law school's share of these funds was administrative control in the main library." Was that price what you considered to be too exorbitant?

MAXWELL: No, I paid it. I paid it. And still around the law school world today, I meet librarians who say, "You're the guy that sold the UCLA Law Library down the river."

BERTONNEAU: What do they mean by that?

MAXWELL: They mean that the UCLA [Law] Library lost its strict independence. What they want — by "they" I mean the Association of Law

Librarians — they want a law librarian that is responsible only to dean and the president. The notion of a law librarian being administratively a part of the staff of the university librarian is anathema to them.

BERTONNEAU: Now, is that a situation which ideally you would like to see, or is it much better to have him associated with the general library?

MAXWELL: I don't think it's much better; frankly, I think that cooperation is very important, because I don't think you ought to be — books are too expensive to put on library shelves to be duplicating your expenditures. But I think ideally I would want him to be independent, in the sense that he has his own budget and he cooperates. There is perhaps a committee of people in the library administrative positions around the campus, and they don't buy — they decide if a book is such that it is likely to be purchased by two units. So there ought to be some kind of a clearinghouse.

But, sure, I think he'd be better off if he were independent, yes. But it was clear as a bell to me that the only way I was going to get into the money that was allocated — what happened, you see, was we had a law school budget, and it started with a library budget. It was never increased enough. The cost of books kept rising. Finally, I discovered that it was eating up all of the general funds the law school had. I mean, supplies and expenses — everything. A library will eat a budget alive, and this is what was happening. The library was falling behind.

It's clear: I went and made my pact with Beelzebub, who was a very nice Beelzebub, and an extremely competent one — Robert Vosper, who was then university librarian. I discovered this; I was a little slow on this, because I had this notion that law librarians were independent. But I called Vosper one day, and I said, "What happens when the History Department has a book that they want to buy? Does it come out of the history budget?"

[He answered], "Oh, no, it comes out of the general university budget."

I said, "Thank you very much." [laughter] I went back to my office and thought about that a little bit, and I decided that only an idiot would continue down the road of administrative independence. The library [would] become less and less effective and less and less adequate, and the law school budget [would] become less and less adequate.

So I had a series of meetings with Vosper, and the result is that our librarian, in a sense, reports to the university librarian, and our budget is

part of the university book budget. I don't think our book budget is now adequate, but the change sure saved us for a considerable period. And with an effective librarian, as we now have, I think it worked out quite well. Of course, I hired Fred [Frederick] Smith after I had made this arrangement. I believe I hired him after I had made this arrangement. I can't really remember the year. But, at any rate, Fred understood this and acquiesced in it. I don't know whether he was wholly happy with it or not.

No doubt what happens is that they use Fred a good deal for general university problems and committees; and no doubt he has a good deal of administrative work foisted upon him, because he's highly competent. He's not only a lawyer but he's a trained librarian as well, and an extremely competent person. So no doubt the general library gets a lot of use out of him, and he pays the price for the budget. But there's a price for nearly everything in a university context, as elsewhere.

BERTONNEAU: You had to struggle to get funds for your new building, too, didn't you?

MAXWELL: Oh, yes. We had to struggle for that. This is just unbelievable. You notice we have three state-supported law schools in Northern [California], all practically within a few hours' driving distance of each other; there's one state-supported law school for the whole South. Yet they're building towers at Berkeley; they still are building enormous additions at Hastings; they've built a new law school at Davis.

I know that when Berkeley built its dormitories up there, and the regents gave them money along with private funds, I wrote the regents and said, "Will you give me the same amount of money, to let me use as a lever for raising private funds?" And I got a letter that said substantially this: "Berkeley has built a dormitory; you do something different." Now, that is a statement that I would have to characterize as either too subtle for my understanding or stupid, and I think the latter is the proper characterization. What do you do different when it comes to building a dormitory? A tent city?

But we had a terrible time getting the funds. We had to fight and scratch and push. Franklin Murphy helped tremendously in this endeavor. We got this patio out here, which is the one nice distinctive feature of this

building. We got that because Franklin helped me get some of the money that was left over from the building of the business school.

BERTONNEAU: But the building as it stands isn't even adequate for your needs.

MAXWELL: Oh, it wasn't adequate the day it was built. I knew that; but either you had to make a decision that you were going to try to cut off enrollment, which would also mean that you were going to have to make a decision that you were going to have a small law school here, which would have been very nice — but you couldn't make that decision; it was a ridiculous decision in the context of Southern California. This isn't just part of a state; it's an empire. One state-supported law school here? You couldn't make that decision. You had to make a decision [for a big law school], and you would think the regents would have insisted on an appropriate structure being built. But I insisted on what we got. I insisted on more, but this is what we got. So now we're obviously in great trouble.

BERTONNEAU: You're spilling into Dodd Hall.

MAXWELL: Oh, yes. We need another building. Anybody could have figured this out. And in the process of building it, we had a terrible time with the [California] state Department of Finance. They said we could build library facilities for only two years. Now, I don't know whether if you think about that [you can realize] how stupid that is. I'm calling these things stupid, but they are stupid; they're not —

BERTONNEAU: I'm not even certain I understand what that means.

MAXWELL: It's not people. It isn't that the people are stupid; it is within the state system. You're talking about my deanship: I mean, you look back and you say, "Well, this was a wonderful deanship. Here is one of the great law schools in the country." But what you're getting is what needs to be done from day to day to build it — a series of ridiculous little pitched battles. What I mean by that is that the state said to me, in the planning of this law school, "You can build only enough library space to take the growth of the library for two years." After two years, then you'd have to go through the building process again. You can't build a law — the library's built into the law school, so obviously you've got to build it with space for a considerable period.

BERTONNEAU: That's like saying you can only buy six-year-old clothes that will fit for two years from now, or something.

MAXWELL: Well, it's worse than that, because clothes wear out. The building is almost eternal, as far as human beings are concerned. What we had to do, through all kinds of machinations, setting aside space for things like a law science center, which we had all right, but which was never going to use the space — we built in all kinds of — we had to, in other words, disassemble, to use a nice word, to get the thing done right and to use the state's money properly. We did, and maybe the state knew we were disassembling, and maybe they didn't. But we at least got something that was adequate in terms of library space for the time. Now we have to do it again.

BERTONNEAU: So the big obstacle in the way of carrying out all these tasks is the state bureaucracy.

MAXWELL: Well, state bureaucracy, the university bureaucracy. I tell you, I often thought that I'd rather be dean of a private law school and have to raise all the money myself and not have to fiddle with either the bureaucracy in the [Academic] Senate or the bureaucracy of the state.

But, with all this, we built a law school. But, let me say, it wasn't easy, and it wasn't a series of great decisions and triumphant marches. It was grubby day-to-day fighting with people. These were skirmishes, and then occasionally there'd be an enormous battle over something. [laughter]

BERTONNEAU: I'd like to ask you about the recruitment of minorities and the effect of affirmative action and so on, on the law school.

MAXWELL: Well, we didn't really call it "affirmative action" at all when it began. The problem began to be taken cognizance of, oh, let me see, it must have been about 1962. It was very easy to see, if you were greeting entering classes, that there were almost no minority people in those classes. Oh, yes, there would be an occasional Black student. We had some very distinguished Black students back in the early days. One, of course, was Billy Mills, who has made a great career for himself. There was an occasional Mexican-American student. We did not call Mexican Americans "Chicanos" in those days, and we paid no particular attention to that fact. There was at least one very distinguished Mexican-American student I can think of, distinguished in the sense that he has had a tremendous legal career. That's Tino [Florentino]

Garza, who now practices out in Riverside, San Bernardino way. Of course, we had some Japanese Americans and Chinese Americans, but this was not really the problem we had in mind.

The problem was, basically, the lack of Black students and Mexican-American students in a city and in a region that had a heavy Black and Mexican-American population. It was apparent, I think, to anybody who could look and think about it, that if the only state law school in an area of ten million people was going to have, at the most, one or two minority people in a graduating class, something was awry. And given what was beginning to be the temper of the sixties, with the civil rights movement, et cetera, people began to, I think, be aware of this problem.

I have heard people say, particularly individuals who have in recent years harassed the law school, that the law school was pressured by the civil-rights movement into doing something about the admission of more Black and Mexican-American students. This is sheer humbug. There was no pressure of any sort from anybody. We made contacts with individuals in the Black community that we thought could help, for example, and they were interested; but no one thought of any way to handle this problem. We sent members of the faculty and the administration out to some of the colleges where there happened to be a heavy Black population, for example, and talked about law school. The fact was, however, that in that time Black students, particularly — and I think probably the same was also true of Mexican-American students, but I have less personal knowledge of the attitude — but people in the Black community didn't think that there was much future for Black lawyers. They didn't think that they would be welcome here, at least that was the impression I got. And the fact was also that given the state of education, over a good many years, there were very few Black students that could come close to reaching that level of G.P.A. [grade point average] and law school admissions tests that would qualify them for admission. Now, some of the — I was going to say some of the eastern schools had begun to recruit, but I don't think they really had, by that time.

BERTONNEAU: You're talking about the early sixties?

MAXWELL: Yes, I'm talking about the early sixties.

BERTONNEAU: May I ask you this? When did the problem become explicitly articulated? I mean, was there a point where you called together your faculty members and said —

MAXWELL: Oh, yes, there was a point, there was a point. But I'm talking now about just what the atmosphere was. Well, actually there must have been two or three years in which there wasn't a single Black person in class. And I believe that it was about 1965 that Leon Letwin, who was particularly interested and concerned in this matter, put together a kind of a proposal, which involved, in effect, admitting minority students because they were minority students. You weren't talking about a quota or anything of the sort. You were talking about making an effort to find five or ten people that you thought had some chance of handling the law school curriculum, admitting them, and not being color-blind about it.

It's hard, I think, for the modern generation to understand that in the early sixties — I can remember a council meeting, that is, the Chancellor's Council, which was all the deans and high administrators, worrying about the problem of removing pictures from applications, on the theory that you would then be color-blind. This was the big thing: equality of treatment. Well, that kind of equality of treatment meant basically that there would be no Blacks and, I believe, no Mexican Americans in the law school. So you had the removal of the pictures — it occurred. I mean, this was at a point, at the high-water mark of color-blindness — one might almost say “blindness” — and then it became apparent we had to go in the other direction.

Well, this proposal was, as I stated, a fairly simple proposal. The document, I suppose, is somewhere around the university. I don't know where it is, but it simply detailed the very small number of minority people in the profession. And it was a very small number. The profession certainly had been, I think, hostile to equal status — for Blacks, particularly. There was a time when the American Bar Association wouldn't take Black members, believe it or not. Obviously, that was gone by the early sixties. However, the faculty approved this, and this was very difficult for the faculty. It wasn't a matter of anyone being a racist or anything of the sort.

BERTONNEAU: Excuse me. What is it specifically that the faculty approved?

MAXWELL: The faculty approved the idea of accepting a certain number [of students] — I think ten, if you want to call it a quota. It was a search, at

that point, for ten people that would devote themselves to the institution. We managed to get some money, from one source or another, to give a kind of a scholarship so that people wouldn't have to work; the university cooperated with the faculty. The faculty was very concerned about this, because it completely overturned whole years of great effort to keep admissions free of any kind of influence in this public university. And here we were saying we're going to admit people on the basis of their race. This was a very difficult idea, and that is what we were doing. It wasn't any matter of admitting people that were economically deprived; we were admitting people because they were Black or Mexican American (later Chicano).

Now, I took this to Franklin Murphy, and he was supportive. There was no opposition but actually some help from within the university, so we admitted a class. I believe it must have been about '67 before that class was admitted. The record is somewhere in the university, but that matters not. It was not an easy business with that class.

BERTONNEAU: What were the difficulties?

MAXWELL: Well, the difficulty was that we had admitted people who were not as prepared academically as the bulk of their colleagues. We had great difficulty, for example, with a question like this: we have admitted people who we think can make it through law school (and certainly many of them did). Should we now separate out this group and give them special tutoring? We attempted to do this in a number of ways, and we continued to do this over the years, really.

There was sometimes an irritated blowback from the students over this; then there would be a movement to have more of it. At any rate, this program evolved, developed; it got to the point finally where, when the law school came to the size of a thousand students, and we were talking about three-hundred and fifty or so in an entering class, we tried to take about seventy minority students in that group. And it was always very difficult.

For one thing, when you began to talk about something that was, substantially, a quota, then you had the question, how many people from each group should come in, and what groups should be involved? These are terrible problems, unbelievable problems. You've got, of course, the organization of minority students in the law schools: Black Law Students Association, Chicano Law Students Association, Asian Law Students Association. It

became one of the most complex political, using political in the sense of any situation where there are benefits to be awarded and groups that will benefit and a benefit-granting agency, like the law school.

However, putting all of those difficulties to one side, the so-called LEOP program, the Legal Educational Opportunities Program, as it came to be called, with all of its difficulties, did integrate the California bar. There is no question this school led the country into the era of making very special efforts to do something about this problem. Now, of course, the LEOP program is gone; the [U.S.] Supreme Court says that now race can be one factor in the administration of an admissions process, and our process now uses it that way. I think to a great extent the minority students that are now admitted do not think of themselves as a specially admitted group, and they are not in that same status any more. And I think this is probably a good thing. But there is no question that now, and I would guess for at least another few years, that if you don't pay any attention to race, if you go back to the point where the pictures are taken off the applications and the mention of race is a no-no, the law school would not be attempting to educate as many minority people as is desirable, given the needs of as diverse a society as this one is.

Now, of course, there are many who say that it shouldn't be the law school's business to worry about societal problems; but this is one societal problem that has to be worried about by the university and the law school, or it just won't ever be solved. Of course, the answer that, I suppose, some people would give to that is that what you do is to improve housing, improve job access, improve schooling in the lower schools. But if we had waited for all of that, I think the bar would still be largely as it was, and one of the factors that will bring about the improvement of other aspects of society — the political clout, leadership abilities, and abilities as practicing lawyers of minority people — would have been lacking. So there were all kinds of painful moments.

BERTONNEAU: It sounds a little bit like, in the beginning at least, that that whole process — was rather improvisatory, that you were —

MAXWELL: No question, no question.

BERTONNEAU: How long did it take before you had a definite style?

MAXWELL: Oh, a couple of years, a couple of years. We had as assistant dean Anthony McDermott, who began to worry about this problem, almost to the exclusion of other problems, acting as counselor, admissions expert, acting as kind of a law school counselor to those of the so-called LEOP program. Now, people from that program, many of them, had great difficulty with the bar; many of them, however, are now very useful and successful lawyers in many aspects of life. I think the program was more trouble than anything else, trouble for administrators, trouble for faculty, painful in some respects. There were confrontations, occupations of the dean's office, hunger strikes. It has been a great problem over the years.

The fact is, however, that probably nothing that we did was really more useful. There were plenty of lawyers being white lawyers, majority lawyers — if you can call it a majority in Southern California — standard American lawyers being trained all over the country. But we did pick up something here and run with it, even though occasionally we were running barefooted over very, very hot coals. There was plenty of criticism from all sources.

BERTONNEAU: So you found yourself cast in the role of villain sometimes.

MAXWELL: Oh, frequently. It was very hard, I tell you, to an alumni group who had been admitted in an almost pristine admissions system. At least in the early days of my deanship, I made a very special point of accentuating the fact that we did not give in, in favor of political forces, monetary forces, and I had plenty of opportunities to give way, both for suggestions of large donations to the law school and suggestions that our political [situation], and the university's political situation in Sacramento, would be far better off if we admitted X, Y, or Z. We held absolutely firm against that. Now, all of a sudden, to many of the alumni, it looks as though the priestess has become a prostitute to them. You're suddenly admitting people because of their race; and, oh, yes, we caught hell on this issue many times. And the [U.S.] Supreme Court eventually decided that we were indeed illegal. That's what they decided.

What they decided, however, hasn't destroyed this process. This isn't a time at which I care to comment on the wisdom or otherwise of Supreme Court decisions; but whatever it was that we did, it did advance, if that is desirable, the cause of a bar that is fairly representative of the population

in this country. And in a nonhomogeneous society — which is, of course, what this is — I think that that was a very desirable thing.

BERTONNEAU: In your brief history of the law school, you state at one point that there were never any barriers to the admission of women students at this institution. But weren't there barriers to the admission of women in the infrastructure of society?

MAXWELL: Sure there were. But now there my personal attitude is totally different. You will find that I have welcomed women to this law school — I am not known as a sexist — but I would never stand up and say in the same phrase, “women and minorities.” I do not consider that the same problem.

BERTONNEAU: Can you explain?

MAXWELL: I would never have lifted a finger to recruit women for this law school; I would never have allowed anybody to interpose a feather against their admission. I welcome them; I think they've improved the student body considerably. But I don't think that is at all the same problem. I think that anybody that thinks that it is has simply either not thought about it or doesn't want to think about it.

BERTONNEAU: For the sake of argument, let's pretend that I am a person who thinks that there is a similarity.

MAXWELL: I think that society can be organized in a variety of ways. I think that the kind of society that existed when I was young was one in which most women did remain in the home and sustain the family. It happened that my own mother worked. It happened she was divorced. I know all about this sort of thing. But I would have to say that I have absolutely no sympathy for a point of view that says if women do not get out into the world and work, if they stay home and try to build families, this is somehow ignoble and a less desirable societal structure. It certainly is a different societal structure.

Now we have a society in which divorce is easy, in which attachment to marriage is, I think, much less, in which the family structure is in many instances not as strong, in which illegitimate births have increased to a percentage that is shocking. I certainly don't lay this to the fact that women have been admitted to law school, but what I am saying is that this is a different kind of society. And to say that this is a better society, that the

other was immoral or a deprivation of rights — the relationship between men and women and the differences between men and women are not at all like racial differences. I think that discrimination on the basis of race is immoral in, if there is such a thing anymore, an absolute sense. I think making distinctions between men and women — in relation to military service, in relation to giving women alimony and not men — personally, I don't think that is immoral at all.

If society wants to change, and it is changing; that's the business of society. But I would have to say that I would not have lifted a finger to advance the change. Now understand, I would never have allowed any prejudice against women that wanted to go to law school. But I would never in the world, as you can see, have said that it is necessary for the good of society to admit women to law school, even though they may not have the paper qualifications of men. It was never necessary to do so. When the time came that women decided they wanted legal careers, they came to law school. And they have been magnificent. Now, whether it is a better world because they have done that, I haven't the slightest idea. But I think in one sense, at least, it is a better world, insofar as there were barriers to women in the profession. And there were. I think a human being ought to be able to engage in the activities that that human being wants to engage in.

I can remember in the early days that our best women were very difficult to place. I used to have to call four or five offices to place them. Now, that's outrageous. I think that's wrong. But I think it is also wrong, in this day and age, to have a situation where the brightest women in our population, who have no economic problems, are creating a situation where women without their education and qualifications feel this tremendous urge, for their honor, to get out into the marketplace — that somehow they are not pulling their share of the world's burden if they're home raising two or three children. I haven't any sympathy with that whatsoever.

BERTONNEAU: Let me ask you: what do you see as the responsibility of an educational institution like the law school at UCLA when it comes to social issues and problems in society that seem to be as grave as the discrimination against Blacks and Chicanos was twenty-five or thirty years ago?

MAXWELL: The reason I felt that we ought to take a leadership in relation to the admission of Blacks and Chicanos is that I saw no other way. It was a societal problem, and we were the institution of society that was at that time in a position to do something about it. Now, I was not in favor of the Vietnam War as it was conducted; but I certainly didn't think that the law school was an institution that should have or was obligated to take a position of leadership against the Vietnam War. I mean, if the faculty as individuals wanted to pass motions against it, of course they could. But I didn't feel that the UCLA law school as such had any place in that particular controversy.

For example, I think that certainly the law school has an obligation to maintain an atmosphere where the faculty can pursue its scholarship in any direction that it wants to go, and that's sometimes very difficult to maintain. But for the law school as such to take political action is anathema to me. Now, the admissions problem was political action. But we were the institution that was either at fault or not acting. We could do something about that. We were the institution that was educating lawyers and admitting them.

I personally, over the years, took the position, probably to my detriment (which may be a self-serving declaration), that I would not take part or allow the use of my name in any partisan campaign. For example, in the Kennedy election [1960] I was asked to join a list of Southern California sponsors. I wasn't terribly enthusiastic about Kennedy. But I was more enthusiastic about Kennedy than I was about Nixon, and if I had been an individual law professor I would have joined in that group. But as dean of the UCLA law school, I felt it was improper.

I can tell you that that is not a position that is maintained by most deans, who perhaps quite properly use the deanship to promote their political ends. [laughter] I personally didn't think that was proper. That may sound like kind of a saintly position, but I just thought it was wrong. Now, on the other hand, I thought it was completely proper, as dean, to promote the understanding and teaching of the Bill of Rights in the public schools, which was a position that got me far more brickbats. If I had gone on the Kennedy list, people would have said, "Well, look, Maxwell's getting into politics." When I supported the idea of teaching the Bill of Rights in the public schools, I had to defend myself against every charge from being a

Communist, to the general charge of subverting schoolchildren by teaching them about free speech.

BERTONNEAU: You were on the board of directors of the National Assembly on Teaching of the Bill of Rights.

MAXWELL: Well, that's where the movement really started, if you can call it a movement. The assembly was simply a — about all the assembly ever did was to call a meeting in Virginia at a very nice conference center — Airlie. They had two justices of the Supreme Court who came. It was [William O.] Douglas and [William J.] Brennan, [Jr.]. But, at any rate, this kicked off a national movement to improve the teaching of the Bill of Rights in the public schools. Now, this actually was, in a sense, a political movement. But it was a political movement, I felt, that as a law dean I had some obligation to help with. The law schools, again, are involved in education, and I don't think it is wrong to have people understand the political system. I think it is wrong to set up a situation where people are more or less indoctrinated about the political system.

But, at any rate, it was political because you may recall — you probably don't — that Earl Warren, at that point, was being pilloried on billboards all over the country. He was simply a symbol, and he was a symbol because of *Brown v. Board of Education*, which had decided that legal segregation was no longer constitutional in this country. We had had the prayer decision. The Supreme Court was under, I thought, considerable unjustified criticism at that point, and it seemed to me that if you were going to talk about any kind of a reasonable approach to protecting the Constitution, the reasonable approach was to try to teach the American people, at a point where they could put their minds to it, something as to the values that supported their central document. And that was all that was involved.

BERTONNEAU: How vast was the ignorance about the Constitution?

MAXWELL: Oh, there are all kinds of studies, and the ignorance was, according to some of the studies, quite vast. But we were interested, really, in teaching people that, by and large, the issues that arose under the Constitution of the United States were controversial issues, and that in many cases they could have been decided, and often had been decided, one way and then were decided another. We wanted to give people at least a framework in which they could think about such things and understand them, so that

they could have at least some basis for evaluating the balance between free speech and protection from libel, the balance between religious freedom and forbidding prayers in the public schools. But in the early sixties, this was a fairly dangerous route, believe it or not.

BERTONNEAU: Well, I believe it.

MAXWELL: I had to carry on a battle in the newspapers and on the television with Maxwell Rafferty, our then politically motivated superintendent of public instruction. I've often thought what I should have done — I think I beat Max Rafferty thoroughly in that encounter; at least our handbook for teachers for teaching the Bill of Rights eventually came out with his name along the bottom — but if I had had a political interest, and looking back I sometimes wish I had had, I should have gotten myself together a campaign group and taken him on for superintendent of public instruction. It would have been a great campaign, and it might have been great fun. At the time, it never occurred to me; I was too young to appreciate the opportunities that came out of controversy.

BERTONNEAU: So would it be fair to say that whereas you think it would be improper for an administrator, say, the dean of a law school, to espouse particular candidates and so on, nevertheless he does have an obligation to become involved in societal problems, when they become so glaring —

MAXWELL: Well, I felt I certainly would have chosen my societal problems very carefully. I thought the teaching of the Bill of Rights was a societal problem in which it was appropriate for the dean of a law school to become involved, and in which he should involve the law school. And this law school was involved. This law school was really first, at this academic level, in bringing its expertise to bear on the preparation of materials for teachers, teachers' institutes in the teaching of the Bill of Rights. The resources — of the law school were utilized for that purpose. I thought that was an appropriate activity for a public law school to be engaged in, but I can think of other activities that I engaged in that may have been on the borderline.

I once signed a brief to the Supreme Court of California in an abortion case. I'm no expert in abortion, of the constitutional issues. Certainly there are two sides to that question. But a very influential lawyer in town convinced me that I ought to join in that brief, and he made a very convincing

argument indeed. But, at any rate, the position of a law school dean is very difficult in that respect. I think more, even, than the president of a university. People are attempting to get him to lend his name and, therefore, not his prestige but the prestige of the law school to one position or another position. And I really believe you ought to be very parsimonious with that. The admission of minorities to law school, yes; the teaching of the Bill of Rights, yes; certainly the support of a partisan candidate for president, no.

BERTONNEAU: Let's turn to a slightly different, perhaps related, subject. I again quote from the brief history: "The law school was not immune from the student-based disturbances of the early seventies. The law school community was — never rendered prostrate, nor driven into hostile cliques, by these events."

MAXWELL: When you get to the early seventies, you have to be talking to Murray Schwartz (when he retires). I wrote that, and I think it's true. The relative serenity of the law school was largely due to Murray's handling, not mine, because during this period I was in Ireland, Minnesota, and Singapore.

BERTONNEAU: Exculpated by absence.

MAXWELL: I certainly was; I had nothing to do with it.

BERTONNEAU: Let's talk about the founding of the law school clinic [clinical programs].

MAXWELL: There's not much to say about that. It must have been about 1967. Well, there were two aspects to it: certainly one of the things that we did that laid some foundation for that very important activity was the establishment here of one of the centers around the country for the Legal Services Corporation. We established here the Health Law Center, and it was housed, for a time, in the law school. I must say that it wasn't nearly as successful as I hoped it would be; it never really, as far as I remember, integrated effectively with the law school program. Some seminars in health law were given, but I don't believe it had a very great impact on the curriculum of the law school or the education of law students. No doubt it did some good in helping legal-services lawyers prepare briefs in important cases, but I don't think it did what we had hoped it would do.

BERTONNEAU: And what was that?

MAXWELL: We had hoped that it would furnish a base for involving law students and law faculty in real cases that had important public issues embedded in them. The second thing that we did was more useful. We did get a grant from CLEPR, which was the Council on [Legal] Education for Professional Responsibility, a Ford Foundation offshoot; and that grant really started us down the road of the clinical program. I negotiated that grant and set it up while I was dean, but that was something I passed on to Murray Schwartz. The clinical program has evolved during Murray's deanship, and now Bill Warren's; and certainly it is now, I think, a very distinguished part of the law school's offerings.

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