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Submissions and other editorial correspondence should be addressed to:

Selma Moidel Smith, Esq.
Editor-in-Chief, *California Legal History*
Telephone: (818) 345-9922
Email: smsth@aol.com

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Cover Photo: The founding members of the UCLA School of Law faculty (L.–R.): Harold E. Verrall, Dean L. Dale Coffman, Rollin M. Perkins, Roscoe Pound, Brainerd Currie, and Librarian Thomas S. Dabagh. *Courtesy UCLA Law Library.*

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INTRODUCTION

THE UCLA SCHOOL OF LAW —

Origin, Conflict, and Growth

SELMA MOIDEL SMITH*

The eventful early history of the UCLA School of Law is the principal theme of this volume of *California Legal History*. The school's first years are of unusual historical interest — and, by reason of the available source materials, are uniquely suited to historical inquiry.[1]

This volume presents a number of previously unpublished documents related to the opening of the law school in 1949 and the story of its early development. The principal figures are, on the one hand, the founding dean of the law school and, on the other, the faculty members he recruited.

His colleagues state repeatedly that the dean's model for a law school of the 1950s was the law school of prior decades in which the dean held sole authority. They contend that the dean was determined to exclude from his new law school both the content of the then-prevailing theory of legal liberalism and the accompanying model of shared law school governance. We learn that he rejected the authority of the UCLA Academic Senate and

* Editor-in-Chief, *California Legal History*.

[1] For a general account of the early history of the law school and of its initial law librarian in particular, see Renee Y. Rastorfer, "Thomas S. Dabagh and the Institutional Beginnings of the UCLA Law Library: A Cautionary Tale," *Law Library Journal* 95:3 (Summer 2003): 347–368.

of any equivalent faculty group within the law school. In his own words, the dean decried the eventual imposition of a "constitution and bylaws of the law school whereby the dean has no authority to make appointments to the faculty" nor "any say about the curriculum of the law school."

SECTION 1: UCLA LAW HISTORICAL DOCUMENTS

We are fortunate to have the manifesto of the dissident faculty members, presented in the form of a Memorandum to the UCLA chancellor in September 1955. None but the most cloistered of legal historians could read the list of grievances and failed demands for redress — commencing with the words, "it becomes necessary to call the circumstances to the attention of the Chancellor" — without calling to mind the familiar (and more eloquent) phrase, "that they should declare the causes which impel them . . . ," from the American Declaration of Independence. Where the signers of the Declaration pledged their lives, fortunes, and sacred honor, the dissenting faculty members risked their families' financial security and their future academic careers.[2] A half-century later they were praised by former UCLA Law Dean Susan Prager, as "the courageous faculty who called for change in the governance of the school."[3]

We are similarly fortunate to have the report of the committee appointed by the UCLA chancellor to investigate the faculty's charges. The committee's findings take the apparently unprecedented course of withholding the deference customarily accorded to deans and of overturning the established order. They reject the dean's claim that to put matters right, "all that was needed was the assurance to him and his faculty that the Administration backed him without reservation." They find, instead, that the dean's conduct had led to a "loss of confidence . . . based on substantial and reasonable grounds," that "is irretrievable, in the sense that future changes

[2] [Memorandum from UCLA Law Faculty to Raymond B. Allen, UCLA Chancellor (Sept. 21, 1955)] University of California, Office of the President records, circa 1885–1975. CU-5, Series 3, Box 17:22, 101 Status of L. Dale Coffman 1948–1957; photocopy available at UCLA Law Library.

[3] "Professor Emeritus James D. Sumner," *UCLA Law* 26:1 (Winter 2004): 27, available at https://law.ucla.edu/~/media/Files/UCLA/Law/Component%20Data/Magazines/NEW_PUB_UCLALawMag_Winter2004.ashx.

of conduct by [the dean], which appear unlikely in any event, would not restore that harmonious faculty teamwork which is necessary to the efficient operation and future development of the Law School."[4]

SECTION 2: UCLA LAW ORAL HISTORIES

Soon after the first dean's replacement, the UCLA School of Law became, and remains, the youngest top-ranked law school in the country. Its early period is unique for the study of legal history because it is the only leading law school in California or the nation that is old enough to be the subject of historical inquiry well past the lifetimes of its founders — and also young enough to have captured the thoughts of its founders through the medium of oral history.

Oral history is among the most recent of the historian's tools. As is well known, portable recording machines with long recording times become widely available only after World War II. The later emergence of portable tape recorders led to the widespread practice of oral history as a specialized calling only in the 1960s and '70s. As is also well known, oral history has at times held a less-favored position as a tool for historical research by reason of the difficulty of verifying or correlating participants' statements. But here, too, the UCLA School of Law enjoys a fortunate position. The law school created an oral history series on the subject of its own early history, which it conducted during the early to mid-1980s. We therefore have access to multiple accounts of events from participants of varying perspectives and loyalties, from which readers may draw their own conclusions.

Seven oral histories in the UCLA collections offer substantial recollections of the school's early years. Not only do they discuss the crisis of the deanship, they offer a rare internal view of the professional concerns and personal lives that animate the life of a law school but are seldom visible to the students and larger community. The relevant portions of these seven

[4] [Findings of the Committee (May 24, 1956)] University of California, Office of the President records, circa 1885–1975. CU-5, Series 3, Box 17:22, 101 Status of L. Dale Coffman 1948–1957; photocopy available at UCLA Law Library.

oral histories are published here for the first time.[5] They include the oral histories of the following persons:

William Rosenthal, who, as a member of the California State Assembly, initiated and carried to passage the bill to create the School of Law at UCLA in 1947, and later served for many years as a judge of the Superior Court.[6]

J. A. C. "Cliff" Grant, professor of Political Science at UCLA from 1930 to 1969, who chaired the committee to select the first law school dean and also created the law library (and of whom I have kind memories as my professor during the years 1937–39, when I was a Political Science major at UCLA long before the creation of the School of Law).[7]

Edgar A. ("Ted") Jones, Jr., a professor at the UCLA School of Law from 1951 until he retired in 1991, who was one of the eight dissident faculty members who petitioned the UCLA administration for removal of the first dean.[8]

L. Dale Coffman, who served as the first dean of the UCLA School of Law from 1949 to 1956 (having served previously as dean of the Vanderbilt University Law School) and continued as professor of law until his retirement in 1973.[9]

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[5] Oral histories (and photos, except where noted otherwise) are published by permission of the UCLA Copyright Licensing Office. Each original oral history transcript prepared by the Oral History Program of the UCLA Department of Special Collections provides detailed information about the interviewee, interviewer, and interview history. Copies are available at the UCLA Law Library and Young Research Library Special Collections. In addition to the original editing undertaken by the interviewee and interviewer, minor additional copyediting has been provided for publication. Prior, and current, edits are in the form of insertions indicated by square brackets. For reasons of space, material on topics other than the early history of the UCLA School of Law has generally been omitted from the published version, as have secondary topics and minor redundancies.

[6] *Father of the UCLA Law School,* oral history transcript / William Rosenthal; interviewed by Bernard Galm [1985], 1986.

[7] *Comparative Constitutional Law at UCLA,* oral history transcript / James A. C. Grant; interviewed by Steven J. Novak [1986–87], 1989.

[8] *The Law, Arbitration, and the Media,* oral history transcript / Edgar A. Jones, Jr.; interviewed by Bernard Galm and Thomas J. Connors [1987–1989], 1990.

[9] *"The Godfather of UCLA": Regent Edward A. Dickson,* oral history transcript / Ann Sumner, Wilhelmina Dickson, Edward H. Dickson, Vern Knudsen, Gustave Arlt, Elmer Belt, Stafford Warren, and L. Dale Coffman; interviewed by Winston Wutkee [1970 and 1971], 1983.

Harold E. Verrall, brought by Dean Coffman from Vanderbilt to UCLA in 1949, who was one of the two faculty members who supported him against the dissident faculty members, serving until his retirement in 1970.[10]

Richard C. Maxwell, who 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, retiring from UCLA in 1981.[11]

Frances McGann McQuade, who commenced work at the new UCLA School of Law in 1949 as secretary to the dean and retired in 1982 as assistant dean for administration.[12]

SECTION 3: UCLA LAW PERSONAL REMINISCENCES

To complement the earlier historical materials, this section offers newly-written reminiscences of all periods of the school's history, contributed by more than a dozen distinguished emeritus faculty and alumni. Included are judges of the U.S. Court of Appeals for the Ninth Circuit and the California Court of Appeal, and current and former law school professors.

Were these papers not presented in alphabetical order, it would nonetheless be necessary to begin with the essay by Norman Abrams, which begins with his appointment to the faculty in 1959. His discussion provides the essential bridge that traces the influence of the school's early history on its continuing and present-day character — which he identifies as both democratic and collegial.

That character is further described from the faculty perspective in the essays by Michael Asimow, Paul Bergman, James E. Krier, and Daniel H. Lowenstein. The terms "civility," "mutual supportiveness," "collegiality," "warm and friendly environment," and "positive community of scholars," are the motifs that animate their accounts of teaching at the UCLA School of Law.

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[10] *Fifty Years of Property Law,* oral history transcript / Harold Verrall; interviewed by Bernard Galm [1985], 1987.

[11] *Law School Modernizer,* oral history transcript / Richard C. Maxwell; interviewed by Thomas Bertonneau [1981], 1983.

[12] *A Career in Law School Administration,* oral history transcript / Frances McQuade; interviewed by Bernard Galm [1984 and 1985], 1986.

Substantive programs created at the school are discussed in two other faculty essays: David Binder and Paul Bergman together present the origin, aims, and achievements of their path-breaking Clinical Legal Education Program. Charlie Firestone outlines the history and accomplishments of the former Communications Law Program.

Rounding out the faculty perspective are two humorous offerings: The history of the UCLAW Musical is discussed by its creator, Kenneth Graham, who organized this annual student–faculty–staff "musical comedy parody" that ran from 1982 to 2002. His account is introduced by a brief remembrance by George Abele, a student participant in the 1988 production and current president of the California Supreme Court Historical Society. The more personal irreverence of a single professor is the subject of Paul Bergman's "Pranks for the Memories."

The student perspective is provided by five appellate judges whose legal careers began at UCLA: Dorothy W. Nelson and Elwood Lui each provide personal accounts of their years at UCLA Law — Nelson as one of the first women, and Lui as one of the first Asians — and the lasting effects of their experiences on their lives and careers. Alex Kozinski creates a close-up portrait of a favorite professor, and Norman Epstein and Steven Z. Perren each conduct wide-ranging tours of their memorable professors and fellow students.

A word of thanks is due to each of these professors and graduates for sharing their experiences with the readers of *California Legal History*. A special thank-you is due to Scott Dewey, formerly of the UCLA Law Library (and now research specialist at the University of Minnesota Law Library), for soliciting on behalf of the journal a number of these personal reminiscences of UCLA Law.

* * *

SECTION 1

UCLA LAW HISTORICAL DOCUMENTS

MEMORANDUM

[Presented in person to the UCLA Chancellor by the eight dissenting members of the UCLA School of Law faculty on September 21, 1955][1]

The situation of the School of Law at U.C.L.A. has deteriorated to such an extent that it becomes necessary to call the circumstances to the attention of the Chancellor. The cause of this deterioration is to be found in certain attitudes and practices of Dean Coffman and in his action and conduct in certain cases and situations. In order to acquaint the Chancellor with the facts it will be necessary to analyze these matters in detail. This Memorandum proposes to do so, avoiding personal animosity and limiting the recitals herein to factual statements and to evaluation in terms alone of the welfare of the School.

PART ONE

Understaffing of the Law School Faculty and the Reasons Therefor

The faculty is seriously understaffed. For example, the 1955 Teachers Directory shows that at Berkeley there were fifteen full time members of the law faculty plus an Assistant Dean with no teaching responsibilities,

[1] For further information, see the Editor-in-Chief's introduction on page 1 of this volume: 11 Cal. Legal Hist. 1 (2016). This is a verbatim transcript in all respects.

The founding members of the UCLA School of Law faculty (l.–r.): Harold E. Verrall, Dean L. Dale Coffman, Rollin M. Perkins, Roscoe Pound, Brainerd Currie, and Librarian Thomas S. Dabagh

Courtesy UCLA Law Library

whereas here there were but twelve, this being reduced now to eleven, one of whom teaches a reduced load because of illness. For the past two years the law faculty has been informed by the Dean that budgetary provisions have been made for additional appointments. During this time two faculty committees have made exhaustive surveys to discover persons possibly eligible and available for appointment to this law faculty. These committees have reported their extensive findings to the Dean and law faculty. Nevertheless during this period the meager record of achievement is as follows: Mr. Harold Marsh has been appointed and has resigned under circumstances set forth fully hereafter. In his stead Professor Hawkland of Temple University has been appointed to serve for one semester only.

These negative results of a two year effort to recruit full time permanent personnel raise serious questions as to where the faculty lies. Prima facia it would seem that a law school such as this one, an integral part of one of the largest and most distinguished universities in the country, would possess such a potential for development in terms of location, salary scale, physical facilities, student body, living conditions, etc., that little difficulty would be experienced in fully staffing its faculty with outstanding scholars and teachers. What, then, are the reasons for the stalemate of the past two years? The answer is to be found in certain attitudes and practices on the part of Dean Coffman and in the poor reputation which the school has developed.

Touching upon the Dean's attitudes and practices it must regretfully be noted, in the first place, that Dean Coffman's anti-Semitic prejudices make it unlikely that any person of Jewish extraction can be appointed to the faculty so long as he is Dean. This prejudice is manifested in the following statement which he has made in the presence of Professors Jones, Chadbourn, Verral[l] and others: "The first one hundred members of my faculty will be non-Jewish." In addition, Professor Perkins informed Professor Rice in the presence of Dean Coffman and with Coffman's tacit approval: "The one hundredth man we hire here will be a Jew." Dean Coffman's attitude is manifested also in his files of correspondence respecting appointments to the faculty. In October, 1953, Professor Chadbourn, as chairman of the faculty committee on additions to the faculty, requested of the Dean and was granted permission to study these files. In the file entitled "Applications and Invitations" Professor Chadbourn discovered the following items indicative of the relevance in Dean Coffman's mind of racial considerations:

1. Copy of a letter from Dean Coffman to Professor Warren A. Seavey of Harvard. The letter is dated January 3, 1951, and makes inquiry respecting the qualifications for memberships on this faculty of two Harvard Law School men. In the letter Dean Coffman questions Professor Seavey in the following terms: "Do you know if either of those men is a member of the chosen race?"

2. Copy of a letter from Dean Coffman to Mr. Philip J. Hennessey, 816 Connecticut Avenue, Washington, D.C. The letter is dated March 19, 1951, and makes inquiry respecting the qualifications for membership on this faculty of a certain Mr. Warner. In the letter Dean Coffman questions Mr.

Hennessey in the following terms: "Do you know whether his name has always been Warner, or can you tell me anything about his racial background?"

3. The curriculum vitae of a foreign scholar. On the first page on this document, written in large letters in red pencil in Dean Coffman's hand, is the word "JEWISH."

4. The application of a Mr. Feinstein. Attached to the application is a notation in pencil in Dean Coffman's hand which states as follows: "Not much personality. He is very Jewish looking and acting. LDC."

No effort is made here to maintain that any of these men was on his whole record qualified for membership on the faculty. However, racial background should not in itself disqualify any person from membership on this faculty. There are many distinguished Jewish law teachers who should be regarded as eligible, and excluding them from consideration can only militate against the welfare of the school.

In the second place, Dean Coffman has set up and applied an exclusionary formula which he refuses to define or explain, the exact scope of which cannot therefore be stated. This formula he states in words to the following effect: "I will have no left winger on my faculty." At the faculty meeting of April 6, 1955, Dean Coffman made a statement to this effect. Professor Chadbourn thereupon asked him what he meant by "left winger." Dean Coffman refused to state. Then Professor Chadbourn asked in substance as follows: "Suppose the majority of the faculty were in favor of a man but you considered this man to be a 'left winger,' would you refuse solely on this ground to recommend him for appointment?" Dean Coffman replied that he would so refuse. (Professors Chadbourn and Rice then requested that the minutes of the meeting should set forth this colloquy verbatim. Subsequently the minutes of the meeting, prepared by Assistant Dean Verrall, omitted all reference to "left winger.") At this same meeting and after several members of the faculty had spoken in favor of Professor Richard Donnelly of Yale, Dean Coffman applied his exclusionary formula, branding Donnelly a person with "left wing tendencies" and therefore unacceptable to him. Professor Rice then inquired what evidence the Dean had that Connelly was a "left winger." Coffman replied that Donnelly was interested in civil liberties and his name had appeared on a brief for the American Civil Liberties Union. Professor Rice then inquired whether this disqualified a man automatically. Coffman replied that, though there was

no automatic disqualification, the circumstances gave the man a "leftist complexion." Professor Rice then inquired as to the source of Coffman's information. He replied that his information came from a letter received from ex-Dean Sturges of Yale Law School. (Although this letter was not read and no request was made that it be read, Mr. Sturges later informed Professor Chadbourn that the letter strongly endorsed and highly recommended Mr. Donnelly.) At this same meeting and after several members of the faculty had spoken in favor of Professor Monrad Paulsen of the University of Minnesota Dean Coffman pronounced Paulsen unacceptable on the ground that Paulsen was active in Farmer–Labor politics and certain members of the bench and bar in Minnesota had "raised their eyebrows about it."

Again, it is not urged that on the whole record either Professor Donnelly or Professor Paulsen or both of them should be appointed to the Faculty. However, Dean Coffman's expressed reasons for opposition were inadequate. There are many distinguished law teachers who should be regarded as eligible for membership on this faculty notwithstanding their interest in civil liberties, political activity, or preparation of a brief supporting the petition of the American Civil Liberties Union. Excluding such men from consideration, like excluding those of Jewish blood, can only militate against the welfare of the school.

In the third place, the present reputation of this law school in law school circles throughout the country is such that affiliation with the school is not a sufficiently attractive prospect to draw any more top flight talent to its faculty. This factor admittedly constitutes a more or less intangible and immeasurable circumstance. However, members of this law faculty have many professional acquaintances and friends in law schools throughout the country. During the year they are in touch with these people for a variety of professional purposes and they meet with them in person at the annual meeting of the Association of American Law Schools. Because of these contacts the members of this faculty can and do guage [sic] the reputation that the school is obtaining from time to time. On this basis it is found that the reputation of this school has deteriorated and that the extent of this deterioration is such that this has become an important factor in explaining why the school is, so to speak, on dead center so far as further appointments to the faculty are concerned.

A specific and recent example is an incident which occurred in August, 1955. At the faculty meeting of April 6, 1955, the faculty voted that the Dean invite Professor Addison Mueller of Yale Law School to visit this campus for the purpose of exploring with him the possibility of his joining the faculty. At Professor Mueller's suggestion the visit was delayed until August, 1955. After Professor Mueller arrived, he was observed in the library of the law school in the company of Dean Coffman by a Mr. Lister, who was preparing with UCLA law students for the forthcoming California bar examination. Lister is a former student of Professor Mueller's in the Yale Law School. Lister approached Mueller and requested a private conference with him, stating that the matter was one of great urgency. Mueller agreed to return to the library later and to talk to Lister. Upon Mueller's return, Lister spoke in substance as follows: He surmised Mueller was considering a job at UCLA and felt compelled to warn Mueller that because of the conduct and reputation of Dean Coffman, he should not join the faculty of this law school.

Instances such as this could be multiplied. They are damaging the school and retarding its growth. The low repute of the school is a fact. Analysis of the causes and factors which have brought this situation about entails consideration of the matters which are mentioned in the second half of this memorandum. In addition to these, however, it is proper to consider the effect on the repute of the school of the fact that three men, well-known nationally, have resigned from the faculty during the brief life span of the school. These are Thomas Dabagh, librarian and assistant dean, Professor Brainerd Currie and Professor Harold Marsh. Of course, the mere fact of a turnover of personnel is normal to any school and is of itself of no significance. What differentiates these cases is that each of these men left primarily because of inability to "get along" with Dean Coffman. When the reason for departure becomes known, as it inevitably does, then the damage to the school ensues and its reputation suffers. In the interest of brevity, the circumstances surrounding the departure of Professors Dabagh and Currie are not here reviewed. It is suggested, however, that consideration be given to inquiry respecting the subject addressed to them.

In the fourth place, the difficulties encountered by this faculty in honest dealing with professional colleagues in other institutions must be noted. These persons constitute for the most part the pool from which additions to this faculty must be selected. These potential faculty members should

and do ask present members of the faculty basic questions respecting the policies of the school and the methods and practices of administering its affairs. The extent of the embarrassment of the faculty in this connection must be gathered from the portion of this report which follows, as well as the matters heretofore discussed.

A final, though less crucial, recruitment problem relates to the Associate Program of the School, under which the School seeks to employ qualified recent graduates of leading law schools to counsel and assist first-year law students. In March, 1955, Professor Maxwell of this faculty, who was on leave teaching at the School of Law of Columbia University, wrote Dean Coffman recommending one of his graduating students at Columbia. The name of this candidate was not presented to or considered by any faculty group until June 17, 1955, when it was presented by Dean Coffman at a meeting of the Curriculum Committee. No appointments of any kind have been made for the Associate Program for the academic year 1955–56.

PART TWO

Dean Coffman's Administration of Law School Affairs

In the period of his association with the Law School Dean Coffman has conducted himself in numerous cases and situations so as to destroy that confidence which should exist between the members of the Law Faculty and the Dean. The cases and situations and the circumstances of each are now set forth.

The Marsh Case. Mr. Harold Marsh was appointed Visiting Professor of Law for the school year 1954–1955. Mr. Marsh states that at the time of this appointment Dean Coffman assured him in writing that, if Mr. Marsh's performance proved satisfactory to the Dean and Faculty, he would be recommended by the Dean and Faculty for permanent appointment to take effect the beginning of the school year 1955–1956.

Mr. Marsh states that early in March, 1955, he asked Dean Coffman whether he would be recommended for permanent appointment and that Dean Coffman replied that Mr. Marsh would be recommended only for a further visiting appointment for the school year 1955–1956. He further states that Coffman advanced as his reason that he needed to know Marsh

better and cautioned Marsh about Coffman's need for "affirmative support" from members of his faculty.

On March 8, 1955, the following members of the faculty conferred, at their own request, with Dean Coffman as to the status of Professor Marsh: Professors Rice, Sumner, Chadbourn and Van Alstyne. The group carried with them the following document signed by those whose names appear at the end:

> March 8, 1955
> MEMORANDUM
> To: Dean L. Dale Coffman
> From: Members of the Faculty of the Law School
>
> It is our understanding that Mr. Harold Marsh, Visiting Professor of Law, is being recommended for another visiting appointment for the year 1955–56.
>
> Since, in our opinion, his academic qualifications are outstanding and his professional performance as a visiting member of this Faculty has been of the highest quality, and
>
> Since it is our belief that we will be unable to retain Mr. Marsh as a member of the Faculty unless he is recommended for permanent appointment at the earliest possible time,
>
> WE THEREFORE URGE that Mr. Harold Marsh be recommended for permanent appointment as Professor of Law, effective July 1, 1955.
>
> [with signature blanks bearing the names of:] James H. Chadbourn, Allan McCoid, Ralph S. Rice, James D. Sumner, Arvo Van Alstyne, Kenneth H. York

This group advised Dean Coffman to the following effect: Mr. Marsh's services had proved of the highest caliber both as respects teaching and scholarly writing. Mr. Marsh would not in their judgment accept another tentative appointment. His performance entitled him to a recommendation for a permanent appointment. His loss would be a serious blow to the welfare of the school and a grievous damage to its prestige. Dean Coffman stated that he agreed with this evaluation and was anxious to retain the

services of Professor Marsh. Upon Professor Rice's suggestion, Dean Coffman then agreed to take the following steps:

1. To confer with the remaining members of the law faculty respecting their opinions as to recommending Mr. Marsh for permanent appointment.

2. In the event these opinions proved favorable to Mr. Marsh, to assure him that he would be recommended by the Dean and Faculty for permanent appointment.

3. To take the measures indicated by 1. and 2. above within the two days next ensuing from March 8.

Dean Coffman also explicitly authorized Professor Rice to inform Professor Marsh that Dean Coffman had committed himself to proceed as indicated above.

In view of Dean Coffman's commitment it was not thought it necessary to deliver the written memorandum to him and it was therefore not presented.

At the faculty meeting of April 6, 1955, Dean Coffman announced that Professor Marsh had resigned. In a general discussion as to the reasons for the resignation, Professor Rice stated that he had informed Marsh of the agreement of March 8, outlining the agreement as set forth in the preceding paragraphs. Professor Chadbourn stated that he recollected the agreement in these terms and inquired whether Dean Coffman had performed the agreement. Dean Coffman stated as follows: "I deny unequivocally and categorically that I made any such agreement." (Later he asserted that those who alleged the existence of such an agreement were victims of "creative memory.") Professor Sumner was asked whether he recollected any agreement and he replied that he did so recollect and that the agreement was in the terms stated above. Professor Van Alstyne was asked whether he recollected any agreement. He replied that he did so recollect and that the agreement was as stated above with this exception: the time limit for performance was not two days but a "few days."

Professor Mc Coid asked Dean Coffman whether, irrespective of any agreement to do so, he had in fact investigated faculty opinion respecting a permanent appointment for Professor Marsh. Dean Coffman responded that he had done so. Professor Rice inquired whether anyone objected to Marsh. No one did so object. Professor Chadbourn stated that he had not. Professor Chadbourn asked Dean Coffman whether he had informed

Marsh of the result. Coffman stated that he had not. Professor Chadbourn then asked him why he had not told Marsh, and Dean Coffman said he did not have to do so until May 1. (If Coffman's statements on March 8 that he favored permanent appointment for Marsh were truthful, his subsequent failure to inform Marsh that the Dean and Faculty favored the appointment was capricious and inexcusable, entirely aside from breach of the March 8 agreement. Laying to one side breach of the agreement, the situation was this: Coffman favored Marsh; the Faculty favored Marsh; Marsh wished to know the facts; Coffman refused to reveal them.)

Subsequently in the meeting Professor Rice suggested that Dean Coffman confer with Mr. Marsh, assuring him of recommendation by the Dean and Faculty for permanent appointment and asking him to reconsider his resignation. Dean Coffman replied that he did not now wish Mr. Marsh to be a member of the faculty, giving as his reasons that Mr. Marsh had not personally delivered his written resignation to Dean Coffman, and that Mr. Marsh had cancelled a social engagement with Dean and Mrs. Coffman, doing this in writing and again neglecting to deliver the writing personally to Dean Coffman. Assistant Dean Verrall then stated that he would not now favor Marsh in view of his resignation.

Mr. Marsh has made an extraordinary record in legal education by virtue of marked distinction in teaching and extensive scholarly contributions to the literature of the profession. He is widely and favorably known in legal educational circles. His departure from this Law School under the circumstances indicated has contributed in significant measure to the impairment of the prestige and reputation of this School to which reference has previously been made.

Attempts to Coerce Faculty. There are three disturbing cases in which Dean Coffman has sought to use his budgetary powers to coerce action by members of the Faculty conformable to his personal wishes.

[The first case, involving a faculty resolution proposed by Professor Alstyne, is as follows:]

> WHEREAS the proper administration of any Law School requires that the respective functions of the Dean of the School and of the Faculty be understood and that each respect and refrain from tranching upon the authority of the other, and

WHEREAS in this Law School there appears to be uncertainty and doubt in the minds of the Faculty respecting the powers, duties and responsibilities of the Dean on the one hand and of the Faculty on the other, with respect to the administration of Law School affairs,

Now therefore be it resolved by the Faculty of the Law School as follows:

(1) A Committee of seven members of the Law Faculty shall be appointed by the Dean and shall be charged with the duty of investigating and reporting to the Law Faculty upon the following matters: (a) What are the rights, powers, duties and responsibilities of the Dean of the Law School with respect to Law School administration; and (b) What are the rights, powers, duties and responsibilities of the Faculty of the Law School, with respect to Law School administration.

(2) The Committee shall seek relevant information from the Dean, the Chancellor at Los Angeles, the President of the University and from any other sources consultation with which is not in violation of University regulations.

Professor Van Alstyne decided further that as a matter of professional courtesy he would give Dean Coffman advance notice of his intention and of the contents of the proposed resolution, and showed the resolution to him. Upon reading the document Dean Coffman stated substantially as follows: that he would regard introduction of the resolution as a personal insult; that Van Alstyne was a young man with prospects for a bright future in the law school; that if Van Alstyne did introduce the resolution this would be remembered by Dean Coffman when the occasion arose for considering recommendations for advancement for Van Alstyne; that it appeared to Dean Coffman that Van Alstyne was being used by Professor Chadbourn and some others on the faculty to further a scheme to attempt to set up an Academic Senate for the Law School; and that reinstatement of Academic Senate responsibility would inevitably destroy the Law School.

As a result of this reaction Professor Van Alstyne changed his decision to introduce the resolution. At a subsequent meeting of the faculty on the same day, Dean Coffman reported that Van Alstyne had consulted him about the respective powers, duties and responsibilities of the Dean and faculty; stated

that he would be glad to explain these at any time to any member of the faculty; and appointed a committee of the faculty to confer with him about the matter. A few weeks later, Dean Coffman stated to Van Alstyne that he saw no need for anything anyway, since both Dean and Faculty already knew the Dean had complete and final administrative responsibility for Law School affairs, subject only to the Chancellor, President and Regents. Such committee did not then meet, nor has it met subsequently.

The second case involves a conversation between Professor Sumner and Dean Coffman. Around the middle of May, 1955, Professor Sumner conferred with Dean Coffman in the office of the latter, at which time a discussion took place respecting faculty salary increases. During the course of the conversation Dean Coffman stated that he was "not going to give anybody any benefits until this situation on the faculty is cleared up."

[The third case is as follows:]

The foregoing furnishes a background for a discussion of coercion of a different nature. Dean Coffman proposed to the faculty committee that Professor Hawkland of Temple University be invited to teach the course in Corporations for the spring semester, 1956. Professor Sumner expressed reservations with respect to the proposal. Dean Coffman replied: "How would <u>you</u> like to teach Corporations?" (To understand the threat involved here it must be understood that Dean Coffman claims the unconditional power to assign courses and Sumner has not taught Corporations and could not do so without giving up his specialties.)

Attitude Toward Faculty Meetings and Faculty Committees. In the typical American law school the administration of the affairs of the school is regarded as within the joint jurisdiction of the Dean and faculty. The faculty participates both by way of deliberation, debate and vote in periodic meetings of the entire faculty, and also by way of committees of the faculty, each charged with the duty of investigation and report respecting some specific aspect or aspects of law school affairs. Two important and usual committees of this type are the committee on curriculum and the committee on additions to the faculty.

During the first three years of the existence of this school this faculty had no committees on curriculum or additions to the faculty. So-called faculty meetings consisted of weekly luncheons held each Friday. No agenda of

business was furnished in advance. Often no business at all was transacted. Typically, when any business was undertaken it was not brought up until the conclusion of the luncheon, at which time there was frequently inadequate time for consideration and debate since some members of the faculty had to return to the school to conduct two o'clock classes.

During the academic year 1950–1951 Professor Brainerd Currie presented a formal memorandum to the Dean and faculty suggesting inter alia that committees be organized and that the faculty separate its social activity and parliamentary function by holding regular faculty meetings, apart from luncheon gatherings, with adequate opportunity for deliberation and debate. Dean Coffman opposed all of these proposals.

No significant changes were made until early in the fall of 1953. At that time Professor Chadbourn suggested a committee on additions to the faculty. A few weeks later Professor Sumner suggested a committee on curriculum. In each instance Dean Coffman expressed doubts as to the utility of such committees but nevertheless did appoint each of the two committees.

At the conclusion of the last regularly scheduled luncheon in May, 1954 Dean Coffman read a document which he described as the curriculum proposed by the curriculum committee for the next academic year. Dean Coffman then commented that the committee wished him to reduce his teaching load, stating "They want me to give up these classes" (referring to the course in Torts). Professor Sumner protested that the document could not be considered as proposed by the committee since the committee had not yet met. Coffman then denied he had said the curriculum was proposed by the committee. It appeared from the discussion which followed that what had actually transpired was this: Dean Coffman had on separate occasions called in to his office individual members of the committee, showing them the curriculum which he proposed.

At the same meeting Professor Rice proposed that the Friday luncheons be abandoned and that in the future the faculty should hold regular monthly meetings in the law school. Professor Chadbourn spoke in favor of this and suggested further that an agenda be prepared for each meeting and be furnished each member of the faculty in advance of the meeting. Dean Coffman expressed his preference for the weekly luncheon type of meeting. A majority of the faculty, however, supported Professor Rice's proposal.

The fall semester, 1954 opened in September. As of October 26, Dean Coffman had neglected to call any meeting of the faculty. On that date Professor Chadbourn sent Dean Coffman a formal request to call a faculty meeting, coupled with a request that certain items be placed on the agenda. After an interval (during which Dean Coffman upon one occasion said to Professor McCoid that the Regents had told him that he did not have to call any meeting) Dean Coffman did call such a meeting and the agenda suggested by Professor Chadbourn was discussed.

In the academic years beginning in 1951 and ending in the spring of 1954, minutes of faculty meetings were kept successively by Assistant Professors Jones and McCoid, who of course had and have no tenure. During the entire period that they kept the minutes Dean Coffman corrected their reports and failed to call for reading of the minutes at faculty meetings except upon insistence of the faculty. (During the academic year 1954–1955 Dean Coffman appointed his Assistant Dean, Harold Verrall, as Secretary.) Some of the amendments to the minutes were minor; some were not. For example, in the next to last meeting of the academic year 1953–1954, Professor Chadbourn stated that the curriculum committee should meet as a group and function as a group, reporting to the full faculty. In the last meeting of the 1953–1954 academic year the minutes were read, including this comment. However, when the minutes were finally typed up, after review by Dean Coffman, the substance of this comment was deleted.

Refusal to call faculty meeting. On January 12, 1955, sometime prior to 4:00 P.M. a notice signed by Frances McQuade, Administrative Assistant to Dean Coffman, was posted in the Law School announcing that a course in Trade Regulations previously scheduled would not be given during the second semester. This course was to have been given by Professor Jones. It also announced that a course in Labor Law, which he (Coffman) was to have given would be taught instead by Professor Jones. (The result of this change was that Dean Coffman was relieved of all teaching duties for the academic year 1954–1955.) This notice was posted without prior consultation with the faculty as a whole or with the curriculum committee. Indeed, that committee met with Dean Coffman from 4:00 to 4:30 P.M. on the day the notice was posted, none of the members then knowing that the notice

had been posted, but the committee was not informed of the change. The matter was first mentioned by Dean Coffman after the adjournment of the committee meeting, when Professors Rice and Sumner had already departed, and then only as a tentative and "off-the-cuff" proposal. Professor Van Alstyne states that he left with the definite impression that no decision had been made with respect to the matter.

Following the posting of the notice, all of the non-administrative members of the faculty teaching full time except Rollin Perkins requested a faculty meeting with respect to the matter. This was done in writing, signed by Professors Chadbourn, Marsh, Rice, Sumner, Van Alstyne, York and McCoid.

Dean Coffman refused to call a meeting and instead called some, not all, of the faculty members into his office one at a time and stated to some of them that he had complete power to schedule and assign courses. His refusal to call the meeting made it impossible to take formal action on the subject since the next regularly scheduled meeting of the faculty did not occur until after the second semester had started.

Faculty Views on Law Review. During the spring of 1953, the faculty discussed the establishment of a full-scale law review to supplant The Intramural Law Review then in operation. No vote was taken, but the majority of the faculty opposed an initiation of the full-scale review in the fall of 1953. Nevertheless, without further discussion of the subject with the faculty, Dean Coffman directed Professor McCoid to begin it in the fall of 1953 and it was so initiated.

Class Schedules. In this section Dean Coffman's attitudes and practices as regards Faculty meetings and Faculty Committees have been explored. This branch of the report may be concluded by referring to a matter of lesser moment, namely, the matter of scheduling the time when classes shall meet. This is generally regarded as solely within the jurisdiction of the Dean. Normally, no Faculty would wish to concern itself with such a minor task of "housekeeping" other than to express the personal desires and conveniences of its members, then trusting the Dean or his assistants to reconcile the needs of students and the wishes of Faculty as near as may be. However, even this apparently minor power of preparing the roster of classes is, as has been discovered, capable of being arbitrarily exercised

with detrimental effect. This has not been a recurrent evil, but one striking illustration as follows is a matter of record: In scheduling classes for the Spring of 1954 Dean Coffman scheduled a third year elective course taught by Professor Chadbourn and another taught by Professor Rice for the same hour. This, of course, meant that students who wished to elect both subjects were unable to do so. Professor Rice pointed out to Dean Coffman how the schedule could be changed to avoid this conflict without producing other conflicts or imbalances. He requested that the schedule be revised accordingly. Without explanation or reason for his decision Dean Coffman refused.

The Hogan Case. In the fall of 1952 a student named John C. Hogan enrolled at the law school, taking less than the normal number of courses for a first-year student. At the expiration of his first year he was notified that under the rules of the school he would not be permitted to enroll in the fall of 1953 inasmuch as he had not obtained the required grade average.

During the fall of 1953 Hogan applied for readmission and his case was twice discussed by the faculty. His application was supported by Dean Coffman but was rejected by the faculty.

In June, 1954 Dean Coffman proposed an amendment to previous rules so as to make them inapplicable in cases where a student took less than a stated number of semester hours of work. The night before the faculty meeting at which this change was proposed, he discussed it with Professor Van Alstyne pointing out to him that if the amendment were adopted it would enable him (Coffman) to readmit Hogan. Professor Verrall, Assistant Dean, stated the same thing to Van Alstyne shortly prior to the meeting, indicating he had discussed the matter with Dean Coffman. At the discussion of the amendment in faculty meeting Dean Coffman was asked how this amendment would affect the Hogan application. He responded that he did not know; that he had not thought about it.

Conclusion

A majority of this Faculty have taught in other law schools. Out of this experience they have learned to expect and to accept as normal a certain amount of disagreement between Dean and Faculty and between members of the Faculty themselves. No one is so naive as to expect or to attempt

to require total harmony and agreement. However, the cases and situations cited in this memorandum cannot be dismissed as the product of normal and routine differences of professional and personal opinion and of typical clashes of divergent personalities and temperaments. The incidents recited in this memorandum are so destructive of mutual confidence and respect that they create relations between the Dean and Faculty which are incompatible with the welfare of the School. In the atmosphere which results the School cannot progress and it is in serious danger of further retrogression. Therefore, it is necessary to acquaint the Chancellor with the facts in order that he may take whatever action he deems appropriate for the present good of the School and its eventual development into the outstanding institution it can yet become.

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FINDINGS

[Report of the Chancellor's Committee on the UCLA School of Law controversy][1]

May 24, 1956
Chancellor Raymond B. Allen
Campus

Dear Chancellor Allen:

The committee you appointed April 9, 1956, to investigate the controversy between Dean L. Dale Coffman and certain members of the School of Law faculty submits the following report and findings.

We have individually and collectively analyzed the documents you submitted to us, including copies of (1) the memoranda of allegations submitted to you by the eight dissenting members of the Law faculty; (2) Dean Coffman's rebuttal or explanation of the allegations in these memoranda, with supporting statements or letters from Professor Rollin M. Perkins, Professor Harold E. Verrall and Dean Roscoe Pound; (3) written statements voluntarily submitted by witnesses who appeared before the committee; (4) letters to Chancellor Allen or to the chairman of the committee regarding the reputation and character of Dean Coffman and Professor

[1] For further information, see the Editor-in-Chief's introduction on page 1 of this volume: 11 Cal. Legal Hist. 1 (2016). This is a verbatim transcript in all respects.

James H. Chadbourn, and also regarding the reputation of the School of Law; (5) excerpts from confidential letters to Chancellor Allen in reply to inquiries he had addressed to administrative heads and professors of law schools throughout the country, who knew one or more of the principals in the controversy or who were aware of the controversy — these letters were from two chancellors, nine deans, and seventeen professors from leading universities across the country. These and other relevant documents (originals or copies) are submitted as Exhibits one to eleven to this report.

For our analyses of the documents of items (1) and (2) referred to in the preceding paragraph, we have arranged the allegations and their rebuttals in juxtaposition on large sheets of paper. The allegations of the eight complaining faculty members are on the left side of each sheet; the rebuttals of Dean Coffman are in the middle; and the statements from Dean Pound, Professor Verrall, Professor Perkins, and others are on the right. These allegations or issues and their rebuttals, indexed for convenient reference, are submitted as Exhibit 1.

The allegations and rebuttals concerning anti-Semitism and "left wingers" speak for themselves as presented in Exhibit 1, and, as background information that undoubtedly contributed to the controversy, we carefully examined the documents in Exhibit 1; we were unable to obtain from the witnesses we interviewed any additional relevant evidence on these two issues. After we had heard and analyzed the testimony of witnesses we found that, although these two issues, and also several other issues or allegations, were significant in contributing to the schism, the fundamental issue or question was, has the Dean lost the confidence of his faculty, and, if he has, can he regain and maintain that confidence?

From the beginning of our investigation of the schism we have endeavored to find some promising meeting ground on which we could help you and the disputants mend the schism between the faculty and the dean. We regret that we have not found this promising meeting ground. We hope that the evidence we have obtained from the interviews and the findings we have made will help you and President Sproul make such decisions as will best serve the welfare of the School of Law and the University. We shall be pleased to confer with you and the President, if you so desire, to further clarify or amplify this report.

Summary of interviews. The committee conducted interviews with the following persons, in the order in which their names appear: J. H. Chadbourne

[sic], R. S. Rice, L. Dale Coffman, Arvo Van Alstyne, K. H. York, J. D. Sumner, R. C. Maxwell, E. A. Jones, A. H. McCoid, H. F. Verrall, R. M. Perkins, Justin Miller, Judge W. C. Mathes, M. Philip Davis, Paul Hutchi[n]son, Judge Frederick Houser, Frank Balthis, and John Canaday. Messrs. Chadbourne [sic] and Rice were interviewed together and the five past presidents of the Alumni Association came, at their own request, as a group. All others were interviewed singly. Each interview took from one to three hours.

Following is a brief summary of each of the interviews, along with an attempt to analyze the general impression which each of the witnesses made on the committee.

J. H. CHADBOURNE [sic]. The witness amplified many of the charges contained in the September memorandum. He stated that no modification of the present method of administration of the Law School would be of any avail. "It is not a question of management, not a system, but a person." He stressed the "lack of leadership," "abuse of power," "imperious attitude" of the Dean. He stated that he would be forced to resign if the Dean remains. Not only by his statements but by his manner and his tone, the witness made it quite clear that he is committed to a course of action which would preclude any reconciliation. He stated that the return of the Law School to the Academic Senate was not an issue in the controversy.

R. S. RICE. This witness generally corroborated Chadbourne's [sic] statements and cited the fact that of the thirteen men whom the Dean had appointed over a six year period, three had left under circumstances that indicated their dissatisfaction and eight are now desirous of leaving. In reply to a direct question he said that he would certainly look for another position at once if the Dean remained. He agreed with Chadbourne [sic] on the issue of the Academic Senate. (See Exhibit 5.)

L. DALE COFFMAN. The witness took the position that the situation in the Law School had been brought about by the machinations of Chadbourne [sic] with the possibility of instigation and connivance of unnamed persons outside the Law faculty. Upon further questioning along this line he produced no evidence of outside interference. He minimized the involvement of all members of the faculty with the exception of Chadbourne [sic] and Rice, and was very positive that no one would resign. Upon being asked what remedies he would suggest for the situation, he said emphatically that all that

was needed was the assurance to him and his faculty that the Administration backed him without reservation. "A statement to this effect would settle the whole issue in a minute." He stated repeatedly that he sought the advice of the faculty in all departmental matters and that every new appointment had had the unanimous approval of the faculty. He was equally emphatic, however, in the opinion that all decisions must be made by the Dean and that no Law School could be successfully operated by faculty control.

The witness stated that Chadbourne [sic] had established a reputation as a "trouble maker" before he came here and that evidence to this effect could easily be adduced from persons whom he named (and who were later interviewed by the Committee.) when asked to explain how Chadbourne [sic] could have induced seven other members of the faculty to join in the "revolt," he said that they had been coerced by the threat that control of the Law School would soon pass from the Dean to the Faculty and that they should be aware "on which side their bread was buttered."

On the whole, the attitude of the witness was so confident that the Committee began to entertain the hope that the affair might have been greatly exaggerated and that only the two faculty members previously interviewed might have been seriously involved. This hope, however, was soon dimmed, if not totally dispelled, by the six ensuing interviews.

ARVO VAN ALSTYNE. This witness also stressed the accusation of lack of good faith on the part of the Dean. The expression "lack of integrity" was repeatedly used by this witness and the subsequent ones. When asked to name specific instances, the witness named especially the Marsh Case (detailed in the memorandum) and added that since then he "believed the situation to be beyond repair." Questioned further regarding the possibility that the Marsh Case might have been based upon a misunderstanding on the part either of the four faculty members present or the Dean, he emphatically denied such a possibility and submitted as supporting evidence copies of notes purported to have been made by him (Van Alstyne) in March and April 1955, immediately following the meetings when the Marsh matter was discussed. (See Exhibit 7.)

Van Alstyne made an excellent impression on the Committee. He was restrained in language but firm and quite immovable in his position. Subsequently he submitted a written statement, appended in the Exhibits.

K. H. YORK. Witness stated that, while he was not one of the four men present at the Marsh incident, his complete loss of confidence dates from then. He added that, however, he had been "uncomfortable since (his) arrival here, including two years in visiting status." In reply to questions he stated that he did not believe that "the question of bringing the Law School back to the Academic Senate is an issue. I have not discussed this issue with anyone outside the Law School." In conclusion, he reaffirmed his "wholehearted agreement" with the memorandum of September 21, 1955.

J. D. SUMNER. Witness brought a prepared statement from which he read. This statement, written in very strong language, impugned the Dean's competence as well as his integrity. (See Exhibit 8.) In response to further questions, witness stated that he did not believe that return of the Law School to the Academic Senate was an issue in the controversy.

R. C. MAXWELL. Witness stated that he believed all charges in the memorandum of September 21, 1955 to be true, although he did not have personal knowledge of each individual item. He said flatly that he had "completely lost confidence in Coffman as Dean. I have absolutely no confidence in his integrity." He stated that he did not believe that the Academic Senate issue had anything to do with the controversy. "This is not a subject of discussion in the (law) faculty. We don't even have a chance to meet people from other parts of the campus."

E. A. JONES. Witness brought a prepared statement which he read and then submitted for the record. (See Exhibit 9.) To further questions, he said, "A compromise is impossible. The impasse is intolerable to all concerned. The men do not trust Dean Coffman."

A. H. McCOID. This witness had little to add to previous testimony, but brought in a document in support of the charges having to do with alteration of faculty minutes. Subsequently he submitted a written statement (See Exhibit 10) which does not differ materially from the others.

H. F. VERRALL. Witness expressed complete confidence in Dean Coffman and characterized the present controversy as a "clash of personalities" and a "struggle for power." He said that he had no knowledge that the Academic Senate issue "is a factor in the difficulty." Asked to suggest a solution to the impasse, he said that abatement of "outside interference" with the

affairs of the Law School would result in immediate calm. Mr. Verrall later submitted a written statement (See Exhibit 4.)

R. M. PERKINS. Witness stated that Chadbourne [sic] was the sole instigator of the trouble and that his dismissal would restore peace. Asked about the Marsh Case, witness said this was based upon a misunderstanding. He indignantly rejected any reflections upon Dean Coffman's integrity and said he had known him (Coffman) since the latter's student days and believed him to be scrupulously honest. He refused to take seriously the threats of eight members of the faculty to resign if the Dean remained. In fact, he said, he would be surprised if even one resigned. Asked directly what he would regard as more disastrous to the Law School, removal of the Dean or resignation of eight faculty members, he replied without hesitation, "removal of the Dean." He explained that even if all eight resigned — which he regarded as completely unlikely — they could at once be replaced by eight equally good men, but if the Dean were removed by faculty pressure, "no self-respecting Law School administrator would dream of stepping into the situation."

Mr. Perkins was calm, judicious, self-assured and very certain of his ground.

JUSTIN MILLER. This witness was invited as amicus curiae and as a former Law School dean rather than as one who had first-hand knowledge of what was occurring in the Law School. He was asked first to discuss the reputation of the Dean and the School. He said that the Dean is highly regarded by most legal practitioners, both lawyers and judges; that he was known as a perfectionist both in his own work and in his demands upon others; that he had been meticulous and thorough in his legal work at General Electric. He further said that the Law School enjoyed a fine reputation with bar and bench and its graduates were easy to place. On the other hand, he said that the reputation of both the Dean and the School among other law schools is unfavorable. Witness had recently attended the dedication of a new law building at the University of Illinois and had spoken with many judges, lawyers, and law teachers. These conversations confirmed his opinion that legal practitioners hold the Dean and the School in high repute, while other schools hold them in very low regard.

Witness said that he had hoped for a compromise solution, but was afraid it was now too late and that "drastic action" might be necessary.

He believed we have a fine law faculty but that the wide-spread dissension indicated the Dean had not succeeded in developing "a working team." When asked the question, whether removal of the Dean or resignation of eight faculty members would be more disastrous, he gave an evasive answer. He said that he "suspected" that a struggle for power was at least a contributing factor in the situation. He suggested that an investigation of Chadbourne's [sic] past activities should be subjected to scrutiny, since he had something of a reputation as a "Dean-buster." In conclusion Mr. Miller counseled moderation and deliberateness in taking action.

JUDGE W. C. MATHES. Witness, a part-time member of the Law faculty, stated that the controversy was nothing but a struggle for power, with Chadbourne [sic] and Rice the ring leaders. He cited an incident at a cocktail party more than a year ago, at which Rice took the witness aside and tried to "win him over" to "his side," by telling him that Coffman had recommended another person instead of Judge Mathes for membership in Order of the Coif. This, the witness said, proved to be untrue. He stated that if Coffman were strongly upheld by the administration, most of the dissidents would "fall in line," and there would be few, if any, resignations.

M. PHILIP DAVIS, PAUL HUTCHI[N]SON, JUDGE FRED HOUSER, FRANK BALTHIS, JOHN CANADAY. These men, former presidents of the UCLA Alumni Association, came at their own request. Some had seen the September memorandum, Coffman's reply, and Dean Pound's letter. They were unanimous in their views, but Messrs. Davis and Hutchi[n]son acted largely as their spokesmen. The latter said that in their opinion we had "the best Law School and best Dean in the country." Hutchi[n]son stated that Coffman enjoyed the highest respect of bar and bench, not only locally but nationally. He expressed surprise that this view was not shared by many leading law schools. He stated most emphatically that he had complete confidence in Coffman's integrity and ability and that nothing could shake him in this conviction. He grew quite indignant over some of the charges and commented that the accusers laid themselves open to action for libel.

Mr. Davis pointed out that the political implications could not be ignored and that "left wing influence could not be shrugged off." He said that in the eyes of conservative elements in the city and state, Coffman was the symbol of resistance to Communist and left-wing infiltration, and that any

disciplinary action against him would be regarded as a left-wing victory. He said that the removal of Coffman would result in revival of all the old accusations against UCLA as a hot-bed of communism, and in a lasting repudiation of the Law School on the part of bar and bench.

Judge Houser strongly supported this opinion and Mr. Hutchi[n]son concluded by saying that they (all five) did not believe any of the charges, but that even if every word of them were true, they would not constitute grounds for any action against Coffman.

The committee then pointed out that the undisputed fact in this controversy is that among thirteen regular staff members, all of whom were appointed on the recommendations of Dean Coffman, eight present members and probably three former members had lost confidence in the Dean. When asked how they would solve such a problem, they made no specific proposals, but Mr. Balthis counseled against precipitate action and suggested that the administration allow a period of about two years for the matter to work itself out.

FINDINGS

After thorough consideration and analysis of the evidence, written and oral, your Committee has arrived at the following findings:

1) We find that, with the exception of Professors Perkins and Verrall, all of the regular full-time members of the Law School have lost confidence in the leadership of Dean Coffman.

2) The primary basis for this loss of confidence on the part of the eight dissident members is a belief that Dean Coffman lacks integrity and honesty in dealing with the faculty.

3) This loss of confidence is based on substantial and reasonable ground; e.g., Dean Coffman's alleged behavior in the Marsh and Hogan cases.

4) The loss of confidence is irretrievable, in the sense that future changes in patterns of conduct by Mr. Coffman, which appear unlikely in any event, would not restore that harmonious faculty teamwork which is necessary to the efficient operation and future development of the Law School.

5) We find that each of the complaining members of the Law faculty independently and of his own free will came to the point of losing confidence

in Mr. Coffman and requesting his removal as Dean; we have found no evidence that any conclusion was reached as a result of coercion, pressure, or the effort of any person to organize opposition to the Dean in a personal struggle for administrative power.

6) We find that the Law School enjoys a favorable reputation among members of the California bench and bar, but that its reputation among law school faculties and legal educators in the United States is poor, and this is a handicap in recruiting able faculty members.

7) We have found no evidence to support a view that the relationship of the Law School to the Southern Section of the Academic Senate is a material factor in the present unfortunate relationship between Dean Coffman and the faculty of the Law School.

Respectfully submitted, [with signature blanks for:]

Gustave O. Arlt [Associate Dean, Graduate Division]
David F. Jackey [Dean, College of Applied Arts]
Neil H. Jacoby [Dean, Graduate School of Business Administration]
Louis B. Slichter [Director, Institute of Geophysics and Planetary Physics]
Vern O. Knudsen, Chairman [Dean, Graduate Division]

EXHIBITS:

1. Issues and allegations, with their rebuttals, contained in the documents presented by the disputants to Chancellor Allen, indexed and juxtaposed for convenient reference and analyses.

2. Letter from John Q. Hervey, Advisor, American Bar Association, to Lloyd [sic] Wright re: accrediting of U.C.L.A. law school and the qualifications of Dean Coffman.

3. Letter from Merton L. Ferson [dean of University of Cincinnati law school] to Raymond B. Allen re: Dean Coffman and the law school controversy.

4. Letter from Harold E. Verrall to Vern O. Knudsen re: his testimony and conclusions concerning the controversy.

5. Memorandum from Ralph S. Rice confirming statements he made to the Committee.

6. Letter from Merton L. Ferson to Ralph S. Rice re: the administration of the School of Law, the existing schism and elements that contributed to it, Dean Coffman, and a suggestion for mediation.

7. Statement from Arvo Van Alstyne re: his loss of confidence in Dean Coffman's integrity and judgment, with three supporting memoranda prepared by Van Alstyne immediately after the occurrence of incidents that he believed had contributed significantly to the controversy.

8. Statement from James D. Sumner, Jr., which he used as the basis of his testimony to the Committee.

9. Statement from Edgar A. Jones, Jr., which he used as the basis of his testimony to the Committee.

10. Statement from Allan Hulme McCoid re: (1) his loss of confidence in Dean Coffman and (2) minutes of faculty meeting of the School of Law.

11. Photostatic copy of statistics of California law schools pertaining to the numbers of their students who have passed the bar examination from 1953 to date.

[APPENDIX:]

Members of the faculty of the School of Law who [were] interviewed [by] Chancellor Allen September 21, 1955:

James H. Chadbourn, Connell Professor of Law
Richard C. Maxwell, Professor of Law
Ralph S. Rice, Professor of Law
James D. Sumner, Professor of Law
Arvo Van Alstyne, Professor of Law
Kenneth H. York, Professor of Law
Edgar A. Jones, Assistant Professor of Law
Allen [sic] H. McCoid, Assistant Professor of Law

Other regular, full-time members of the faculty of the School of Law:

L. Dale Coffman, Dean and Professor of Law
Rollin M. Perkins, Connell Professor of Law
Harold E. Verrall, Assistant Dean and Professor of Law

* * *

SECTION 2

UCLA LAW ORAL HISTORIES

From the Oral History of

WILLIAM H. ROSENTHAL

As a member of the California State Assembly, William H. Rosenthal (1907–1991) initiated and carried to passage the bill to create the UCLA School of Law in 1947. He later served for many years as a judge of the Superior Court.[1]

William H. Rosenthal

Courtesy California State Library, Sacramento, California

* * *

BERNARD GALM (UCLA ORAL HISTORY INTERVIEWER): Judge Rosenthal, we're really going to be speaking about the legislation that you introduced to establish the law school at UCLA, but I would like to begin by asking you to state how you arrived in the California Legislature in the first place. What was your background prior to becoming an assemblyman?

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

ROSENTHAL: I was working for the city attorney's office in Los Angeles under Ray Chesebro, the city attorney at that time. I was appointed to that job in 1937. Prior to that I had been working as a practicing lawyer for three or four years. I was appointed at that time to become a trial lawyer, and I was earning the munificent sum of $105 a month, which was a lot of money at the time. I worked from 1937 in the city attorney's office until 1942, when I decided to run for the vacancy of the State Assembly in my district, referred to as the Fortieth Assembly District, a district in which my brother, Judge Ben Rosenthal, left to be appointed by Governor [Culbert] Olson to the Municipal Court. With that vacancy I kind of decided that I should run for the Assembly, since I was somewhat politically inclined. Politics runs in our family. Both my brothers were in politics. And so I decided to run for the vacancy, which I did. After a very difficult contest I finally won by approximately six hundred votes. I started serving in 1943 at Sacramento.

The first term while I was there I was just a novice and naturally had to learn how to get around. I introduced many pieces of legislation but nothing of any particular note. The second term around I had no opposition at the polls, and I had no opposition for the next five terms, so that I was reelected without opposition, which was very helpful.

In 1945 I introduced a bill on behalf of the UCLA law school because I felt the need for boys and girls who didn't have enough money to go to 'SC [University of Southern California] or some of the other colleges at the time, as Stanford or even up to Boalt Hall [University of California, Berkeley], couldn't drive that far. So I decided it was time to have a law school in Los Angeles County near the major part of the population. I introduced it in 1945, and again being a novice, I didn't know just how difficult it would be. I didn't realize that California was the place where the law schools were maintained. California at Berkeley had all the money and dispersed it in their own way. I didn't realize, of course, that I was bucking a large organization. The bill died in committee. And again, I didn't know why, but I was young and a novice.

GALM: Now, when would you have introduced that bill? In '45?

ROSENTHAL: In 1945. I would say in January, probably, yes.

GALM: And then to what committee would that have been submitted?

ROSENTHAL: To the education committee [Committee on Education].

GALM: I see. Let me ask just one other question: What comprised your district that you represented?

ROSENTHAL: It was the Eastside, commonly referred to as Boyle Heights area, East Los Angeles. A poor district, composed of primarily Jewish people, Mexican people, Negroes, and many, many Asiatics. It was a conglomerate of different ethnic groups.

GALM: And how long had your brother served as assemblyman from that district?

ROSENTHAL: My brother Ben had served there for three terms.

GALM: So, the Rosenthal name was pretty established there?

ROSENTHAL: It was pretty much established, I would think. Nonetheless, I had a very difficult battle the first time, because I ran against the incumbent newspaperman who had access to the newspaper every day, and of course I had nothing.

GALM: Is this a Boyle Heights newspaper?

ROSENTHAL: I think it was called *Eastside Sun* if I remember correctly.

GALM: Who was he?

ROSENTHAL: He was Al Waxman. And incidentally, his nephew is now a congressman from the Fairfax area.

GALM: Henry Waxman?

ROSENTHAL: Henry Waxman. A very interesting observation. But nonetheless, I did win. I then ran as a member of the city attorney's office where I had served for three years or four years. In those days we didn't spend much money like we do today. I think the most I probably spent was $250, only because that's all I could get — some loaned to me by my brothers, some loaned to me by friends, and very little that you could raise. There wasn't that much interest in politics. I would estimate I spent probably about $250 in the whole campaign.

Then, as I say, I introduced the bill, and when I lost it in 1945, I re-introduced it in 1947. I introduced it as Assembly Bill No. 1361, introduced [in] the California Legislature, Fifty-Seventh (General) Session. It was numbered 1361. It was introduced by myself as the main author. Assemblyman Vincent Thomas; Vernon Kilpatrick; Glenn Anderson, who is now the congressman from that area and former lieutenant governor and, of course,

former assemblyman (we were very good friends); Augustus Hawkins, who is still a congressman from that area; Elwyn Bennett, who was the judge and retired; Ernie [Ernest] Debs, who was a supervisor and retired; Willard Huyck, I think he's in the savings and loan; Assemblyman [Alfred W.] Robertson was from the Santa Barbara area, I don't know whether he's still alive or not; and a most interesting name is last, Laughlin Waters, who is a member of the UCLA alumni. So, primarily it was only Los Angeles County members, except for Robertson, who was at Santa Barbara. It was introduced at that time: "An act to provide for a law school at the University of California at Los Angeles, and to make an appropriation therefor."

GALM: Now would these same men have supported the bill in 1945, or would it not have gotten that far?

ROSENTHAL: No, it didn't go far at all. I was told by the lobbyist for UC Berkeley — I shouldn't use the term lobbyist, they were representatives of the university, and, of course, it was a great university — he told me I was too provincial and that we had no right to ask for a law school in Los Angeles County. And I told him we pay half the taxes and we have half the population. I think it's time that the poor kids would have a chance to go to a law school sponsored by the state.

GALM: Why don't we also mention — what was your legal background, your legal education?

ROSENTHAL: I was a graduate of Southwestern University, where I attended law school for a period of five years, from, like, '28 to '34, almost six years. Of course, understand I couldn't go all the time, I had to drop out because of lack of money, lack of jobs: those were the Depression years. It took me almost five to six years to finish my course. So that was my legal background as far as education was concerned. I had worked for lawyers' offices during that time. I remember those days when I earned eight dollars a week working for a law office, taking papers to the courthouse, and then making additional sums of money from serving papers and things of that nature. That's all I can tell you about that.

GALM: Were you born in the Los Angeles area?

ROSENTHAL: I was born in New York City in 1907, October the third, moved to California in 1920. I'm almost a native son, I would say. I've spent [the] most part of my life in [the] Los Angeles area.

GALM: What brought you to California?

ROSENTHAL: My mother's health. She [Rachel Handler Rosenthal] was an asthmatic. We had to move out here to help her health. First, we moved down to San Diego, and that didn't agree with her. Then, she moved to Tucson, and that didn't agree with her, and we wound up in Los Angeles. It was a family of nine people, seven children — four brothers and three sisters. My two older brothers, Judge Ben Rosenthal and Samuel A. Rosenthal, both lawyers, have passed on. I still have one younger brother living in Palm Springs, named David, and three sisters [Bertha, Rhea, Mildred] in Los Angeles. My oldest sister [Bertha] just turned eighty-three today. So, I called her last night to wish her good health. And I've lived here all that time.

GALM: Was Boyle Heights in transition at that time in the late forties, or did that come later?

ROSENTHAL: No, that came later when they started highway roads, the bridges and everything. They dissected Boyle Heights. Most of those people moved over to Fairfax in that area. I left in '53. My term expired in 1953, after five [two-year terms] in the Assembly. The place was pretty well built over and under. Right now, I think it's primarily of Spanish and Negro, or Black, population.

GALM: Now, at that time, you say it was still a rather mixed ethnic [population] but predominantly Jewish.

ROSENTHAL: Oh yes, predominantly Jewish, a lot of Hispanics, Negroes, Asians. The reason that I remember the various ethnic groups is because while I was running for election the first term, I had to eat at every type of ethnic group. I had Russian food, I had Japanese food, and Chinese food, and of course Hispanic food, and Jewish food. So I say I had plenty to eat, and I ate my way through that campaign in the homes of these various ethnic groups. It was a polyglot, a metropolitan group of people in that area at that time.

GALM: Had you come from a similar area in New York City?

ROSENTHAL: I was born in Brownsville. I don't remember much about it. I left when I was about twelve years old. It was a tenement house, poor, respectable. I can't remember now. I would say most of them were of Jewish origin at that time.

GALM: Had you tried to approach, in deciding to put forward the bill, had you approached any UCLA people or university people to gain their support, or gain their interest in it, see what the interest might be?

ROSENTHAL: I'm sorry that I didn't do that, but I didn't contact anyone. I remember vaguely that I asked Joe E. Brown, the comedian, to come up to speak for me, because he was a UCLA loyalist at the time. He did come up, and he entertained and spoke, but that was, I think in 1945, rather than in 1947. But it was to no avail and it didn't pass.

GALM: Do you recall who might have been representing the Westside at that time?

ROSENTHAL: Phil Davis was the representative at that time. It probably would have been better if he had introduced the bill, but he didn't so I did it.

GALM: After introducing it in 1945, did anyone approach you from the university or from the alumni association?

ROSENTHAL: I'm sorry to say that no one did. I don't know why to this day. The only thing I can account for is the fact that I didn't live in the area, that I came from the Eastside, so to speak, and was not the representative for the Westwood area. Now, I think that is the reason, but I don't really know. I don't think partisan politics had any play because this wasn't a partisan bill. As a matter of fact, we took it up in the Los Angeles County delegation composed of Democrats and Republicans, and everyone in the delegation that I remember supported the bill. No one gave me any opposition. So, it was not partisan, since there were more Republicans than Democrats at the time. I remember we were about forty Democrats and — we were closer to twenty and sixty: twenty Democrats and sixty Republicans. So there was a time when the Republicans were in charge, and they were then of course in charge. But unfortunately I didn't contact anyone at the school and perhaps I should have, but I didn't know anyone so I didn't.

GALM: It just seems like it would have been a natural move for them, since you indicated the interest to spearhead it, for them to respond in some way.

ROSENTHAL: I think perhaps that they had something else on their mind. They were concerned with their medical school. I think that was also introduced either at the same time, in '47 or in 1951. I spoke to Davis about it on different occasions, but I got no response from him because I

think he was primarily concerned with the medical school, of which I was also a coauthor.

GALM: At this time would you have had any contact with the Regents of the University of California or with President [Robert Gordon] Sproul about the —

ROSENTHAL: No, nothing from any one of them that I can remember, except the lobbyist for UC at Berkeley, who told me that we were provincial in our request and we shouldn't ask for it.

GALM: What about USC, the University of Southern California law school? That, of course, was the law school in the South.

ROSENTHAL: That's right. At that time it was the only one, practically, outside of Loyola, I think, that was a daytime school. I heard nothing from them either.

GALM: Did you ever sense that there might be resistance upon their part to have a new public law school?

ROSENTHAL: No, I didn't have any of that feeling at all. I think the main objection came from the North, from Berkeley, and of course they wanted to have control. I can't blame them for that. But never did I feel any resistance from anyone.

GALM: Were there a lot of legislators that were USC lawyers in [their] background at that time?

ROSENTHAL: There may have been, but I really don't know. Laughlin Waters attended UCLA, and he gave me all the support that he could. But each one of us had our own little number of bills, and we were just interested in those things ourselves. So when I had the law school [bill], someone else had something else; Phil Davis, I think, at that time had the hospital. They were concerned about their own legislation, and I was concerned about this because I believed in it, and I wanted to have it. I realized that it was going to be a tough battle, because at that time the Senate consisted of forty senators, and still does, but we only had one senator for all of Los Angeles County. Just think, half the population was represented with one senator, and thirty-nine senators for all the rest of the state. Well, you know, I anticipated a fight over there because the North, again, would not give anything to the South if they could avoid it. Senator Jack Tenney was the lone senator

up from L.A. I expected his support if I ever got over to the Senate side. But no opposition from anybody except the North. Even San Diego and San Bernardino opposed it at the time, I remember that. They didn't want the law school in L.A. They would have preferred it in San Diego or probably in San Bernardino. So that was the opposition. It was a local-pride thing. But never any opposition from UCLA, never any opposition from USC or Loyola or any of the schools, not even from Southwestern, my alma mater, so to speak. So no one really opposed it; it was just a matter of getting it through by having the number of votes.

GALM: At this time, was there any discussion about where the law school should be located, other than its affiliation with UCLA? Whether it would be a downtown law school? Or what did you envision that it would be?

ROSENTHAL: No, I didn't get that far in my thinking. I just wanted it to be under the UCLA auspices. I knew that they had enough land out there to justify it, and I knew once it was decreed that UCLA should have one, they would provide space for it.

GALM: Do you feel that you probably thought of it as being on the Westwood campus?

ROSENTHAL: That's right. That was my thought at the time. And probably a night school downtown, as USC had for a while; Loyola had that for a while, a night law school for the downtown citizenry, so to speak, who couldn't afford to go to day school. I probably envisioned that at the time, realizing that Westwood was still a far piece from metropolitan downtown. But my prime motive was to get the law school for UCLA. The other problems would come up afterwards.

GALM: So then, how did the struggle develop?

ROSENTHAL: Well, in 1947 I introduced the bill, as indicated, in the latter part of January. In March it was referred at that time to the education committee. I was a member of the education committee both times. I don't know why, but I was. I observed that there was a bill in for Hastings law school at San Francisco, that they were asking $1,600,000 for an addition to Hastings College. At the time, I wasn't quite sure that they were even part of the state system. I was unaware of that. I've since learned, of course, many years ago that they were part of the state system. It occurred

to me that one sure way of getting my bill through was to take the Hastings bill and introduce it into mine, and then I would get the North behind me. The North was interested in Hastings because it was a prominent law school. Boalt Hall was there, of course, but Hastings was the one that had the bill in.

So, I amended the Hastings bill into my bill. It was amended in the Assembly June 2. Now I introduced my bill originally on January 29, but it wasn't until June that I discovered the request by Hastings University. I amended that school request for $1,600,000 into my bill. I've indicated here the total sum of $2,400,000 "to be expended by the Regents of the University of California to provide and equip adequate buildings for law schools for the use of Hastings College of the Law in the City and County of San Francisco and for the use of a law school or college to be maintained as a unit of the University of California at Los Angeles." And so I had my $1,000,000 request, and they had their $1,600,000. It was all computed into $2,400,000.

Then I took the bill and amended it in committee, and it went through, of course. The North didn't want to jeopardize Hastings College. The Senate, most of them being from the North, wouldn't jeopardize Hastings College, and many of them were graduates of Hastings College. So they didn't want to jeopardize their bill, so they carried mine along with it. Or I carried theirs along, whichever way you want to do it.

The bill then went out of the Assembly, successfully, both Hastings' and UCLA's new building. It went over to the Senate side. They all wondered why I had them both together, and I said that's probably the only way that I could get my bill through. The senators were old friends of mine, and they passed it. It went down to the governor's desk.

GALM: Was there any resistance in passing it in the Senate?

ROSENTHAL: No. They didn't want to [resist] because they wanted the Hastings bill.

GALM: Had this been a tactic that had been used before by any legislator as far as the university was concerned, you know, tying an appropriation to an appropriation for Berkeley?

ROSENTHAL: It was common practice but not insofar as the college was concerned.

GALM: So there wasn't any real precedent that you were aware of?

ROSENTHAL: No. It was a practice. You could amend any bill, you can tie into any bill, you can add to it as they do now in Congress and in the Legislature very, very openly. It was the farm bill that was just amended into some other bill, as you know, and they both were vetoed by the president.

GALM: Ethiopian aid, l believe.

ROSENTHAL: Yes, yes. So that one dies, and both died because they're tied in. It's got to be something that was acceptable to the bill itself. It couldn't be different. Now, the Congress was different entirely, but [in] our laws then it had to be something that was in some way connected with the original bill to which you attached your bill.

And so it went through the Senate, went through the Assembly of course, went to the governor's desk. Then, of course, I was sitting and waiting. I was worried about what the governor would do, since he was from the North, Governor Earl Warren. I thought perhaps he would adopt the philosophy of the North that we weren't entitled to a law school. I think about a week or two had elapsed, and I got a call from his office, asking me to come up. I, of course, went up. The governor calls, you usually go. He was a very fine man, Governor Earl Warren. We visited for a little while, and then he said, "Bill" — he addressed me as Bill, you don't say Assemblyman Rosenthal — Bill — we were friendly — "I've got your bill here in which you've got Hastings College of Law and UCLA law school, and I don't feel that I can give each one the attention that it needs. I don't know whether yours is a good bill or Hastings' is a good bill, or if one is bad, or the other is bad. I'd like to be able to exercise my own judgment on each bill individually." Of course, I thought l would never be able to get my bill through the Senate, or even through the Assembly, because the North predominated, as well as the counties outside of L.A. Of course, that was my purpose, primarily, of putting them together, to get support from the North. So, he said, "Bill, I'm going to send this bill back to the Assembly." Which, of course, left me feeling very, very badly at the time.

I said, "Governor, of course you have to do whatever you think is right." He said, "I'd like you to try it again." Which was fair because he could have vetoed the whole thing and left us both out in the cold, but then, of course, it would have hurt Hastings. As l indicated, what President Reagan did:

He vetoed the bill and killed the Ethiopian thing. It went back to the Assembly and returned for reconsideration. Before that happened, I amended out the Hastings portion of my bill. I believe I did that on June 20. "An act to provide adequate law school facility" — instead of facilities — "for the University of California, and to make an appropriation therefor. Then, it was my bill entirely. We eliminated the Hastings College of the Law, and we just put in the amount we wanted — $1,000,000 to be expended for the UCLA law school. I was concerned about that because I didn't know how they would react to it.

Well, I had acquired some political knowledge at the time, and I realized the only way I would accomplish what I set out to do would be to put out my bill from the education committee first. I passed it, and I put it out on the Assembly floor. Then, I proceeded to get a vote on it. And I was asked, "Where is the Hastings bill, where's the Hastings bill?" I said, "As soon as my bill passes here, I assure you that the Hasting bill will come out of the committee." Of course, I was trusted . . . and they passed my bill in the Assembly.

The same thing happened over in the Senate. I went over there to speak on it, and again they asked, "Where's the Hastings bill?" And I said, "I will bring out that bill just as soon as this one passes the Senate." They understood of course, I believe. They passed my bill, and it went to the governor's desk. Then, I hurried back to the Assembly committee, and I got the Hastings bill out. And something I never have understood is, what happened to the author of the Hastings bill? I don't know yet who was the author. There was never any complaint by anyone that I had misused them or anything like that. No one objected, no one did anything. So, then I took the Hastings bill, and ran it through the Assembly, and ran it through the Senate, and up to the governor's desk. I got my request for an appropriation of $1,000,000 from the finance committee, and that requires a two-thirds vote. We got it in both houses, and both of them, then, sat on the governor's desk.

Then, I was concerned as to whether or not the governor would play politics with the North against the South and possibly sign the Hastings bill, and not the UCLA bill. I think about another week or two had elapsed, or something of that nature, and I got a call: "Come on up, Bill, I'm signing your bill. We ought to have some pictures taken."

I found a little cutout from one of the legal journals [*Los Angeles Daily Journal*], where it says, "The Rosenthal bill (A.B. 1361) now on Governor Warren's desk provides for a law school at the University of California at Los Angeles. An appropriation of $1,000,000 is provided for in the bill to secure buildings and facilities for the law school. Assemblyman Rosenthal said" — and I'm reading from this article — "yesterday that a large library has already been donated for the law school by former Senator Clark." Off the record, I don't know who Senator Clark is at this time. I can't remember. He wasn't of the California Senate because we only had one, Senator Tenney. So, he must have been either a U.S. senator, and I can't remember anyone by the name of Clark at this time. [Senator William Andrews Clark] Continuing: "He added that a building, with the exception of a few alterations, is now available for the law school; said that if the Governor signs this bill, in all probability the law school will be open in time for enrollment at the fall semester in September."

Governor Earl Warren signs A.B. 1361, July 18, 1947, providing $1,000,000 for the construction of a law school at UCLA. Standing (l.–r.): Assemblymen Elwyn Bennett, William Rosenthal, Ralph Dills, and Julian Beck, and State Senator Jack Tenney.

GALM: How did you determine the size of the appropriation, the $1,000,000?

ROSENTHAL: I figured that was the most I'd be able to get. [laughter] I figured let's get enough for a tent, if necessary, and then we can always add to it. Of course, at this time I'm sure we're getting probably $20,000,000 a year from the state, probably more. I don't know exactly, but I'm sure it's a very large appropriation for the school, including the law school, and medical school, and so forth.

GALM: Do you recall whether there were any public hearings connected with this bill as to whether a law school might be needed in the South?

ROSENTHAL: I don't remember any. It was just in committee, and of course in the committee we had a majority of Southern Californians, and so all I just said is we need a law school at the University of California at Los Angeles for the many, many young men and women who would like to attend a state university. And of course, the committee passed it and brought it on the Assembly floor.

GALM: So, as far as you know, was this based on your own recognition of the need, rather than as a result of some study that might have been done to, say —

ROSENTHAL: I hate to say that's true, but it is true. And I don't want to claim all the credit because it took forty-one members to pass it in the Assembly, and fifty-four to get the appropriation, and in the Senate as well. But I was most interested probably. There must have been a lot of interest at the time, but apparently I took it upon myself to push it along. But it took a lot of votes to do it and a lot of moral support, and the Los Angeles contingent gave me all the support that I needed. But very little opposition outside of the North and the one bit of opposition from the University of California at Berkeley, who indicated that it was not needed, provincial, and so forth, small-town stuff. So that's how it came about.

GALM: That's how it came about. Do you recall, once it was passed and it was signed by the governor, did you have any contact with UC people after that?

ROSENTHAL: Not very much. Not very much. It just passed, and I understand that they had a building almost in 1951; they started the law school.

They had some facilities in — well, let me check back a little back now. They had a groundbreaking. I don't know when that was.

GALM: Nineteen fifty-one was —

ROSENTHAL: Nineteen fifty-one. It was a groundbreaking at the University of California at Los Angeles. [Lieutenant] Governor Goody [Goodwin] Knight called me and asked me if I would like to come out to the groundbreaking. I said, "I would like to very much." So, Judge Julian Beck — former Assemblyman Julian Beck — joined us in [Lt.] Governor Knight's car. We all drove out to UCLA, where they had, I think, a tent, and —

GALM: Now, that groundbreaking would have been earlier. The building itself was occupied in '51, so probably —

ROSENTHAL: It must have been a little earlier than that.

GALM: Probably '49.

ROSENTHAL: Probably '49 or '50. Anyway, it was after the session was over. So, it may have been sometime in September or October. And we met in this large tent. Assemblyman Phil Davis was the master of ceremonies. I remember that everyone was introduced. [Lt.] Governor Goodwin Knight was introduced. Then he got up, [Lt.] Governor Goodwin Knight, and said, "I'd like to introduce to you the author of the creation of this law school." And he said, "I'm proud to introduce Assemblyman Bill Rosenthal, to my right," and I got up of course and sat down. Then he introduced Judge Julian Beck. Then the meeting continued. I remember one thing that I don't even want to discuss about it, so I won't.

GALM: I have a photograph of that [groundbreaking] event. It took place on February 15, 1950.

ROSENTHAL: Nineteen fifty. That's interesting.

GALM: I assume that that's what you're referring to.

ROSENTHAL: Dean [L. Dale] Coffman, I think, was the first dean. That's right.

GALM: Right, Dale Coffman.

ROSENTHAL: Where did you get this?

GALM: That's out of the history of UCLA, *[UCLA] on the Move*.

GALM: Were you ever on the campus during the building phase of the law school? Or when did you return to the law school again?

ROSENTHAL: My only time was when I received this plaque by the present dean [Susan Westerberg Prager], which was given to me on September 24, 1983, when I was presented with the plaque: "Honorable William Rosenthal, With the appreciation for his efforts in sponsoring the legislation which created the UCLA School of Law." It's a very beautiful plaque, about an inch wide [thick], perhaps six inches long and three inches wide, in Lucite. It was given to me by Dean Prager, who is now the dean of the law school. I spoke out there at the afternoon meeting of the [law school] alumni. It was presented to me by the Board of Regents member. I can't think of his name at this moment, a very prominent citizen right now.

GALM: Ed Carter?

ROSENTHAL: No.

GALM: From the area, though?

ROSENTHAL: From Los Angeles, he's a member of the Board of Regents [Sheldon W. Andelson]. He knew me as a judge. He knew me as a lawyer. He used to appear in my court. He was very pleased to present it to me, saying that he had always wanted to become a judge like myself. I was very proud at the time. Judge Norman Epstein, I think, was the president of the alumni at that time. He also read from the Assembly bill, which he had in his hand. At that time, he asked me, "Where is Hastings in the bill?" What he had was the last bill; he didn't have the first two. So there was no evidence in the last bill that I had erased that in order to present it individually at the request of Governor Earl Warren. But that's how it happened: I had to take it out and present it to the governor individually, or he wouldn't pass on it at all.

Of course, I was thinking that if my bill died in the Assembly, I'm afraid Hastings' bill would have died too, because I wasn't about to let them get away with that. I was always fearful of what they would do to Los Angeles. There was no reason for it. We represented half of the state, half of the population, more than half of the taxes; we were entitled to have a law school from the state, by a state, and for a state university. It was really needed by many young men and women who were obviously unable to

go to 'SC, or Loyola for that matter, and some of them couldn't even go to Southwestern. I attended at night school. Both my brothers attended night school.

GALM: Judge Rosenthal, I think, in reviewing the notes that I have, probably the occasion that you were speaking about was the dedication of the [law] building in 1951. There was a luncheon meeting connected with that, in which Lieutenant Governor Goodwin Knight was present.

ROSENTHAL: It probably was.

GALM: I think they also then referred to your participation in bringing it about. Had you already earned the title of "Father of the UCLA Law School," or did that just come with the years?

ROSENTHAL: No, everyone referred to it. We had an article in the local paper about two columns wide. They first learned about it recently when I told them about the plaque that I received from UCLA. They wrote a big article calling me the founder or father or whatever you want, but I have been called that for many years by people who knew me, members of the Legislature, judges, and so forth.

GALM: Were you involved in any other appropriations for the university or for the UCLA campus?

ROSENTHAL: Except that I was also a coauthor of the medical school, which Davis authored. But nothing other than that.

GALM: I know in my research for the history of the law school that they soon saw that that appropriation wasn't really large enough.

ROSENTHAL: I'm sure that once I would have gotten this, I would have no problem later on. I suppose later on they were getting a proper appropriation for the school.

GALM: But, as you recall, once you had authored that bill and it had been signed, no one came back to you later for —

ROSENTHAL: I left [the Assembly] in '53. Forty-three to '53.

GALM: What prompted you to leave at that time? What event?

ROSENTHAL: I'd served ten years. We had a young adopted daughter [Lisa] who was about six years old. One day she said to me, "Dad, where

do we live?" Because we went from Los Angeles to Sacramento for the month of January, and then came home in February. Then, we went back in March and stayed there until June or July, and then we came home again. And during the interim, I was appointed to several committees, traveling throughout the state, acquiring information for bills, legislation.

GALM: What were some of the other areas of legislation that you pursued before you left the assembly?

ROSENTHAL: Well, as I've indicated before, I had introduced a bill to abolish segregation in schools. That was unheard of at the time because we didn't know about the South's problems of segregation. But in Orange County, they had two schools, one for Hispanic children and one for the Caucasian children. It was brought to my attention, and I introduced a bill to abolish segregation in schools, particularly aimed at Orange County. I didn't think it was right, proper, or fair. I missed it that session; it was defeated. But Congressman Glenn Anderson, who was then assemblyman, took it up when I left, and he passed it and ultimately got it signed by the governor. So, it takes time to evolve these things. You start it; someone else continues it. My segregation bill in cemeteries was fought terribly by the cemetery people. I won't mention any names. I heard from someone that some cemeteries wouldn't allow Blacks to be buried there, or Hispanics, or even Jews. I fought that, a blistering fight. All the big cemeteries fought. me. I think, ultimately, it was signed, passed.

The [fire] sprinkler system, I was interested in that. Big hotels and big buildings didn't have any. Many people died as a result of it.

GALM: So, you made the decision though that you were going to —

ROSENTHAL: When my daughter asked me, "Where do we live, Daddy?" I'd been traveling up and down the state. She'd go to school in Los Angeles, in Sacramento in February, back in Los Angeles in March. Later on when I traveled around, she was taken out of school. Finally she said to me, "Daddy, where do we live?" It got to me thinking that it was time that I took care of my child. I adopted her. I loved her deeply. I still love her, of course. I thought it was time then to come back to Los Angeles and make a home for her, which I did, of course. I didn't like doing it, because I loved the Legislature; it was the place which I enjoyed very, very much. As I indicated, it was a challenge. You could create new ideas and

new thoughts, new principles, new philosophies, just by introduction of a bill. There was that challenge, which one person could do, and so it was enjoyable, friendly.

GALM: Of your colleagues, who do you recall most as leaving behind? Anderson?

ROSENTHAL: Glenn Anderson and Julian Beck. They were closest to me. Gus Hawkins was very close. Vincent Thomas was very close to me. Laughlin Waters sat in front of me in the Assembly.

GALM: Was there a strong camaraderie or feeling among the minority representatives?

ROSENTHAL: Gus Hawkins, being Black, Glenn Anderson, and myself — all represented the minority groups. Julian Beck, representative of San Fernando, which was mostly Hispanic. I was very friendly with the San Francisco group; Tommy [Thomas A.] Maloney. On St. Patrick's Day, for example, they used to elect the speaker for the day, and we all exchanged names. I became Patrick O'Rosenthal. [laughter] Tommy Maloney became Isadore Maloney. We had a vote to nominate the speaker for the day. I always won. Patrick O'Rosenthal. When I tried to get on the speaker's platform, Tommy used to fight me off with a[n] Irish shillelagh, wouldn't let me get to the speaker's thing. We had fun. Jack Tenney used to play the piano: "My Wild Irish Rose," which was his song that he wrote [correction: the song, "Mexicali Rose"]. Someone else played the organ. It was a fun day, St. Patrick's Day. Everybody had a green carnation. I supplied most of them, because I was having a lot of fun. There was a lot of camaraderie.

We worked very hard in those days. We used to work until midnight, mostly at the tail-end of the session, because we loafed too much at the beginning. And that's the history even now, you know. Somehow, you introduce the bills and you play around and you don't go anywhere. You go to meetings, which breaks up the legislation day. But near the last month when time was getting closer, then we worked like the devil. Committee meetings every day, every night till midnight, and later.

GALM: In reading the background on the bill, I got the impression that it was [passed] because it was introduced late in the session, and that's not really so, is it?

ROSENTHAL: No, because all the bills had to be introduced in January, and we were just allowed two additional bills, as emergency measures, to be introduced after March.

GALM: So, it wasn't as though it —

ROSENTHAL: It was introduced in late July. Nothing like that.

GALM: I guess the other thing was: after it became a bill and the school was established and so forth, you did mention that on one occasion you did meet Dean Dale Coffman, who was the founding dean. Do you recall the occasion of that?

ROSENTHAL: He visited Judge Thaxton Hanson at the Superior Court in Van Nuys. He didn't visit me. I don't know for what reason, but I happened to be sitting in Judge Hanson's chambers. He came in, and I was introduced to him. I told him, "Hey, that was great. You're the dean. That's the school that I created in Sacramento." He looked at me sort of in amazement. I don't know why he did, but apparently he didn't think that was true necessarily. It was that kind of a thing, and as you see, by accident. Many of them didn't know about it.

GALM: So, did you get into any real conversation with him at that time beyond that? Or do you recall?

ROSENTHAL: No. Of course, he was leaving. They were going to lunch, so I just let it go. I kind of get the feeling though that perhaps I should have consulted with him instead of just doing something out of my own whim. Again, I was naive, I was young, and I thought I could do it. And I felt that I had to do it. I didn't know anyone else that wanted to do it.

I see by the little document here, the *San Fernando Valley Bar Bulletin*, the evening that they gave me my retirement dinner, that I also supported a bill to abolish the selling of babies. They got here: "While an assemblyman [supported] a law that outlawed 'baby selling' and one creating the UCLA School of Law." I coauthored a bill. At that time it was easy to buy babies, so to speak. If someone wanted to adopt a child, they found someone who was willing to give it up, and they would buy it from some source, maybe a lawyer or someone else. I supported a bill forbidding that, and ordering all the adoptions to go through the California adoption society of the state, the state adoption department [Bureau of Adoptions]. Because you

never knew who the parents were. You would deal with a third party who would arrange with the mother of the child to have a baby, or if she was having a baby, that party would look for someone who wanted a baby. And there was some quid pro quo, I didn't know what it was, money of some kind. I thought that was bad, because the person who adopts the child — we adopted our child — didn't know who the parents were. And never know what background they had or anything. But when you go through the Department of [Social] Welfare, I think it was, they would take a history of the parents, male and female, father and mother, and that would be presented to you, so that you knew who the parents of that particular child was. I successfully introduced that bill, or worked with others who worked with it. I don't know whether I was an author or coauthor, but I had spoken on the bill many, many times. I thought it was very much needed. It passed, of course.

GALM: When did you join the Superior Court?

ROSENTHAL: I left [the Assembly] in 1953. I went into private practice, and I practiced until 1958, at which time I was the state chairman of the Democratic Party. I was successful in getting the Democrats elected: Governor Pat [Edmund G.] Brown, Lieutenant Governor Glenn Anderson, and every other state officer, including a majority of Democrats, which we didn't have in California at that time. Soon thereafter, Pat appointed me to the Municipal Court, 1959, on January 16, I believe. After serving about a year and a half on the Municipal Court, Pat appointed me to the Superior Court — 1961 or thereabouts — and I served on the Superior Court from 1961 until I retired in 19 — Let's see —

GALM: And you then retired in 1977.

ROSENTHAL: And I've been retired ever since. Soon thereafter, we came down to Palm Springs. Since then, I've been working on assignment by [the] Judicial Council to San Diego, Vista, Ventura, wherever they needed someone to work during the hot summer months, [when] you couldn't live very well down here. I've worked on and off everywhere that they have wanted me, and then since last June I haven't worked at all. I was just invited to serve in Vista again, but I told them I wasn't well enough to do it, and I didn't want to work anymore.

MRS. [LILITH] ROSENTHAL: You're well enough.

ROSENTHAL: My wife, to the contrary, notwithstanding. But I worked the Superior Court in Ventura for two to three months and tried some very interesting cases, criminal cases, very, very bad ones, which is the plight of all judges who are assigned to little counties. The judges seem to save up all the stuff they don't want and push it on the visiting judge. I had a lot of those. I tried an awful lot of jury trials. The same is true in San Diego and in Vista. I don't blame them. If something is close to the people there, they don't want to be considered bad, so they'll give it to a visiting judge who doesn't have to run in that area. Let him suffer the consequences.

GALM: During your years as Superior Court judge, are there certain trials that stand out in your career?

ROSENTHAL: I tried ever so many trials I can't tell you how many. I was assigned primarily to the criminal department. Having worked in the city attorney's office as a prosecutor, somehow you get into [the] criminal law element. By that I mean, you study criminal law primarily because you're in a prosecutor's office. When you go out in private practice, the people that knew you as prosecutor come to you for help. Then my practice became more criminal than civil, although I handled the other civil matters, domestic relations, corporate law. But mostly, it was criminal law. So wherever I went, I was always assigned to the criminal department. I was presiding judge of the criminal department in Van Nuys, well, since the building was created.

As a judge in the Municipal Court, I tried to consolidate all the municipal courts into one Municipal Court, instead of twenty-nine, to save a lot of money. We have courts in places where they're not even needed, but they're Municipal Courts, and they all get Municipal Court salaries. We took the Justice Courts and consolidated them and made Municipal Courts out of them. So, where they were getting probably $500 a month, they got the judicial salary of a Municipal Court judge. I handled the legislation, as a matter of fact, when I was an assemblyman, to create the Municipal Court system in the state of California, to abolish JP's wherever they weren't needed and consolidate them into Municipal Courts, in Los Angeles particularly where we had a justice of the peace, police courts, and another type of court — all Municipal Courts actually. I turned around

and consolidated all them into one Municipal Court, making the Municipal Court get more money, and create some basis for disposing of the small courts, which were not needed in many places. The only place we kept the JP, justice of the peace, was in Catalina. We had to have a court there. He doesn't do much work, but he's still a JP there. We couldn't make that a Municipal Court, not justifiably. We had one in San Fernando, a justice court, which we converted into a Municipal Court.

I handled all the legislation for the judiciary up and down the state, from the Supreme Court to the Municipal Court, on changes of the law, on salary increases, on creation of new judges. I handled all the legislation for the Supreme Court through Phil Gibson, who was then chief justice, appointed by Culbert Olson. I handled all the salary increases for the District Court of Appeal, Supreme Court, Municipal Court, and the Superior Court. I handled all the clerks' salaries — Municipal Court clerks, Superior Court clerks.

I handled legislation giving the Superior Court the right over juvenile cases. Juvenile courts used to be handled by JP's, I think, at the time. I'm not sure. But I put them under the supervision of the Superior Courts so that a Superior Court judge has to work on the new juvenile court, all the juvenile courts. That was a very important function. Juveniles were a terrible problem at that time. They were handled slipshod. Oh, they were handled, excuse me, through the probation department and not through a regular court. So at the time, I remember, it was a big fight on probation. They [the probation department] wanted the job because it meant more jobs for probation officers. The Superior Court wanted it. One third body, who I can't remember now, wanted it. But I turned it over, when I was in the Assembly, to the Superior Court. They're responsible for the juvenile courts now and still were.

GALM: Well, certainly during your time on the bench, you must have come in contact with UCLA law graduates, both as colleagues and legal —

MRS. ROSENTHAL: The young man you talked to in Sacramento who gave you — he came from UCLA, too.

ROSENTHAL: When I called Sacramento to get a copy of the bills, I'd forgotten all about it, and then you called me, and you wanted me to have some information; I thought I'd better get it correct.

GALM: We did have his card here. I don't know whether we still do, but we'll put it in the records so that he gets due credit for supplying them.

ROSENTHAL: Yes, I spoke to Robert D. Gronke, principal deputy and legislative counsel, Sacramento. When I called him to get me copies of the bills, I asked for a copy of the bill I introduced back in 1945 and '47. He didn't find, apparently, the 1945 bill, but he found the 1947 bill. He says, "By the way, I'm a graduate of the UCLA law school." I said, "Thank God, I know one who has graduated from the school that I helped to create." He sent me all these copies that I have given to you.

GALM: How do they stand up as graduates?

ROSENTHAL: UCLA law school is marvelous; they have a good record for passing the bar, and they're very fine lawyers.

GALM: So there's been a continuing relationship with the UCLA law school over the years?

ROSENTHAL: Oh, yes. Since that meeting I have had much more contact than before.

GALM: I'd asked you about President Sproul. But it came as a great surprise [to me] that when the legislation came before the regents, President Sproul actually voted against the law school. I don't know whether you know that.

ROSENTHAL: I didn't know that. I can understand now what happened, why I was not so avidly sought out.

GALM: And there was some thought that maybe there was a —

ROSENTHAL: But no one presented that to me. No one indicated any opposition to it. I was entirely unaware that there was any opposition. I was naive obviously in the way I proceeded. But it was my second term there, and I was feeling my oats. I wanted a law school, so I presented it. I probably should have gone to UC and asked whether they wanted one.

GALM: There was some thought that maybe Sproul was honoring a stand that USC president [Rufus] von KleinSmid had taken, asking that a law school not be established.

ROSENTHAL: I was never aware of that, you see.

GALM: You weren't aware? You never ever heard any rumors about —

ROSENTHAL: No one ever consulted, no one ever talked to me about it. Neither the president of the university, or chancellor, or anyone. Of course, there was no dean at the time, so they couldn't oppose too. I didn't hear of anyone turning it down though. I spoke with several deans on the telephone sometimes, and I tried to help recommend someone for admission. But it was very rare, one or two instances, when people said to me, "Hey, you're the so-called sponsor of the law school? Can you get my son in?" I said, "I don't think I can, but I can recommend him."

Of course, as it says in your little document here, by accident they wound up with a law school. It probably was, as far as they were concerned. But I was not cognizant of it. If anyone had told me that they didn't want a law school, I probably would have abandoned any effort. I think I would. I don't know. I was a pretty tough little kid in those days.

GALM: But it was something that you clearly saw a need for and went for it.

ROSENTHAL: I saw a need for it, and I wanted them to have it. I thought that young men and women should have an opportunity to go to a state-sponsored law school. At that time, all they could go to is 'SC, and that was a nice school, I think. I'm talking about the poor kids. Loyola, who has a law school. Then they had to go to Berkeley or Stanford, and of course the people I was talking about couldn't afford Stanford any more than they could afford going up to Berkeley, both being in the North.

GALM: Well, it certainly has provided an opportunity for many men and women to enter the legal field.

ROSENTHAL: I'm very glad of that.

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From the Oral History of

J. A. C. GRANT

J. A. C. "CLIFF" GRANT (1902–1995), professor of Political Science at UCLA from 1930 to 1969, chaired the committee to select the first law school dean and also created the law library. He served as chairman of the Department of Political Science, dean of the Division of Social Sciences, and head of the UCLA Academic Senate.[1]

J. A. C. GRANT

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STEVEN J. NOVAK (UCLA ORAL HISTORY INTERVIEWER): The genesis of your [oral history] interviews, you might say, was the remark that you'd played a big role in the starting of the UCLA law school and the search for its first dean. So if you're ready, let's talk about that.

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

GRANT: Okay.

NOVAK: I guess in 1947 you were made the chairman of a committee that was made up of Berkeley people and UCLA people, and you just sat down and started talking about what should a law school be. How did that come about? What did you decide?

GRANT: Well, as the University of California started, as the UCLA branch of it started growing, we said, "It's got to get out into some of the specialty colleges." And the administration decided, well, one of the most valuable to have and also one of the cheapest to have was the law school. Some specialty schools run into millions just to get some equipment for them, but a law school's a rather inexpensive enterprise. That's one of the misfortunes of it. That's why we have so many of these jerkwater private law schools around the country trying to make money on the deal, and it's messed up the whole legal profession and the whole educational scheme in law schools.

I know one of them in Los Angeles — I had given away most of my valuable law books. Because, see, when I went to UCLA, they didn't have a law library, and it was too far downtown, the L.A. County [Law] Library, to go all the time, so I gradually over the years built up quite a law library of my own. I had several hundred volumes. A few hundred of them I still have, as a matter of fact. But I gave the ones that were of most value to the new law schools that were developing, including UCLA, and some to the county law library. And then I ended up with a lot of stuff that they didn't need, but it was good basic material, and I offered it to one of the local private law schools. And you know the reply? "We can't afford a library." They were teaching law, and they were accredited to the extent that after four years of study instead of three, you could take the bar exam and if you passed it you could get to be a lawyer, but they couldn't even afford a law library. Well, that's sad.

So we said, "We're going to have a law school on this campus. It's just as important as having an engineering school." So having been chewing the fat on that for years, knowing it was inevitable, finally the Legislature passed a statute that made a grant of I think it was $1 million — I got it later increased to $1.5 million — for a building to start a law school. And a funny thing happened at that time. Hastings College of the Law, the so-called law department of the University of California in San Francisco — which

had been founded on the basis of a will by the first chief justice, [Serranus C.] Hastings, in which he gave $100,000 to the state — said, "If you accept it, you've got to guarantee 6 percent interest per year on it forever, and that will be to support the Hastings College of the Law, which shall be the law department of the University of California." And so for years, all Hastings got was $6,000. It stayed over in San Francisco. Berkeley decided they wanted a law school. They said, "We can't have one by that name because of the law department of the university over there across the bay, so we will start a school of jurisprudence." So the Berkeley school was called the School of Jurisprudence, but everybody knew it was a straight law school, handled in the normal way. The other one [Hastings] worked with this $6,000, and then it fell into the habit of hiring a lot of retiring professors from law schools, famous men who still wanted to teach, and so they brought them in at a fixed salary. They could give them a pretty good salary because they had no research funds, no travel funds, no pension system, none of the fringes that accompany normal university tenure positions that add up the price, just as the price of labor is not the hourly wage but its — you add on all the fringes, and they double that. So the Legislature, at the time they gave us money for a law building, gave Hastings money for a law building. Now, that's the first time that Hastings started getting on the gravy train. Later, when I was on the University of California president's staff and working with all the developing graduate programs and so forth, they came in and wanted some money for an assistant professor, and we gave them one. That's the first time they started getting in on the gravy train of hiring university faculty and becoming really a part of the university. They had their own self-governing board of trustees. On occasion they preempt somebody off our regular university Board of Regents [laughter] and put them on the Hastings board, so that we started growing a little closer. And by the time we started giving them money, they were really regarded as a part of us. It was also becoming a very good law school.

Now, we established this committee. The committee had the task of planning. We had to plan for a building, we had to buy a library. My principal task was to buy the library. I had an idea that a library for this kind of a law school should be a research library, and they gave me $60,000 to buy the basic books for it. We set up a committee, and it was — the consultant was the law librarian at Berkeley. I forget his name. Tom [Thomas S.]

Dabagh had resigned, was now with the Los Angeles County Law Library. I believe his name was [Eldred R.] Smith. Very nice chap. He was our adviser, but he never bothered giving any advice. He said, "Go ahead and run it, Cliff," so [laughter] I ran it. I had such good luck with that $60,000. I couldn't do it now; you can see what's happened to law book prices. One book, Thayer's *Preliminary Treatise on Evidence* [*and the Common Law* (1898)], which I think I bought for about a couple of dollars, now costs you sixty, seventy-five bucks. Very different world. But I had such good luck, having spent that $60,000 — .

By the way, before I finished spending it all, we had picked the new dean and he was here, but he still didn't give me a damn instant's help in doing that work. I had to continue buying the law library. In fact, I took a leave of absence to get out from under it, but I stayed in town doing some writing, and I might just as well have not taken a leave, because the library kept calling me up all the time. One day the girl doing the actual ordering called up and said, "I want some help. I've got a lot of new offers here, and I want you to look them over and see if we should buy any of them." I said, "Well, look, we've got a dean. Have him do it. I'm out of this business." And the reply was, "The total help that Dean [L. Dale] Coffman has given to us in the library was to write us a note and say would we please buy him a Martindale-Hubbell. You may recall that I called you up and asked, 'What in heaven is a Martindale-Hubbell?' You told me it's a law directory. And so we bought him a Martindale-Hubbell." That's all the help we had gotten out of him. So she said, "Please come over and help me." So I did.

Well, I had such good luck with the $60,000 that I went back to the administration and said, "I wish you would give me another $50,000." Or was it $40,000? "Because I have found so many good buys, and the market is just ripe for the pickings." And I added that I didn't want to fool anyone. "I've already got a better law library than they've got at most of" — what we call now the Pac-10. I forgot what we called it then, Pacific Coast Conference or something or other — "a better library than Oregon, Washington, and so forth. Right now we can open, no problem. But there are so many good books out there at such a good price that this is the year to buy them." I said, "If you'll give me $50,000, I'll cut my request for next year by $40,000." They gave me the $50,000 and didn't cut my $40,000. [laughter] I don't know why, whether it was a mistake or what. So we got going with a

wonderful law library, and we now have one of the best ones in the country. Foreign law, comparative law, and all that sort of thing.

I worked out a deal with the L.A. County, because I'm always trying to save money when the university is doing things of this sort. As I say, at that time, Tom Dabagh was the librarian, but they had a foreign law librarian. What was his name? Oh, I know it as well as anything else. [William B. Stern] A little Jewish boy. Very good. Trained in Germany. In fact, he edited the *Index to Foreign Legal Periodicals* when that was first brought out a few years later. And I worked out a deal with him. I forget whether he came to me or I went to him, but I simply said, "We can't afford to buy all these Indian things. Now, look: Here's a private set of Indian reports, here's another private set of Indian reports, here's a third private set of Indian reports. If you've got one of them, you've got everything." But a great law library ought to have access to all three, because you get a citation in one, and they don't have books to transfer you over and so forth, the way we do. And we said, "Well, wouldn't it be a good idea if we guarantee to keep these up-to-date and you guarantee to keep those up-to-date, and we can call each other on the phone if all we have is the citation and need the name of the case to find it in our own. [laughter] Or 'Here's a reference to such and such a case in your book, and it doesn't tell me what the name of the case is. What is it so I can find it in mine?'" It would have worked just fine. We didn't need all these things. And he said, "All right. We'll make out our proposed list." So I took this to the dean [L. Dale Coffman], and I said, "Look, here's a deal I can work for you. Between the two of us, we'll have everything, and yet neither one of us will have to carry more than half the expense." He said, "Don't want a thing to do with it. I'm going to run my own law school. Don't want anything to do with the L.A. County Law Library." Bingo! That killed that.

Well, anyway, I didn't go in too much for the foreign stuff, but I went in a lot for the legal history and comparative law stuff that would be useful to others on campus and the civil law side, rather than the Latin America side. L.A. County had one of the best Latin American law libraries in the country. So I thought we could live with that. But the result was we got a very, very good law library. I'd say now it is one of the best in the country for comparative law, just because we got it so cheaply at the right moment, with enough money and an administration that could see the sense of this

and said, "Let's start UCLA off with the right kind of a law school. The right kind of a law school's got to have a good research library, and it isn't so dreadfully expensive anyway. After all, for a $100,000 we can buy this thing." You pay that to buy a piece of equipment to add onto a linear accelerator, don't you? [laughter] So you see how different it is having a physics department getting going and having a law school getting going. So that was sort of my job. That wasn't the committee's job. I got stuck with that. And so I handled the buying of the law library.

Then we also had to do the planning on the building, and we had to get going on that right away. One of the first things that happened after the committee was appointed and I was made chair of it, the provost — because we called [Clarence A.] Dykstra "provost" instead of "chancellor" in those days. Who was the first chancellor we had? I guess it was Franklin Murphy, wasn't it? I don't remember just when the name switched, probably Murphy. Anyway, Dykstra was called "provost."

Dyke called me over and said, "How about this law building?" I said, "Well, in the first place, $1 million isn't enough." And he said, "Well, what will we ask for?" And I said, "Ask for $1.5 million."

So we asked for $1.5 million, and we got it. Then he called me over and he said, "Cliff, now that you've got $1.5 million, I've got a good deal for you." And I said, "What's the deal?" He said, "How about taking this building and giving me the $1.5 million? I'll give you back a couple of hundred thousand. You rebuild this building and make it into a law building. I'll build a new building." I said, "Why?" He said, "This thing's no good for an administration building."

I said, "Dyke, we love you dearly, and it's not your fault. But you know, there are a lot of us that are going to do our damnedest to keep you and all your successors in this building, so that every morning when you come to work, you can ask yourself the question, 'Why have we never built anything on this campus adequate for the purpose it was intended to serve the day it opened?" This building's no good for an administration building, I admit it. It's not adequate. But it's not adequate for the law school either. We can start with this $1.5 million and we can build one that's much, much better.

NOVAK: Now you're alluding to Murphy Hall?

GRANT: Yeah. But it was much smaller then.

"We're going to build it so it can expand. We're going to put it down on a piece of land where it can expand. And we're not going to build it necessarily so that you can go on up, but we'll build it so you can go on back. We're not going to get caught in the jam everything in this place has been caught in."

I know Ivan Hinderaker, who was in my department and later was the founding vice-chancellor at Irvine and then became chancellor at Riverside, he jokingly said to me one day, "You know, Cliff, in the seal of the University of California, when we put UCLA or UCI around here like this, right in the middle we should have a jackhammer." I said, "Why?" "We could never do anything because of the racket. There was always a jackhammer tearing down what we'd put up to make it into something else." [laughter]

NOVAK: What about a deal like that? I'm sure the regents would approve, but it's really a misuse of what they intended, isn't it?

GRANT: Well, you mean what about a deal of letting Dyke take my $1.5 million and we take his building?

NOVAK: Did things like that go on around there?

GRANT: Oh, yes, things like that went on around there all the time. After all, the physics building [Knudsen Hall] turned into a social science building. Then we got kicked out, and I don't know who's in there now, but we built Bunche Hall. [laughter] Things like that go on all the time. In fact, at one stage of the game, we flirted with the idea of taking the art building [now Perloff Hall] and making it into nothing but political science. We decided, no, that wouldn't be a good idea; we'd rather have a couple of floors in Bunche. And they turned that [the art building] into the architecture building. Oh, yes, things like that go on all the time. There's the old original chemistry building [Haines Hall]. Now look at the monstrous chemistry building we've built [Young Hall]. And I don't know what they use the old chemistry for now. Nothing to do with chemistry.

NOVAK: In the files, I guess there was some talk that you would inherit an old building that someone was leaving to the university, which must now be the [William Andrews] Clark [Memorial] Library.

GRANT: Yeah.

NOVAK: To be closer to downtown?

GRANT: We said, no, we wanted to be on the campus.

NOVAK: Was that kind of a white elephant, that Clark?

GRANT: No, it's now the Clark Library. Now, Loyola [Marymount University], for example, doesn't have its law school on the campus; it has it downtown. In the earlier days, the University of Southern California, their law school was right across the street from the county law library. They had no law library of their own; they used the county law library right across the street. Finally, USC decided they'd rather have the lawyers on the campus. We could see what a valuable asset to the Berkeley faculty the law school faculty was, how active they were in [Academic] Senate politics, what an active role they played and what a good role they played. And we wanted them on campus. So we simply turned that down cold. Not because the Clark Library would not have been a good location.

There's nothing special about it except that it's closer to downtown. Well, what's the advantage of being closer to downtown? At that time, it didn't take very long to go downtown anyway, because Wilshire Boulevard had only been paved two years before, west of Vermont [Avenue] or Western [Avenue] or somewhere there, where it had always stopped until the university was built. You could drive downtown in not too long. And if you were at the Clark Library, you're only halfway there. So what? We saw no advantage of it. It wasn't giving it a downtown location in the sense of USC being across the street from the courthouse and the Hall of Records and everything of that sort. So we just turned it down because we wanted the faculty to be on campus. And if they were out there, they would be going from there down to the county law library. The next thing, they [the administration] would have told me, "You can't get a good enough library because we haven't got space for it there, and they can go down and use the county law library." We didn't want them doing that. We wanted them on campus, because there are a lot of the faculty outside of the law school that need a law library.

NOVAK: Did you foresee that it would be good for the law professors, too?

GRANT: We wanted the law professors to be an intimate part of the campus faculty, and we wanted them to be playing an important role in the

Academic Senate. We simply said, "Thumbs down. We won't even think about that." Well, we won that hands down. Nobody objected. They saw the logic to what we were saying and they said, "After all, the law faculty is very, very important and very active in the Berkeley Senate. We ought to have the same thing here." So we won that without a fight.

NOVAK: Did you play much of a role in actually designing the law school building, getting architects and — ?

GRANT: No. I said, "I don't know enough about that, and I haven't got the time to work on it anyway. You go get your help from Berkeley. The Berkeley law faculty can tell you what a law building ought to look like and [recommend] architects. Work with them and not with us. We aren't interested. All we know is $1 million they say this isn't enough. We want $1.5 million." And we got the $1.5 million. So I handed it over to Berkeley, and they took over from there on until we got our dean. Of course, we had to live in temporary buildings to begin with, but we had a lot of them around; the old Army barracks and stuff.

NOVAK: Then I guess one of your most important tasks was to find a dean for the law school.

GRANT: That was our important task. Because, as I told Dyke, I said that all this committee ought to do, it ought to get a dean and then it ought to quit and we ought to pull out. The dean ought to organize the law school, and we don't want anything to do with it. So we immediately switched our emphasis from being the one to get the ball rolling and to get a site for the building and to get the money for the building and to start buying the law books, and converted ourselves into a committee to pick a dean. We said we were going to do that and then we'd quit. As I said earlier, when we'd done that, I tried to quit and they wouldn't let me, so that I had to keep buying the law library.

NOVAK: I suppose you wrote to people across the country to get nominations?

GRANT: We wrote extensively. We wrote everybody we could think of that would give us good advice. We consulted orally with Stanford faculty as well as the Berkeley faculty. We found the Berkeley and Stanford faculties very, very cooperative, because they said, "We want you to establish

a first-class law school on the Berkeley level at UCLA. We don't want you to start out competing with USC and Loyola; we want you to start out competing with Berkeley and Stanford. [laughter] So that was our whole ambition, to establish that kind of a law school. That's why we wanted it on the campus, that's why we wanted a crackerjack library, and that's why we wanted enough money to have a real building. So we started with the idea, "We're going to be a Berkeley/Stanford-level law school. Period. And we won't think of anything else." As we wrote around for deans, we said, "This is what we're going to be, and this is the quality of person we want." We got a lot of good recommendations from Berkeley and Stanford and all around, and, well, then we just sat down and started chewing the fat about them. The first thing you know, we had a pretty good list of some folks that we thought would be pretty good for deans.

NOVAK: Do you remember any of the specific nominees?

GRANT: Well, our first choice was Lon Fuller. I suppose I was partly to blame for that, for knowing him. But the committee, after it looked over everything and got all of the letters of recommendation, chewed the fat with Berkeley and Stanford faculty and so forth, came up with the conclusion that Lon was the one we really wanted. I'd known Lon at Stanford. He was the prize student in the law school a year ahead of me when I was working for my doctorate in political science, but taking most of my coursework in the law school. He had gone to Oregon, started right off as an associate professor. And then Harvard grabbed him up, and he was one of the leading lights of the Harvard faculty.

We liked him because of his approach. He wrote an article, for example, that everybody ought to read, "The [Case of the] Speluncean Explorers." Instead of writing a little essay on when are you justified in violating the law, he just had these explorers get lost in a cave. They were all very intelligent people, and they sat down and they were chewing the fat about the situation they were in. And they got some contact some way or other with the folks that were going to save them, but they all explained to them that "it's going to take us a certain amount of time to get to you," and they figured out that by that time they'd all be dead. Then they figured out, well, that if they decided every so often they would kill one of their group by lot and eat him that half of them would still be alive by the time they got

saved. If they didn't, everybody would be dead. Everybody agrees to this except one, and he won't agree. And when they're having the lottery, his name is drawn as one of the ones to be sacrificed and eaten, and they do so. Now, is this murder or isn't it, after we get them saved? And so forth. He had that kind of a mind. And yet he was also one of the type we call a lawyer's lawyer, and he taught Contracts at Harvard. Now, if you teach Contracts at Harvard, you're a lawyer's lawyer. Fuller. [laughter] We decided we wanted Lon.

Now, let's see, our second man, and I have a harder time remembering his name — he became dean of the law school at Yale later. Harry Shulman. We said, "We like Lon Fuller. He's our choice. If we can't get Lon, we'd like to raid Yale, and we would take Harry Shulman." And then we made out a long list of other people, and we had some pretty good people on there. We went clear down to youngsters. We had a youngster that struck us as very good, Brainerd Currie. I'll mention him later on, as he was on our first faculty. Brainerd Currie was teaching Conflict of Laws and Quasi-Contracts. And even though he was just a youngster, he had a very good reputation as being very bright and having a broad-gauge mind. So he was on our list, but quite a ways down, because we thought to get started with this at this kind of a level, we had to have somebody who was — he didn't need to be experienced as a dean, but he had to have stature in the profession as being a senior.

Then we found in the middle of our search that Berkeley began to hedge a little on us; we felt they weren't giving us all the people that they could give us. It turned out later that they were going to have to pick a dean themselves, and they'd looked over their own staff — see, they hadn't recommended a single member of their own staff to us, and this worried us. Years later, for, example, Davis took a youngster right out of Berkeley and sent him up to Davis, and he took over as dean. And this was our normal practice. We raid Berkeley. Well, Berkeley wasn't suggesting being raided, and we couldn't figure out why. Well, later it turned out they didn't figure they had anybody even to be their own dean. And they raided Harvard and took Bill [William L.] Prosser. They picked Bill before we got our dean picked.

In fact, Bill came down and conferred with us and gave us some help and so forth on things before he became dean at Berkeley, having accepted

the job but not to be effective until the next year. And in fact, one of the first things that Bill asked me was — I was taking him to the airport, and he said, "What are you going to call your law school?" "We're going to call it School of Law." He said, "You can't do that." I said, "What do you mean? You mean the will?" He said, "Well, yeah, the will bars it." And I said, "Bill, how good a lawyer are you? You're going to let that will stand in your way?" And he said, "You're going to call yours the School of Law?" I said, "Sure." He said, "How do you get around the will?" I said, "Well, Hastings College is the law department of the University of California, but we're going to have the School of Law of the Los Angeles campus." He said, "Well, if you can do that, I can have the School of Law on the Berkeley campus." I said, "Of course you can." So they became the School of Law on the Berkeley campus a year before we were founded. [laughter] They didn't want it to appear that they copied us, and so they beat us to the punch, but it came out of this talk I had with Bill Prosser, driving to the airport.

Well, Bill agreed, and everyone else agreed, that Lon Fuller was our man and Harry Shulman was a crackerjack. So that was our list. So I took it to Dyke, and Dyke said, "Looks to me like you're doing the right thing. This is good stuff. The Berkeley boys said Lon Fuller would be crackerjack; the Stanford boys said you couldn't get two better candidates." So he said, "I'll talk to the president." So he called me up and he says, "Cliff, I talked to the president. The president says he's going to be East and he's going to be at Harvard, and he'll talk to Lon Fuller." I said, "Great. Let's get the ball rolling."

Well, this was disastrous. We didn't hear from [Robert Gordon] Sproul. Time went by, and we still didn't hear from Sproul. I would call up Dyke, and I said, "Dyke, have you heard from Sproul about Lon Fuller?" "No, I haven't. I guess he just wasn't impressed." I said, "Well, gee, Dyke. Can't we get an answer yes or no, or something?" He said, "Well, I'll try." And he tried. I guess he didn't talk to Sproul himself, but nothing came back.

Then Sproul came down to our campus, and I bumped into him at a gathering — I forget what it was. And when we were over in the corner together, I said, "Gee, Mr. Sproul," — I never called him Bob. A lot of people liked to call him Bob, but I always called him "President" or "Mr. Sproul." He was too tall and his voice was too big, and I just couldn't call him Bob. I said, "President Sproul, we're sorry you weren't impressed with

Lon Fuller." He looked at me — he had to look down at me — and he said, "Impressed?" He said, "The man's good." I said, "You mean we could have him?" "Yeah, why don't you try to get him?" [laughter] This was a month and a half after he had said he would see him for us. He says, "Yeah, I would like Lon Fuller."

So I hotfoot it over to Dyke's office, and I say, "Dyke, I just saw the pres, and he says we can have Lon Fuller. He likes him, he's impressed with him." He said, "Well, gee, let's go after him." He said, "You say the Association of American Law Schools is going to be meeting in a couple of weeks. Why don't you go back and see if you can get Lon to sign up?" Well, this began to illustrate the problems that Dyke would later appreciate Paul Dodd was having, why he sometimes fell into hiring people and not knowing just what agreement he did have with the president. I said, "All right, I'm going back and I'm going to talk to Lon. I'm going to write to him that I'm coming to see him, make sure he's going to be there. And what do I offer him?" He said, "Well, you know the University of California. You've been chairman of the Budget Committee; you know the salary scales. You know as much about it as I do." [laughter] I said, "Well, don't you think we can get a figure out of Bob?" He said, "No, we can't get anything out of Bob." I could refer to Bob Sproul as Bob when I was talking to Dyke, [laughter] but I couldn't when I was talking to Sproul. Just as I never called the president of [South] Vietnam by his given name the way everybody else did. I just couldn't say Diem. I had to say Ngo. And that shocked him, because nobody uses family names in Vietnam. It just isn't done.

Well, anyway, l go back, not knowing what to offer him, knowing what the dean got at Berkeley, knowing we could get about the same, but no definite figure, no commitment. But the whole thing fell through. I said, "Lon, we are very, very interested in having you as dean of our law school. And look at the chance you have here to start at scratch in a growing institution which is already first-class, although not top first-class, but is going to be top first-class when you start at scratch with a new building and $1.5 million to build it. You know our salary scale — you can hire top professors. Wouldn't you like to do that?" He said, "Well, two months ago I would have been interested. But it's two months since I talked to your president, and I never heard a word until I got a word from you. By the time I heard from you, I had already made other commitments." He said, "You know, I went

right out of Stanford Law School to be an associate professor at Oregon, and never practiced law a day in my life. Here I am teaching Contracts, a basic course, in a topflight law school. I decided I ought to do a little practicing. I'm joining a Boston law firm. I've already made the — I was dickering about it at the time I first heard about your new school from Bob Sproul." And see, we'd never written to Lon. We'd let Sproul do the whole groundbreaking. He said, "It's too late. I'm not interested." That ended that.

NOVAK: Before you go on, Sproul doesn't come off as a very good leader at this moment.

GRANT: No. This was the biggest disappointment of my life. And you could see why — when I was saying, "What do I offer him in the way of salary and commitments?" "Well, you know, play it by ear." [laughter] Because Dyke said, "I can't get anything more definite than that out of Berkeley if I try." I could see why Paul Dodd got into the pitfalls he got into by going out and actually offering people something, and then he couldn't live up to it. He thought he could.

NOVAK: So then you had your number-two man.

GRANT: So then we said, "Okay, our number-two man is Harry Shulman. And we're almost as pleased if we can get him as we are if we can get Lon Fuller. We'd rather have Lon — he was our first choice. But if we can get Harry Shulman, this committee will be tickled to high heaven, and Berkeley and Stanford will be happy too, because they want us to be in their class." Well, Dyke says, "Okay, I'll make a little inquiry and make sure I want to go along with this. We can have him out to the campus, look him over."

We never got to invite Harry to the campus because, what happened was Dyke was talking to some of his friends on the regents. [Added by Grant during his review of the transcript: This is an error. We did invite him, and what follows came after this visit.] He said, "My committee for the law school's coming up with a crackerjack man. They want Harry Shulman." And then he said, "We think we'll go after him." Well, mentioning that to a couple of regents, they took it back to the Board of Regents, and the Board of Regents took one look at it and said, "Somebody's got to tell Cliff that they can't have Harry Shulman."

I didn't learn this until later. I didn't know what was going on. All I knew was I'd told Dyke, "We like Harry Shulman." The next thing that

happens to me is — and it's less than a week, I guess — I am visited by a regent friend of mine. I can't remember who it was. Now, to this day I don't know. I don't know which regent it was. I found out later that he didn't want to come and see me, but he said, "I think this is wrong, and I don't want to be the one to tell Cliff, but if I don't, the regents will do it with a letter. And I think it's better that I tip him off on the side and prevent this letter from ever coming to a head and being written."

So he comes to me. It's in my private office. He just says, "Hey, I want to talk to you about some stuff." He came in and said, "About the law school."

I said, "Oh, great. That's what I'm interested in now." He said, "I hear you want Harry Shulman for dean." I said, "Oh, we would love to have Harry Shulman for dean." He says, "Knock him off your list." I looked at him, bewildered, and said, "Knock him off the list?"

"Yeah, born in Russia." I said, "My God! Born in Russia so he can't be dean of our law school? Don't you realize he had his picture on the front page of *Nation's Business*? Is that a commie magazine?" "Too bad. Born in Russia. The regents won't take him. Knock him off."

Well, I go to Dyke, and I told him what had happened. I told him which regent it was, but I can't remember who to this day. Dyke said, "Well, if that's the way they feel about it, I guess we'll just have to drop Harry Shulman. Let me check further. No use in insulting the regents." He said, "I'll sound them out." So he sounded them out and came back and said, "Yeah, the regents won't take him." I said, "Well, gee, Dyke, this is horrible!" And he says, "I agree with you it's horrible, but let's look down the list and see what else we've got." So we go down the list.

Now, early in the day, Dykstra, when we first met, had talked to Owen Young, because Dyke and Owen Young were very personal friends ever since he had gone back to be city manager of Cincinnati. And Dale Coffman had been on Young's legal staff at General Electric. And Dale's a very personable person, and Owen Young remembered him as a young, very personable, apparently very bright fellow who was now dean at Vanderbilt. So he had some experience — maybe he'd make a good dean. So he just mentioned it to Dyke. And Dyke brought his name back to us and said, "Better look at Coffman." We said, "We'll look at everybody you can bring us." So we wrote all around about Coffman. Everything we got was a negative: "For God's sake, stay as far away from this as you do from a fire." So he wasn't on our list.

When we went down through the Brainerd Curries and the bright youngsters, he didn't even make the list down there.

So we started working on the list, and we said, "Well, we don't know enough about these other people. Maybe we just better have a couple of them come and look them over and talk to them about it." So Dyke said, "Okay, here's some money. We'll invite them. Which one do you want first?" We invited in two or three. I don't remember how many. It may have only been two or three. Well, they were good men if we were at Loyola. If we were going to establish a Loyola-type law school, these would have been nice boys. But when we wanted to start off as a Berkeley or a Stanford-type law school, these weren't that class. That was obvious in all cases. They'd give us a good law school that would have been accepted in the community, but it wouldn't have been what we wanted. So we said, "No, they just aren't it, are they?" And Dyke agreed. He said, "Well, we just haven't found the right one."

Finally, he said, "Cliff, won't you let me have Coffman visit?" And I said, "Good God, Dyke! You don't ask, won't we let you do something. You're provost. You do whatever you damn please. All we are is an advisory committee." He said, "Yes, but you give me good advice." And I said, "Well, the advice we give you on Dale Coffman is no." He said, "Well, can't I have him in?" I said, "Of course you can have him in. [laughter] Why do you ask me? Just have him in, and of course we'll talk with him." So Dyke invited Coffman. He'd never met him. It wasn't very long before he apologized to me, because Dale came and he met several regents. They loved him. They said, "He's just what we need to take care of this commie-ridden university." [laughter] And that was that. They just hired him right there. Dyke came back and he said, "I'm awfully sorry, Cliff. I should have taken your advice. I should never have had him come to the campus." I said, "But you had him to campus, Dyke. Let's go from here on. We are building; we are not worrying about spilled water." So that's the way we got Dale.

NOVAK: Let me go back a little bit, and then we'll talk about Dean Coffman. Was it common for the regents to interfere in a search, or did they have to give ultimate approval?

GRANT: Oh, yes. They would have to approve the dean of the law school. In fact, they had to approve me as a professor of Political Science. [laughter]

NOVAK: I know you were looking for people of stature and who were scholars, not just practitioners. Did you have a kind of vision of the kind of law school that you wanted to have and that you needed the special kind of dean to — ?

GRANT: Well, we wanted our law school to go the way Stanford and Berkeley law schools were going, that they're interested in life as well as law, that they have a grasp that law is simply one means of social control and there are others — law is a very important one and plays a very important role, but great lawyers are not ones who know the yearbooks cold and don't know sociology. We wanted a broad-gauge law school, yes.

NOVAK: And Fuller and Shulman —

GRANT: Now, they cost a little more. Fuller and Shulman are that kind. Shulman was a labor lawyer. Now, that may have counted against him in the regents, too, you see. He's a very well-known labor lawyer.

NOVAK: I'm sure it did. Well, you weren't a labor lawyer, but you'd had some experience in that area, that's for sure.

GRANT: Yes, I was. That was how I happened to know so much about Shulman. Everything he did struck me as first-class and broad-gauge. Of course, at this time, Yale Law School was broad-gauge. In fact, Harvard had a song they used to sing about Yale: "They teach them everything but law." Yale had hired Walt [Walton H.] Hamilton, a very famous economist, and put him on their law faculty. [laughter] He didn't know any law. But he taught lawyers at Yale, getting over his economic side. Yale was broad-gauge. And we said, "We don't need to go as far as Yale goes. We don't want Harvard saying we teach them everything but law. We're going to teach them law. But we want lawyers that would know that law is just one little phase of life, and it has its imprint on every other phase of life and most phases of life should make their imprint on law." So being that type, we were going to have that kind of man, and Harry Shulman was that type.

NOVAK: I think you postponed the opening of the law school, didn't you, when at first you couldn't get a dean? Was that a disappointment or embarrassing at all to the university?

GRANT: No. No, we said, "We're going to take our time and do it right."

NOVAK: What I was thinking is maybe —

GRANT: So we took our time and did it wrong! [laughter]

NOVAK: You met him that first time he visited, or did — ? Do you recall that?

GRANT: Oh, yes, yes, the committee all met with him. We helped show him around. We treated him as nicely as we could treat him.

NOVAK: And were you impressed by him, like the regents?

GRANT: I was impressed by him as a very personable person. But I was not impressed with him as a scholar, because I'd read his thesis and it was no good.

NOVAK: And how soon did you know that it was a mistake?

GRANT: Well, we knew that it was a mistake the moment they hired him. But we said, "We will do the best we can to keep it from being no worse a mistake than it is." So when we hired him, it was said as a joke, "It was a package deal: in order to get Vanderbilt's football coach, we had to take their law dean." [laughter] They both came out the same year.

Naturally, when the football coach leaves, he takes a part of his staff with him, doesn't he? Because he knows without them he's no football coach. Dale brought three people with him. He brought Rollin Perkins, a very good criminal lawyer, extreme right-wing, anti-this, anti-that, and so forth, but a very good teacher, a very good scholar, a very good man. Rollin Perkins, Criminal Law.

He brought Harold Verrall for Property. Harold's a very different type of person. Harold was sort of a — you thought of a little puppy dog following the dean. I don't think he ever joined any club that the dean didn't tell him to join. He didn't go to any party the dean didn't tell him to go to. I don't think he ever had any idea that he didn't tell him to have. But he taught Property Law, which is about the most antiquated, backwards phase of the law that we have, and he could do that quite adequately. I think he did it quite well. He didn't even use the case method when he lectured; that's the best way to teach Property Law anyway. You don't need to use the case method to learn all there is to know about Property Law. And he was very interested in students. I know one of my students, who was in the law school, said to me once he thought Verrall was the most kindly, most

student-oriented person they had on their whole faculty. He was a nice chap. But I remember the letters we got about him, because you see we had to put all these before budget committees for approval before they could be appointed to the faculty, and you had to explain what they'd written and what their status in the scholarly community was and all that kind of stuff. And the letters we got, for example, from Berkeley and Stanford and Harvard and so forth on him said very much the way I put it, except that one ended up, "But as for stature in the profession, seventeen years in the profession and still at Vanderbilt." Period. That was the one that gave him away. One of these letters used that very language: "Seventeen years or other, and still at Vanderbilt." That obviously meant, "He is not first-rate." Well, after all, you had to give the dean something, and so we gave him Verrall, too.

So he got Perkins and he got Verrall, and then he brought Roscoe Pound. Of course, that gave him a lot of stature in the community, but Pound by this time was eighty-nine or thereabouts, and he was an extinct volcano, running all around the community, giving speeches, quoting ancient cases that didn't exist. I know, because "Bunny" [James H.] Chadbourn got so disgusted with him that he used to take his notebook along and copy down the citations and look them up, and he said, "Cliff, there are no such cases in the yearbooks." Well, nobody ever questioned him on it anyway.

So he started with these three. Then he came to me and he said, "I can't find a Contracts man." And I said, "Well, I don't know any good Contracts men that are willing to come. They're all happy where they are." I didn't mention Lon Fuller [laughter] as a possible Contracts man, but I think I said, "Why don't you write Lon Fuller and see what he'd recommend? Maybe he knows some youngsters, some that he's turned out." But if I did [mention Lon Fuller], he didn't [know any Contracts people]. And finally he [Coffman] came back again, and he said, "I just can't find a Contracts man." This is where Brainerd Currie came to my mind, and I said, "Why don't you take a Quasi-Contracts man and turn him into a Contracts man?" [laughter] I said, "I'll bet you Brainerd Currie down at Duke might be interested in coming and joining a new enterprise like this." Because all the letters that we had on him indicated that he was going to go places, and the way you go places, although Duke is a very good law school, maybe

you ought to get out and get ahead faster and then go back to Duke. Which is what he did, by the way; he ended up at Duke again. So he said, "Well, that's a good idea. I'll write to him and see." And he wrote to him and he said, "Yeah, I'd be interested and I'd love to teach Contracts," and so we hired him.

Then he [Coffman] said, "I need a law librarian." I said, "Well, the librarian of the L.A. County Law Library used to be law librarian at Berkeley, Boalt Hall school of law" — rather, School of Jurisprudence, excuse me. I said, "He's indicated to me a couple of times, that he'd like to be back in the university. Why don't you call Tom [Dabagh]?" So he calls up Tom, and Tom said, "Sure, I'd love to come out and be law librarian. Cliff's done a crackerjack job getting the thing organized, and you've got a good foundation. They're going to give me $50,000. I can build up that library. You've already got a good library, and I'll have a crackerjack." [laughter] So Dale said, "Okay, come on out and be law librarian." Well, this was sad, of course. I don't know whether Tom was Jewish or not. Earlier, I had flirted with the idea of suggesting to Coffman that he hire Tom's chief assistant and foreign law librarian [William B. Stern]. I said to myself, "That will be a way of getting this thing going off into comparative law and so forth, too." I'd spoken to him and I said, "Wouldn't you like to come out and be our law librarian if I can get you appointed?" He said, "Nope. I don't want to work with that guy." I don't know how he'd found out about him. But I found out later — See, this was a Jewish boy. As I said, I don't know whether Tom Dabagh was Jewish or not. It never entered my mind until right now. I've never given it a thought. He's Armenian; I'd always thought of him as Armenian. But maybe he was Jewish; I don't know if those Armenians are.

But anyway, Coffman, soon after he arrived, when we were making recommendations of faculty, he said, "Well, there are not going to be any Jews on my faculty." He says, "The first two hundred members of the law faculty on this campus are going to be Gentiles." [laughter] Well, I just thought to myself, "Now, how are you going to have a first-class law school with no Jews? We even call it the 'school of Jewishprudence.' [laughter] You just can't do that." Anyway, he'd hired these two that I recommended. And, of course, they were the first two to get fired, too. He hired Brainerd Currie, and Brainerd was a crackerjack. He was a good student, a very

good scholar, a good teacher, and later was stolen from us. I say he was fired. He wasn't fired. He was stolen from us by — it was Pittsburgh — to be their dean. When he walked in to tell Coffman that he had the offer from Pittsburgh, Dean Coffman said, "Good. Goodbye." So off he went. Tom Dabagh should have been fired. He couldn't control his wife. His wife couldn't stand Dale, and she used to insult him in public. She had no business doing this. But she would say right in public at a gathering of, well, a room like this full of people, for example, university or university-connected, she said, "Oh, you old fogy, you wouldn't know anything about this." Always spoke in that kind of a tone and that kind of language. Well, Tom had to get fired. There were no two ways about it as long as he was married to that gal and as long as she made her views so plain and evident and with emphasis.

NOVAK: Well, that's pretty strong to come out so strongly anti-Semitic like that. Eventually, that got him into lots of trouble, of course.

GRANT: Oh, yes.

NOVAK: I don't know if we should go ahead, go forward with that or not.

GRANT: Well, he didn't hire any Jews. Period. But, no, I don't know anything about that side of the story.

I did everything I could to get that law school started off at an even pace. That is, it was right after Dale was appointed that [President] Truman set up the loyalty commission: that's the loyalty boards. Now, when that loyalty board was set up, there were a couple of people on it from the Berkeley law school. Dean [Edwin D.] Dickinson was on there, I know, and someone else from the law faculty. The dean of Stanford was there, [Marion R.] Kirkwood. Marion was a prince. He was a Property Law scholar. I think he was the one that got me put on the board. I never had any work with him when I was at Stanford. I skipped Property Law, and I even took my International Law over in Political Science, not in the law school. But he read all the stuff I was writing, and we knew each other pretty well. We'd known each other on the [Tenth] Regional War Labor Board. He was a public member when I was vice-chairman of the board, and he was a crackerjack man. I said to them, "Look, 'SC's got two people on this board. They've got their dean and associate dean both on there." (I think Orrin Evans was one of them [associate dean]. Evans has died. He was living here

in Leisure World until a little bit ago. His wife [Margaret Louise Evans] is one of our best friends.) I said, "'SC's got two, and this is kind of — we ought to have two from our place. Now," I said, "you've got me. We haven't anybody from the law school. Wouldn't you be willing to have the dean of the law school on the board?" They said, "Well, sure, he'd be all right." I knew they didn't like him, and I knew they had no respect for him as a scholar, but they went along with my request. I said, "Let's give Dale a chance." They said, "Sure, we'll recommend him." So we recommended him and we got him on the board.

That was a mistake because Dale could see commies under the table. The rest of us would decide, "Well, this guy's not under suspicion of being a communist. He's under suspicion of being an Italian Jew. Or "He eats pizzas. [laughter] There's no evidence of anything communist about the guy." And we would vote that he keep his job. Dale would dissent, and it would go up on appeal. And we always won. Then once in a while Dale sometimes could get somebody to vote with him. I'd get licked and it would go up on appeal, and I always won. It got so bad that Dale wouldn't even sit the days I sat. But I had done my best. I got him on the board. He killed himself on the board; I didn't.

NOVAK: His reputation spread that he wasn't competent.

GRANT: Yeah. And yet, to begin with, he succeeded in getting some very good faculty. Now, I don't know how he ever got Bunny Chadbourn to leave North Carolina and come out and join his faculty. Because Bunny was one of the real comers in the fields of Procedure and Evidence, as you know, because two things happened: One, he got stolen by Harvard to be their topflight man on Evidence, and he was the one picked to rewrite Wigmore on Evidence [*Evidence in Trials at Common Law*]. The present Wigmore on Evidence is called Chadbourn's Wigmore. He did that work while he was dying of cancer. I remember he said to me one day, "Cliff, I can't even finish volume one. I don't think I'll ever get to you, because your stuff's in volume three, and I don't think I'll ever make it." [laughter] Well, he made it. He made it through the whole blasted thing, and now it's called Chadbourn's Wigmore on Evidence. He never could finish volume one, so he turned it over to one of his former students [Peter Tillers]. Bunny had the reputation of being the best teacher on the law faculty. He was good.

And we could never figure out why he was so good. A group of us used to get outside [laughter] the door and listen to the class going on — we couldn't see why Bunny was so good. But you ask any of the students, and he was crackerjack.

Oh, this shows you the difference between the [West] Coast and the other coast, too, because after Chadbourn left us and went to Harvard — we called him Bunny always out here; that's the way he wanted it to be. Even his students called him Bunny. And I was saying to a man who'd graduated from Harvard Law School, I said, "Oh, did you have any work with Bunny Chadbourn?" He said, "Bunny Chadbourn? We didn't have any Bunny on the faculty." He said, "The only Chadbourn we had was James." [laughter] At Harvard he was James Chadbourn. At UCLA he was Bunny Chadbourn. And, in fact, I met a friend of his who was also named Bunny. When we went to China, we bumped into this lady, Bunny Tennent of Spartanberg, South Carolina, and she said, "Oh, you're from UCLA. Did you know Bunny Chadbourn?" And I said, "Bunny Chadbourn is one of my best friends." She said, "Oh, he's one of my best friends." So we've been corresponding for years as a result of that. But at Harvard he was James.

Well, he [Coffman] got Chadbourn. That was sad because Chadbourn's wife was a brilliant gal, too. She later became the person in charge of the archives at Harvard Law Library, Harvard Law School. Erika's still alive. Bunny died of cancer, but Erika's just retired a couple of years ago. Erika [Sammeth Chadbourn] was from, I think, Germany, and this struck her as Hitler all over again. And she was just getting psychotic.

I would say that for a better part of a year, Bunny Chadbourn and Brainerd Currie used to ruin almost every Sunday morning of my life coming over to my house to see if there wasn't something I could do about the law school. I kept telling them, "There's nothing I can do about the law school." But you see, I was sorry for Dale in another way. After he got going, it didn't take him long, I imagine, to find out that I had been chairman of the committee not to pick him as dean, but to keep him from becoming dean. [laughter] So he knew that. But every time he put in anything, for a new professor or anything else, it somehow came across my desk. Because either I was chairman of the Budget Committee or I was chairman of the Academic Senate and appointing the committees. [laughter] And I felt sorry for him for that. But I used to tell Bunny and Brainerd, I said, "There's

nothing I can do. I got licked when they appointed this fellow. Now you're going to have to live with the result." They said, "Well, we're going to have to get the bastard fired." I said, "That's your problem, not mine. I can do nothing about it."

NOVAK: Well, what was happening?

GRANT: Well, what was happening was this: One, he was very much opposed to letting in anything but nice white boys from north of the railroad tracks into the law school. He didn't like Japanese coming in, he didn't like Jews coming in. Of course he couldn't stop it, but that was known. He wouldn't let his faculty recommend a Jew for their faculty. In time it became more personal in that everything he could do to make life miserable for Brainerd Currie, he did. Brainerd Currie came over to me one day and he said, "Cliff, the law school is going to open now in about three weeks. I still don't know what I'm going to teach. I have gone to the dean and said, 'When can I have my schedule?' The dean said, 'I will tell you when I have decided what you're going to do.'" Now, he was doing this on purpose, you see? He knew six months ago what Brainerd was going to teach this semester. But he wouldn't tell him. He just wanted to keep him on pins and needles. I don't know what he was doing to Bunny. Bunny was not talkative like Brainerd was, and he just never said anything. He just let me know, "This guy is an unadulterated such and such, and we've got to get rid of him so we can get ourselves a law school." And I simply said, "That's your problem." Well, they got to be such a bad problem that at one stage of the game, both of them descended on me together — they always came together. Both of them descended on me — see, in the meantime, things were funny. For example, we'd hired some very good people. We'd hired Kenneth York, who now teaches up the coast at Malibu. What's that law school that they opened up?

NOVAK: Pepperdine?

GRANT: Pepperdine. He's now teaching at Pepperdine because he's retired from UCLA. York was a great guy and a good scout. York and his wife used to come to the faculty dances, and I found out later that Dale had issued orders that his faculty were not to dance with me. Well, so I tried to protect them, you see. So in come the Yorks. They come to a faculty dance, and here she is trying to get me to dance with her. I did my best to keep it

from happening, because I thought, "Well, now, she's new and she doesn't know yet that you shouldn't do this. You don't have anything to do with Cliff Grant." But she just let it be known she wanted to dance with me, so I started dancing with her. We became good friends and always exchanged dances. She just did it on purpose. She didn't necessarily want to dance with me. She wanted to let Dale see that she danced with me. [laughter]

NOVAK: So he was telling the wives who they could dance with at parties.

GRANT: Yes.

NOVAK: And then he must have had a —

GRANT: He was referring to the law school as "the island in the Red Sea." Dyke called me over one day and he says, "Cliff, I didn't realize how bad things are getting. I want to tell you I'm going to devote the rest of my life as a provost of this campus to making up to your committee the mistake I made by having you invite Dale Coffman to come to the campus." I said, "Dyke, don't give that a second thought. You worry about yourself. Dale's after your job." Because at this time the grapevine was that there were some regents that wanted to put Dale in as provost of the university.

NOVAK: Coffman seemed to perceive you as an enemy.

GRANT: Oh, yes, he did. Very definitely. He knew I had opposed his appointment. And, of course, another thing that had happened, we had turned down some of his recommendations for faculty appointments, because they all had to clear through the Academic Senate. And I remember one of those where I was on the committee and we got our recommendations. This was a man to teach Bankruptcy, among other things. And all the letters that came in said, "This is a very pedestrian, second-rate person. He's not what you want to build up a budding law school." So we turned him down. Dale raised hell about this, and Roscoe Pound raised hell about this. As a matter of fact, I remember this was when he was threatening to pull out of the Academic Senate and so forth, which was just a way of getting out from under me, of course, because I was chairman of the Academic Senate. [laughter] I suppose if I had been president of something else, he'd have wanted to pull out of that instead. But the Senate turned down this man. He should have been turned down. All the papers show it. But a meeting was held at my house, where Roscoe Pound stated to all

the Senate leaders and so forth, "I hear the Senate turned down this man. He's one of the best men in the country." Well, I knew what the letters said. "The result of this was that I, an old man of ninety, I have to teach Bankruptcy."

NOVAK: Well, I think of Pound as a liberal. But you're saying he and Coffman got along pretty well.

GRANT: Pound had been a liberal. For example, I have never taught a course in legal history that I haven't quoted Pound. He started right off one of his books with the phrase, something to the effect, "The law must be stable, yet it cannot stand still." Now, there isn't any better summary of the problem than that little short sentence: "The law must be stable, yet it cannot stand still." And "The whole problem of law is reconciling the need for stability and the necessity for change." Well, that's bright. I never taught a course in constitutional law that my students didn't have to read Roscoe Pound's article on liberty of contract [18 YALE L.J. 454 (1909)]. It's a classic. I got permission to mimeograph it and every student had a copy of that where he could mark it up, and we talked about these things in class.

Very valuable man, but this is not that Roscoe Pound. That was written in about 1906 or '8 or so. [laughter] This was Roscoe Pound in his fifties, and then he got to be ninety. He was a very different man. A very different man. He was living in a dream world. And I think he was seeing commies, too. I wonder if I ought to tell you this — aw, I might as well. One thing Brainerd Currie and Bunny Chadbourn came to me with was a letter written by — it was a copy of a letter written by Roscoe Pound on behalf of Dale Coffman to the Association of American Law Schools, explaining how the law school had to get out from under the Academic Senate, because the Academic Senate was run by a commie, Cliff Grant, etc.

Now, I was a commie to Roscoe Pound. [laughter] There wasn't anybody who hated commies more than Cliff Grant at that particular time in the world's history, but I was a commie to him. He was going along completely with Dale. Dale had given him a new lease on life. Here he was, professor in a great university, teaching law, and he was eighty-nine years old. You can see how that would get to his ego. And, well, that was that. In fact, I got to write a letter to the Association of American Law Schools replying to that. I said, "I understand that somebody has made such and such

remarks about me. Now, here are a few of the facts of life." And I went into it. I had never been known to the American Association of Law Schools, I don't think; they didn't know me. But from that day on, as long as I was there, every time the association representative came out, he always inquired about me, "How's Grant getting along?" and so forth. And they recommended me, I guess, to be on the Oliver Wendell Holmes Devise, to which President Nixon appointed me. So he didn't get me killed. [laughter]

NOVAK: No, it got you known.

GRANT: Yes, they got me known. But it came — well, what I was saying was it came to the stage where Bunny and Brainerd came to see me and said, "Cliff, this revolution in the law faculty is getting so bad that we're going to have a popular revolt." I said, "Well, there's nothing I can do about that." He said, "Can't you tell the provost he's got to do something about the dean?" I said, "Well, what good will it do? Why don't you folks tell him?" They said, "Well, won't you tell him?" "So, all right, I'll lay the groundwork for you. I'll go tell him." At this time, Ray [Raymond B.] Allen was provost. I went to Ray and I said, Ray, I'm going to be on leave, and I'm going to be in" — I forget where it was; I was going off to Bogota, I guess, to work for six months or so in the Colombian law libraries and court archives. I said, "This law school business is coming to a head, and it's going to blow up. You'd better look into it." And then I left town.

Well, he did look into it. I found out later what he did. He called over Rollin Perkins and Harold Verrall, and he said, "What's this I hear about dissent in the law faculty?" They said, "Oh, that's nothing but gossip peddled by Grant. And there's no — we love the dean; there are no problems in the law faculty." Well, okay, so Ray did nothing. So what happened? What happened was that every member of the law faculty except Rollin Perkins and Harold Verrall, including even an assistant professor who had no tenure [Edgar A. Jones], went over together in a mass to Ray Allen and said, "You've got to do something about the dean." And that's when [Vern O.] Knudsen's committee was appointed and the dean was fired.

There's one interesting thing I had confirmed later from — Vern Knudsen [dean of the Graduate Division] told me about it; he was chairman of the committee. Vern said something that I had known all along. I knew that the dean [Coffman] had been given a slush fund of quite sizable

proportion, more than the Berkeley dean had, for entertainment and so forth. All he had to do was to hand in just sort of a very summary statement, saying so much on such and such and so much on travel. It didn't even have to say travel where. So much on entertaining at home and so forth, and so much going out. And he got that money. When they fired him as dean, they said, "All right, now you get your professor's salary." He said, "Oh, no. I have a letter. And the letter says, 'Here's your salary, here's your entertainment fund. We can't give you a higher salary on the university scale, but we need to give you more to get you, is what we're saying, so we give you this entertainment fund. That's part of your salary. You just give us a proforma accounting, and you use all of it any way you want for yourself. You entertain your friends with it, and call it entertaining as dean.'" Well, he pulls this on Knudsen's committee. And Knudsen said we had to agree. "This is permanent. This is a part of your salary." So he said we had to give him his salary plus his stipend.

NOVAK: So he was kept on as a professor but fired as dean?

GRANT: He did his best to get out, but he couldn't get a job. So he stayed on as a professor and got the salary that he had received when he was dean. But I understand that's all he ever got; he never got any promotions. I don't know about that, because by that time I was out of anywhere I would know anything about who's getting what.

NOVAK: At this time you taught, didn't you, at the law school?

GRANT: No, I was invited to three or four — two different deans invited me four or five times to come teach in the law school, but they always invited me at the wrong time. The first time they invited me, I had just accepted an invitation to teach in Italy. I said, "I'm gone for a year. I can't teach until I get back." They wanted me to teach Legal History. When I got back, the department wouldn't let me off. They said, "You've been gone for a year, and you've got to have that course over here," and so forth. And then Legal History sort of went by the boards anyway. It was a flop in the law schools. They didn't know how to teach it, and they were assigning it to youngsters who didn't know any history. You see, what you do in law school if you get a new course that's got to be worked up, you give it to the youngsters coming in. Well, the youngsters coming in didn't know any history. They assigned them a course in Legal History, and it was a total flop all over the

country. Harvard Law School used my outline to teach the course in their school, and my outline's full of mistakes taken from respected books that I put there on purpose so we could laugh at them. [laughter] And they taught them as honest truth. Well, it was a scream.

Well, then they wanted me to teach Latin American law, because — actually, they just asked me to come over for a semester and do that, but I thought if I went over for a semester maybe I'd stay over. And I said, "No. You want me to teach it in English to a bunch of English-speaking people who can't read Spanish. And I've even published more on Latin American law in Spanish than I have in English. I'm not going to teach Latin American law completely in English. It's silly." Well, with my way of teaching they've got to do their research in Spanish or French or Italian or German if they're going to do comparative law work with me.

So by then, finally — oh, it was — Addison Mueller said one day when we were chewing the fat, he said, "Well, Cliff, come on over and teach Criminal Law." We had been talking about Charles Fairman, who taught Constitutional Law in the political science department at Stanford and then went back to Harvard Law School to teach Criminal Law. Bunny Chadbourn had said, "Well, I use you in volume three. Because so much of your constitutional law stuff's about criminal law procedure and so forth, so you're in volume three." That's the way it came up. And Ad said, "Well, you know, that's right. Why don't you come over to the law school and teach Criminal Law?" I said, "Well, I'm just not interested in teaching Criminal Law, period." So I never did teach in the law school.

[Richard C.] Maxwell, a nice fellow, trumped up a clever proposal. I would have gone for that. He said, "We want your legal history books, and they're all in the main library. We want them in the law library." I said, "But I want them in the other library, where I can get at them easily for class use." And he said, "Well, look, we're going to fix this up. We're going to build our extension to our law library on our building, and we're going to expand the law library. We'll build you a seminar room right here that will open into the law library. We'll put all your legal history books right inside there. You'll have your seminar room with the door into the law library where you get all your books, and you won't have to do it the way you do now, get out the carts and go get them out of the library, out of your own library, and pedal them down to your classroom for the night. They'll be

right there. You just grab the ones you want. And you will have last week's too when you're talking about these things." This wasn't my legal history stuff so much as it was my course in the legal development of law books and how to use them. We started with the yearbooks and traced them right down to the modern English and American law books and reports. And they said, "Stick them all [the legal history books] there, and you'll have access to our whole library for all that stuff. Your legal history stuff's all right there where you can come over and use the seminar room as your reserve room, and everything will be handy."

Then he came back and he said, "Can't do it." I said, "Why?" "The formula the university has for libraries says that every seat in any room which opens into the stacks counts as a seat in the reading room. And we haven't any seats to spare in the reading rooms. So we would have to take the seats out of the reading room, where we don't have them, and put them in your seminar room, which we can't do. So we can't do it." So my books stayed in the main library. So that was the closest I ever got to being on the faculty. I had the law faculty refer students to me, and they came over and took my courses. In fact, a few of them took courses with me for law school credit. And they sent over lawyers to me to hire me to be their assistant handling law cases on my specialties. But I never taught on the faculty.

NOVAK: Going back to when you were president of the Academic Senate, Coffman succeeded, didn't he, in getting the law school pulled out of the Senate?

GRANT: Oh, yes, he did. And so it was pulled out at both Berkeley and Los Angeles. But there's a funny story there. At Los Angeles they were out, except that Bunny and Brainerd and a lot of the rest of them kept coming over to me for advice on this, that, and the other thing. But at Berkeley, Clark Kerr was chancellor at the time. And Clark told me, "You know what I did, Cliff, when the law school pulled out of the Senate?" I said, "No."

He simply said to the law faculty, "Now, this means you're no longer on the Senate committees, doesn't it? You can't be on them, can you?" And they said, "No, unfortunately, we can't be on them." And this sort of wrecked the committees, because they had been playing important roles in committees. They wanted to stay, but they felt they sort of had to go along, and they did.

So Clark said, "But no, I can get my advice anywhere I want." They said, "Of course you can." He said, "You know where I'm going to get my advice? Senate committees. Now, when the Budget Committee appoints a committee, they can appoint somebody from Berkeley on a UCLA one, can't they?" "Yeah." "They can get somebody from Stanford to sit on it, can't they?" "Yeah." "Well, we can put some law school people on it, too. A Berkeley law faculty member ought to be eligible to be on that Senate committee to review law school appointments as well as a Stanford professor, couldn't he?" "Sure."

So he says, "We kept our heads up there, and they never were out of the Senate." As a matter of fact, they never were. And when they came back in, well, they took over the Senate again. [laughter] But they never were out. But down our way, our Senate committees quit reviewing their appointments. When they got rid of Dale, they — bingo! — they came right back into the Senate. By the law school's request, not by the Senate's request.

NOVAK: Did the quality of their appointments decline when they were autonomous?

GRANT: I don't know; they did a pretty good job. They got good people.

NOVAK: Coffman himself was a teacher.

GRANT: But remember that didn't last very long. Coffman himself taught Torts.

NOVAK: What was his reputation as a teacher? Was he good at that?

GRANT: He was all right. Torts is an easy subject to teach.

NOVAK: The students didn't complain or anything?

GRANT: Oh, yes. Yes.

NOVAK: Not about the teaching, but about the man or what?

GRANT: They used to come over to me and say, "We find that he's wrong on some of these things. He's out of date." I said, "Well, live with it. Live with it." I said, "All your life you're going to be reading things that are out of date and wrong."

NOVAK: You told me a story about your neighbor that was pretty sad. I don't know if you'd like to share that one or not, but it —

GRANT: Well, my neighbor was a Japanese who got admitted to the law school. He did well in all of his courses except Torts, which he failed, and he was therefore flunked out of the law school. And he went to the dean and said he'd like to see his paper, and he never could get to see his paper. To this day he's never seen his paper. And he thinks, "I flunked the course because I'm Japanese." Now, whether he's right or whether he's wrong, I don't know. I never saw his paper. I've never grilled him on the law of torts — I don't know about it. [laughter] He'd been a shirt manufacturer and decided he'd like to be a lawyer, now that there's a law school right here in my backyard. I don't know whether he was any good as a student; I don't know anything about him. But I know to this day he thinks he flunked out of law school because he was Japanese. And when he tried to get his paper so he could look at it and see what he did wrong, he never could get a look at it.

NOVAK: That seems pretty high-handed, not letting someone see the mistakes. In fact, it doesn't seem to be a good way of teaching people.

GRANT: No. We just don't operate that way. I don't, I know. Anytime a student wanted to see his paper with me, he saw his paper. In fact, I would reread it and mark it up for him before he saw it.

NOVAK: When he got fired, what were the grounds of his being dismissed?

GRANT: I don't know. I had nothing to do with that. I wasn't even here. I was off in South America.

NOVAK: Some people have said that the law school was born twice, that it really had almost died and got reborn. Is that an exaggeration?

GRANT: Yes. There were enough good people there that stayed on. Because, you see, these boys who revolted — Bunny Chadbourn, you can't get anybody any better. These were good people. They're the ones who led the revolt, and they're the ones who took over and ran the law school. It had a good nucleus there. Because you notice they had a good standing, and we could get good men. Brainerd Currie came with his doubts about Coffman. He said, "I can live with the dean. He's a nice, personable guy." He never thought that he would be running his life the way he did. He thought he would — you know, deans don't play too important a role in the law school. They take care of the paperwork and they do all the preliminary searches on this and that, but you decide everything collegiately. Well, things weren't

being decided collegiately in the law school. They were being decided by a trinity: to wit, Dale Coffman, Harold Verrall, and Rollin Perkins. And at times, four of them, with Pound. Well, as I say, Perkins was a good man. Good judgment. He'd get good people. And Verrall would take anybody the dean recommended on Perkins's recommendation. So they had a good faculty. I can't remember the name of the — Harold Marsh was the youngster at the time he [Coffman] was fired. Marsh was a good man. These were good people. That's why they couldn't stand the dean and just said, "No, we want to run our law school the way law schools are run. This is not going to be a one-man dictatorship." And they didn't have to be born again.

NOVAK: I guess just as the times were changing, in that there was this anti-communist fear, the times were also changing in that there was a growing civil rights movement and a sensitivity toward a more just society. Of course, this is before the day of quotas, but I'm sure that to a traditionalist that might have seemed kind of improper or suspect. I guess Coffman felt like that, that these other people who cared about making minority lawyers, they must be crazy.

GRANT: Well, yes. Well, to him I think they were Reds. They weren't communists, but they were fellow travelers. The commies had the Jews under their control, so any Jew is suspect.

NOVAK: Something surprised me. When the revolting faculty members went to see Chancellor Allen, he went along with them and formed that Knudsen committee. Allen had a reputation of being kind of an anti-communist himself, so I guess he was going against his own politics there. Was Allen known as a real staunch anti-communist?

GRANT: No. I think Ray Allen was thought of more as a punching bag. Passive. [laughter]

NOVAK: He was chancellor through —

GRANT: We had hired him, of course, because of his going along with the oath problems and the, as I say, communist problem, firing a couple of people in the University of Washington. He went along with the firing, which I might say I might have gone along with, too. [laughter] So that makes him no more anticommunist than it would make me, I guess. I mean, no more of a communist baiter than it would make me.

NOVAK: Did he have any positive contributions that he made to the university?

GRANT: Well, I can't think of any, except to help smooth things over between the regents and the faculty for a while, because the regents felt they had somebody that they could trust that was in control. Then, of course, Ray didn't have enough beef behind him to be in control of anything.

NOVAK: Well, sometimes being passive is good.

GRANT: Yes. Eisenhower made a very good president. Cal Coolidge made a pretty good president. Remember the famous [Will Rogers] crack about Calvin Coolidge? "Great president. Never said nothin', never did nothin'. That's just what we wanted said and done." [laughter] There are eras when to be passive is to be intelligent.

NOVAK: In some ways maybe that was a healing decade at UCLA.

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From the Oral History of

EDGAR A. JONES, JR.

EDGAR A. ("TED") JONES, JR. (1921–2013), professor at the UCLA School of Law from 1951 until he retired in 1991, was one of the eight dissident faculty members who petitioned the UCLA administration for removal of the first dean. He later served as assistant dean of the law school and as president of the National Academy of Arbitrators.[1]

EDGAR A. JONES, JR.

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BERNARD GALM (UCLA ORAL HISTORY INTERVIEWER): Professor Jones, you were talking about the meeting of the Association of American Law Schools that you attended in Chicago [in December 1950], and this is where the position at UCLA was —

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

JONES: Came in view. The meeting was from something like Wednesday through Saturday morning. By Saturday morning I had gone up to the suite of the dean of the University of North Dakota at 2:00 A.M. in the morning. There I met Richard C. Maxwell, who had spent his first year in law teaching at the University of North Dakota. That was [when] I first met Dick Maxwell. The dean — I can't spell it for you, but his name was [Olaf H.] Thormodsgard. I take that to be Norwegian, not Swedish. But in any event, it became very obvious that the people looking for employment were the top law review types, and they were swarming around Dean Thormodsgard, too, to Dick Maxwell's great amusement, because he had spent one year there and he had a very warm affectionate feeling for the dean, but he didn't have warm affectionate recollections of weather at North Dakota.

GALM: Was he just present in the room? Was he part of — ?

JONES: No, he came up there just to say, "Hello, this is my mentor," and so on. That was how I met him. We chatted, as a matter of fact, at some length even, but that was that.

Periodically I would see [University of Chicago School of Law Dean Albert J.] Harno in the hall or something, and he'd say, puff, puff, puff — I was looking pretty dim right now — "Wait and see. Wait and see." So Saturday morning the thing was over by noon. About nine o'clock in the morning I was standing up — they had a main ballroom. Leading down to it were some stairs and an intermediate landing area, and [UCLA School of Law Dean L. Dale] Coffman was standing there by himself watching the thing. And over on the side as I came into the area were Dean Harno and Dean [Alfred] Gausewitz [of New Mexico]. So I went over there and they greeted me, "How's it going?" — very paternal about it. Harno says, "We've got to get a job for this young man and that marvelous family." I said nothing. He said, "Have you talked to Coffman yet?" — pointed at him with his pipe. I said, "No, I haven't had a chance to get near him." Harno looked at me with this sort of quizzical little grin. He says, "There he is."

So I went over to Coffman and I said, "Dean Coffman — ." And he turned around, sort of down his nose at me, as well he might. He had been pestered by dozens and dozens of these young guys. He said, "Yes?" I didn't tell you this: After the communists took over in China, Roscoe Pound left China, of course, and came to UCLA. Coffman offered him a job here.

He was about eighty-three, eighty-two or eighty-three years old, but he joined the faculty here. I knew this. I was aware of this. So I said to Coffman, "How is Dean Pound?" Now he turned around more and he said, "Do you know Dean Pound?" The ball came right across the plate! I [replied], "I don't know him personally except I have corresponded with him from China and I have a handwritten manuscript that he sent me at my request." Lock-in — lock-in conversation. [laughter]

Now, this is just at the end of the whole meeting there. We talked no more than fifteen or twenty minutes more. He went back out here. They were in a temporary structure over behind Royce Hall, an area where the parking structure is now I think. It was a wooden building, the type that the Army was building out in California during the war. It had an aisle going down the middle and offices off on each side. He went down to Pound's office. As was recounted to me later, he said, "Do you know a young man named Edgar Jones?" "Oh, sound fellow, sound fellow." [laughter]. That was the dialogue!

I got an offer to come out here. They were looking for somebody. Basically it was L. Dale Coffman who did these things. He was looking for a young law professor that would come out and sort of start things here. He wanted a moot court and he wanted things done. So this newspaper venture sounded more interesting to him than if I had been the editor of a law review. Plus Harno. I had referred to Harno, and I think even there — although I left the area there around ten o'clock that morning, I think that Harno and he talked after I had gotten off the scene. But in any event, there came a telephone call back to Virginia to Charlie Gregory from Coffman, who wanted to know about me, and Charlie told him about me.

GALM: Had you given Gregory as a reference?

JONES: Oh, yeah. He was —

GALM: Rather than the dean? Or did he talk with the dean, too?

JONES: I stayed an extra year. This was during that extra year. I had graduated. I neglected to say that. I had graduated, but I stayed an extra year to work with Gregory in labor law. I went around with him to arbitration hearings that he conducted. I drove him, as a matter of fact. He didn't like driving, so I made a deal with him. I'd drive if he'd take me. He was the one that got me interested in law teaching. So he gave me a very high

recommendation, and then I ended up getting the offer to come out here. This was how it happened.

GALM: What was your initial impression of Coffman at that meeting?

JONES: Very favorable, very favorable. He was a very genial, friendly person. He was stilted. He had this way of talking with a sort of an exaggerated voice. But he was a genuinely very charming man. I liked him. I never ceased to like him, actually. I came to understand that he had some very serious problems which really meant that he couldn't function as the dean of this law school. But I never ceased to think he was a very charming person. I have to say, when I say that, he was charming to those whom he liked. He was not charming, you know, to those whom he didn't like, whom he thought for any reason were people that were any of the catalog of negative adjectives. And he was very much a product of that era of intense fear of communism. The fact that I was a practicing Catholic was a number one asset on the pro side. There were many, many university contexts in which that would have been a negative that I would have had to have overcome. I don't know how many, outside of those universities that were Catholic in their structure, in which I have never had any interest in being present —

GALM: So as a Catholic, he saw you as a staunch anti-communist?

JONES: Yeah, without question. That was to him an important thing. He had already become embroiled here with Brainerd Currie. I've got to find the correspondence on that. I know I rooted around and found it. I told you about it. I did dig it out when I was talking with Ken [Kenneth] Graham's class. But Brainerd Currie had — this is probably what we should do next time just as a preface, as it were, an epilogue preface. He had really thought through the business of the oath within the university. And he wrote a superb set of memoranda, just totally persuasive and right on target. He was certainly not in any way a communist dupe or anything along that line. He was a constitutional law scholar. That wasn't his specialty. I say he was a constitutional law scholar who profoundly understood what was at issue. And Dale Coffman didn't. He just didn't. He had the most simplistic ideas about communism and the threat of communism to the United States and to the university, to the faculty of the law school. It was really a form of paranoia which a lot of people had at that time, though. He was not alone. He had the chairman of the Board of Regents, Mr. Dickson — What was his name?

GALM: Edward Dickson.

JONES: Edward, yeah. Dickson was the reason that Coffman was the dean of this law school. You've gotten that from [J. A. C.] Cliff Grant, I'm sure.

GALM: I'd like to begin with your arrival at UCLA and your taking up your position as assistant professor of law. We've gone into the background on the offer and how you met Dean Coffman at the Association of American Law Schools meeting in Chicago. Were the negotiations for that made through the mails or by phone or — ? You didn't actually come out to the university, or did you?

JONES: I did. They invited me to come out for an interview in the first week of March 1951. So I flew out from Washington. It was snowing in Washington and there was very bad weather all over the countryside. I was flying in a DC-6; it took nine hours. It's hard to conceive of that today, but there wasn't a calm moment during that whole flight. I was just being bounced around. Everybody was getting sick on the aircraft. It was really a thoroughly miserable flight. I was trying to figure out if I could possibly ride the train back. [laughter] Unfortunately, there was no way I was going to be able to do that. But, in any event, I was really not feeling too well when we arrived.

GALM: Did that happen to be your maiden voyage on an airplane?

JONES: No. I had been assigned to the Third Marine Air Wing, you know. I had flown around on DC-3s, which were a lot bumpier in their way. But this just went on and on and on and on. It was up, and then downdrafts. We flew over the Middle West on the northern route. They were trying to get away from bad weather, but they were unable to. They're unlike the jets. Did you fly in those earlier aircraft? Well, it's really a totally different experience. The jet is able to get away from trouble. Those things just walked into it. Well, by the time I got out here, it was dark and I was really rocky.

The group, as I'll call them from now on as a shorthand reference — this is the dean, L. Dale Coffman, Rollin M. Perkins, and Harold E. Verrall. The three of them came together from Vanderbilt when the law school started. They socialized together. They just did everything together. So they came and met me, the three of them, at the airport. We drove back up the boulevard. As we started up the boulevard — I was looking out the

window of the car — I said, "Does Sepulveda [pronounces it Sep-ul-veeda] Boulevard go all the way through?" That was good for at least ten minutes of raucous laughter on the drive and then recurrent laughter thereafter for the weekend. But I was totally unversed in Spanish pronunciations.

Anyhow, we had a very enjoyable weekend. They housed me over in a place on Wilshire Boulevard. I don't know whether it exists any longer. I don't remember the name of it. And I went to mass on Sunday morning, walking down to Saint Paul the Apostle Church there, for this first week of March. The flowers were out here. The grass was green. They hadn't heard of bad weather. It was very persuasive, the environment. I don't remember anything in particular about that experience except it was pleasant. I enjoyed it and they enjoyed it. While I was here the dean called back to Virginia and talked to Dean [Frederick D. G.] Ribble at the law school and Charlie Gregory and another professor, Jack [John] Ritchie [III], each being quizzed about me, and each gave me a good bill of health and so on. So they gave me an offer and gave me a couple of weeks to think about it and talk about it at home.

My problem at that point was we had four children, the oldest of whom was born in 1946, five years earlier. I was married to a Canadian girl from the province of Ontario, the ninth of nine children herself, very family oriented. We had driven up to Ontario several times while at Virginia. I could see there was going to be a rather major problem for Helen [Callaghan Jones] — my wife, Helen (Dale Coffman's wife's name was Helen too) — for us to come out this far. So I wasn't at all sure how that was going to go. If she didn't want to come, we weren't coming. This was basically it. So it fairly rapidly became evident as we talked about it and so on. We were talking about it while Charlottesville was enmeshed with slush. They had no snow equipment to amount to anything in Charlottesville, Virginia, so you just have to wait until nature takes it away. So that was a strategic thing because it reminded us, and her particularly, of all the changings of clothes that have to happen with little children.

GALM: Now, did she accompany you on this visit?

JONES: No, that was solo because of the children, actually. Our youngest [Edgar Allan Jones III] had been born January 8, my birthday. Our oldest son was born on my birthday, January 8, 1951.

GALM: And named after you.

JONES: This is family planning! You know, it shifts the burden to anybody to say, "If that isn't family planning, then tell me what is." Anyhow, we then drove out here with the station wagon pulling a little one-wheel trailer for luggage and whatnot, made our way across the countryside. We went up by Canada first, made our good-bye visit there, and got out here in the middle of June. I think it was June 15. The Coffmans had rented a house for us over near Pico Boulevard, nice place. It was a Spanish —

GALM: Let me just ask about your wife. When she agreed to it, was there any time limit that she placed on it as far as trying this, or at that point did you foresee it perhaps as a longtime career?

JONES: Yeah, this was a ladder appointment. The big emphasis here, well —

GALM: — would be to stay with the system.

JONES: What I was being told that weekend out here was totally true. It was obvious to me it was true. I was the sixth person to arrive on this faculty. The other five were full professors, experienced full professors. I'm just essentially starting out. And so Dale Coffman said, "Now, this is the ground floor. In fact, it's not the ground floor, it's the basement. You get on this elevator and you're just going to go up over the years. This is a long-term commitment." Now, it is true that law professors as a breed rarely start teaching in a law school and stay there for their career. It's rare — maybe not all that rare, but certainly it's extremely rare in our own circumstances here for anybody who graduates from a law school to start teaching here. And it's relatively rare for a young law professor to go and be hired at a law school and then just stay there.

This was that kind of situation that doesn't really come around very often, a major law school being created almost from the start because of its setting in a major university, and particularly the kind of a university that UCLA was at that time. And there was this enormous sense of irritation, frustration, verging on anger, towards UCB [University of California, Berkeley], our Berkeley cousins, who were running the university, quite accustomed to it, thank you, and this was an upstart venture down here of which they were not really very sure it should be approved from the beginning. I'm not talking about my own state of mind, but when I arrived here, this was the state of

mind of the senior professors in the various disciplines on this campus, plus the administrators. We were the poor cousins. That sort of fired everything up with a certain aggressiveness, it seemed to me, about the institution here, which was a good harbinger, I thought. It meant that this law school was not going to be allowed to be a mediocre law school. And that ultimately is what happened. That ultimately is what doomed Dale Coffman's deanship, that surge that was not going to be held down which characterized this university and characterized the law school because of it.

GALM: Did you meet any members of the university administration?

JONES: The chairman of the Board of Regents [Edward A. Dickson]. But the only reason I met the chairman of the Board of Regents is that any time Dale Coffman gave a dinner, the chairman of the Board of Regents was at the dinner. They had a very close social relationship. And Edward Dickson, as you know, brought Coffman here, brought him here over objections of the committee that Cliff Grant headed. But also there were lots of questions raised as to whether he had the background really and the qualifications, quite aside from whatever might be in his head — just the paper qualifications. They were looking for somebody — the "they" meaning Cliff Grant and the committee. They were looking for somebody a lot more academically prominent.

What I saw then, and what I was being told about, rang totally true. This was not something I was going to have to be thinking about leaving in three or four years, having made my reputation as a beginning law professor, and go to some other university to get recognition further. And I didn't have any particular attitude like that towards it. For one thing, we came here with four children. We weren't totally mobile. But there was no reason to even be thinking of it in any other terms than he described it.

He [Coffman] was a very, very cordial, very pleasant man, his wife also. You could — it just occurs to me now. She is still alive. She's a very articulate lady, and she might very well welcome the opportunity to be interviewed. I don't think I said that to you before. I don't think I thought of that before. But she would be an excellent person to contact. Now, I don't know what that would result in, but at least you would get access to that. She was a very gracious woman, not unlike wives in those circumstances, no matter what the institution or the department. She had a certain proprietary feeling

about being the wife of the dean. It didn't get in my way nor my wife's, but it did jar the nerves of others of the faculty, particularly as the chasm that ultimately developed began as a sort of crevice and widened, at least in my perception of it. When I came here, there was no crevice. Actually, there already was a chasm. I just didn't see it, didn't know it, had no reason to see it or know it. Cordiality was the rule of the day. The party that he gave in which I was introduced to the faculty was a dinner party, cocktails, and very relaxed, but there weren't that many [faculty]. As I look back, today it's impossible for us to have that kind of —

GALM: And three of them were from Vanderbilt.

JONES: And three from Vanderbilt. And I from Virginia. But none of the three were Southerners. Nor was I. Those who spend time at southern universities who are not Southerners I think become more southernized than perhaps the natives do. I know I brought a certain accent here which was not a Brooklyn accent and only became aware of it when somebody remarked [on it].

GALM: What about the physical setting? You had arrived just before the opening of the new building.

JONES: This building was not open.

GALM: So did you spend any time at all in the barracks?

JONES: Yes. Over in the barracks they had an office that I used. The law school's building actually, as I recall, had opened in September. We took in students in October — I mean, moved them over here. I didn't have to get involved with any of the moving. I just didn't have anything to put in the office except me, so I didn't put any books or anything like that in there.

When I came it was Dale Coffman, Roscoe Pound, Harold Verrall, Rollin Perkins, Jim [James H.] Chadbourn, and Brainerd Currie. Chadbourn had come the year before I came.

GALM: I have Herbert York, too.

JONES: Not Herbert York. Kenneth York, Ken York. I'm sorry, that's true. Maybe I wasn't the sixth, then. Ken York came the year before I did at the same time that Chadbourn came. York had been over at USC for a year, and Chadbourn came from Pennsylvania.

Everybody was really quite gracious. In that period of time I began to get to know what was going on. The only way that I got clued into it — I got clued into it almost immediately — was because Charlie Gregory at Virginia had said, "Now, when you get out there, go and see Edgar Warren," the first director of the [UCLA] Institute of Industrial Relations. And that was the building next door here where they had their office, what's now called Dodd Hall. I went there within a week or so after I got out here. And he had been the director of what was then called the United States Conciliation Service, which is now the Federal Mediation and Conciliation Service. Ed Warren was the director during the war for a period of time and was the director at the end of the war, and in that position he had been the one who was concerned to send out the arbitrators that were working for the [National] War Labor Board to the plants where labor disputes were occurring. He was the central administrator for that process of arbitration and had convened a meeting of the arbitrators by invitation in 1947. Some thirty arbitrators [met] in Washington, and at his suggestion they created what is now known as the National Academy of Arbitrators. So he's the progenitor in a real sense for the National Academy of Arbitrators, which today numbers about 650 men and women. In any event, he was later to become the president of it. And indeed, I think he was president of it in 1952, as a matter of fact.

He left the government because the Congress refused to vote his pay. And the Congress refused to vote his pay in the midst of all this scare business about communism and left-wing dupes and all the rest of it. They were exercised by his actions and, I guess, testimony before congressional committees, which essentially was saying, "Cool it" to the congressmen. "The labor movement is not infiltrated by Reds. What we have been doing is very above board and totally American," and all the rest of it. But they were sufficiently angered — I guess it was probably a committee action. They just withheld his pay. They just said, "We're going to erase that position. As long as you're going to be there, we're not going to put that into the budget." So he resigned and came here. That was how he got the offer to come here. So he had a background of some viewpoint about what had been going on out here in this [loyalty] oath controversy.

GALM: Was it mainly to get rid of him or to get rid of the position?

JONES: Him. Yeah. Refused to fund it. They zeroed in just on that position, No, it was to get rid of him. And when he left, another director was appointed and they funded it. That may have been Peter Seitz, as a matter of fact. You know Peter Seitz because you're a baseball fan.

GALM: Sure.

JONES: All right. Anyhow, when I went over to see Ed Warren, he called Ben [Benjamin] Aaron in to meet me, just briefly, and Irv [Irving] Bernstein, his associate directors. But then he and I sat there and he was sort of looking at me with this "I wonder what kind of an animal this kid is" look on his face, and I got the distinct impression that that was in his head. It puzzled the heck out of me. I couldn't figure this out. And so it was sort of a fencing kind of a conversation. It was not what Charlie Gregory had predicted. So I said something about this to Warren, and immediately he sat back and relaxed.

He said, "Well, I'll tell you exactly why." And he told me about L. Dale Coffman and the oath controversy out there, which was still swirling, and he spent about a half an hour, three quarters of an hour, briefing me, as it were, about what I had fallen into. I mean, I still would have come here I'm sure, although when I say that, who knows? But I was glad that I hadn't known about it, that I didn't have to factor that in, because that would have been a very complicating element. But there was none of that prior to that. I had no intimation that there was any real problem of any sort. He didn't know Chadbourn and he didn't know Currie and, of course, he didn't know York. Have you had a chance to get York?

GALM: No.

JONES: You've got to get him. I hope that's high on your agenda, because he's six years older than I am, which makes him seventy-two. York is a very unusual man. He's a man of very sparse expression, was a Marine, actually in combat in the Pacific. I think he was probably a captain or a major in the Pacific. Very closemouthed, but when he speaks he has an incredible sense of humor, just the kind that skewers people or situations. I mean, even while you're being skewered you are really enjoying it. But if you're a little on the stuffy side, which Dale Coffman was, then maybe it was funny, maybe it wasn't. But he used to enjoy Ken York very much, too. Ken did not

have an antagonistic, adversarial relationship with Dale Coffman prior to what came to be known as the Saint Crispin's Day venture.

Chadbourn, whom I got to know immediately, who went out of his way to have me get to know him, also is a man with a considerable sense of humor, but very dedicated, a very hardworking person on his career, on his research, and a very dry wit, penetrating analysis of people, I think, very self-realistic, not an ego-inflater of himself. He had a view of himself which was modest, actually, but from his standpoint realistic. Brainerd Currie, who was also here then, was an enigmatic personality actually, a genius without question. Chadbourn paid me a very high compliment after I had been here for a year and a half or so. He said that he and I were level-two people, whereas Currie was level one — Currie was just a genius. I didn't give a damn about Currie. I was delighted to be put on the same level with Chadbourn in Chadbourn's mind. That was a very significant event for me at the time.

GALM: What was Currie's personality like?

JONES: He had a very good sense of humor. He had a hesitant way of speaking normally, but a penetrating mind, and could say nothing good about Coffman. It had reached that point and for very good reasons. Currie had written some statements at the height of the oath controversy. Currie was a constitutional law scholar as well as a contract law scholar. He had a wide range of knowledge and insight relevant to constitutional law and public law topics. He was also, like Chadbourn, a very hardworking person.

He had little regard for Roscoe Pound. He regarded Pound as rather pompous, which Pound was in his own way, but he was eighty-three. He'd been the dean of the Harvard Law School since dinosaurs were there. The American Bar Association bowed at his feet — had for years. He had an Olympian position in the legal profession — "Roscoe Pound." And he was very prolific in his works. Currie was rather cynical in his view of people. He had occasion to look at something — I forget what it was — and it had something to do with conflicts of law, in which Currie was also very active. He found something that Pound had written about at some length with copious footnotes [which] just didn't support what was said in the text, and that led Currie to look more closely. Then he had a long litany of these dogmatic statements built on false footnoting that he talked about.

GALM: Was this something that Pound had written in that period, or was it even an earlier work?

JONES: Earlier works, too. Currie referred to him as "that old fraud." So immediately that came into focus. Of course, now, Roscoe Pound was somebody that I had a great deal of affection for at that point in time. I was really shocked at "that old fraud," you know. That's heavy words for this gentleman. But as I got to know Currie, that was the way he looked at things. It was not that Pound might have made any mistakes: it was a fraud. He was just a sanctimonious old fraud was basically his view of him, although he had had no problem about coming here when asked to come here by Coffman.

He was one of the original first-year law teachers; he also had a mild southern accent. He had been in the South as a kid. Wake Forest was in his background somewhere, in North Carolina. He was very kind to me, read stuff that I was working on and criticized it at some length. He had an incredible library of 78 [RPM] classical records, a wall maybe fifteen or twenty feet long from floor to ceiling occupied with pigeonholes, bookcases that had been constructed with pigeonholing to hold this record collection, hundreds of records. That was his hobby. He played classical music from the time he got home until the time he went to sleep. They lived out in the Pacific Palisades.

The Chadbourns lived in Brentwood. They lived in a house. They were renting a house next door to Paul Henreid, the actor, which gave them a certain — [laughter]. That was at least in the first year — I think just the first year. Then they bought a house which was not next door to anybody famous, and it also wasn't as big and posh, either. I spent a lot of time with Chadbourn, going by there on the way home and so on.

GALM: You haven't said anything about Rollin Perkins. What was he like?

JONES: He was a very aloof person, friendly but very aloof. He was, I suppose, the oldest person. Pound was just sort of moving through, actually. Perkins was very much a gentleman, an excellent scholar. He had an excellent reputation, taught Criminal Law. Currie didn't particularly care for him as an intellect. He thought he was too standard, stereotyped, and so on. He was sort of conceptually oriented relative to his teaching and his scholarship in Criminal Law, whereas Currie, more functionally oriented,

would tend to dismiss conceptual reasoning. Which reflected a debate that had been going on in American legal circles in the 1930s, late twenties and the 1930s, the legal realism phenomenon, which today, interestingly — all these little harbingers of the 1920s. People get worried about whether we're going to have another 1929 crash and so on. We are actually experiencing a legal realism phenomenon of scholarship and advocacy quite comparable to the earlier one. Only now the new voices are putting down the old voices that were the legal realists and using words like "fraud" and the rest of it. A rather intolerant dismissal of viewpoints. Brainerd was, I think, in that sort of mold. He didn't tolerate fools very readily. He was satisfied, it was obvious, that he had fallen among fools here with respect to Verrall and Coffman, particularly. Perkins, well, you know, "He's conceptual, but at least he's a scholar."

GALM: You haven't said much about Verrall. What about him?

JONES: He was effusively friendly. We saw an awful lot of him and his wife in the first year we were here. They came over. They were visiting us frequently, dropping in. They had no [young] children. I think that he had a child or a couple of children. I don't remember.

GALM: They had two children.

JONES: But they were gone by then. They were older and gone. Of course, we were swarming with these little children. They would pop in there about four-thirty in the afternoon or five o'clock, unannounced. It got to be kind of hairy. But it was well motivated.

GALM: Very Midwestern.

JONES: Yeah, yeah, that's true. That's true. He had a way of laughing where his whole body sort of bounced up and down. I think he probably still had it when you were interviewing him. But a genuinely, I thought, a genuinely sincere, earnest man. He had apparently had a traumatic incident in his career. He had gone to Yale for postgraduate work and got a Yale S.J.D. [doctor of juridical science] at Yale at the same time that Jack Ritchie, this law professor I mentioned from the University of Virginia, was there doing the same thing. Ritchie said that Harold Verrall was brilliant, just brilliant, head and shoulders above the others there. He got an offer. He came out of there I think during the Depression, the thirties, and he got an offer to go

to Cornell University to teach law at Ithaca. Something happened up there which effectively destroyed his self-confidence. I don't know what it was, but it was clear to me, at least, that something really traumatic had happened to him there. He just was not a scholar. He had all of the indicia at this early stage of being really one of the scholarly stars in the future, and something just shut him down. And so he tended to be very picky about other people's work but didn't really engage in it himself. But none of this was done with any apparent malice. I think it was genuine. Chadbourn and Currie distrusted him immensely.

I didn't have any reason to trust or distrust him when I first came. I did have an experience with him that made me pause and think about it, though. I was told when I got out here that I was going to teach the subject of Wills. That was a course I had not taken in law school, not that that's a big impediment or anything. It fell within the area of expertise that Harold Verrall would encompass — he taught Property — an aspect of that. So over in the barracks building I went by his office and asked him if he had any ideas what I should adopt as a casebook in Wills. He said, "Absolutely. There's this great book, marvelous book, by Barton Leach at Harvard. Just get it — perfect." I had a three-hour course. It met three days a week. So I ordered that book. That was an unmitigated disaster. I still recall that when I pause and think about it. This book came through. I mean, I ordered it blind, just on his say-so. That in itself indicates I wasn't very prudent. But that's what I did. The book came through, and it was a short book with very few cases in it. I later learned that what Barton Leach used to do was walk into the Harvard classroom, take the book and throw it down, not bother to open it, and just hold forth. That was the way he taught the subject. The book had nothing in it of any substance. It was just sort of an outline kind of a thing. I had never taught this course. The students didn't really have any great substance to work with. There was at the time a book, the ordinary casebook that you'd find in a law school course, authored by a professor at NYU [New York University] named [Thomas E.] Atkinson, and he was widely recognized to be the authority in the area of Wills. I just went on what Verrall gave me. As I say, I later thought, "How could he possibly — ? Given what I told him, that I knew nothing about it, how could he have possibly picked that book?" I later asked him if he'd ever used it. No, he had never used it. Was he aware of Atkinson? "Oh, sure." [laughter] I did

not ask him why the hell he had recommended that book to me when he knew I would pick up on it. Then I remember we were invited — this was a rather active social circle of people in the first year we were here, probably because we were here, and so we were invited around to the various homes. Everybody else was invited, too. We were invited over to the Verralls, and it was a buffet situation. This was another incident that he gave me some pause. I have violent allergies to egg white and other things, mustard seed.

GALM: You've recounted one such incident!

JONES: Right, the pop eye. So whenever I go any place to eat, I'm going to ask that, and I did on this occasion. They had a buffet situation and they had the potato salad arrangement there, and potato salad is an automatic suspect. So I asked Harold, "Does that have any egg white or mayonnaise in it?" He said, "No, absolutely none. We knew of your allergy and none there." So I took a big heap of it and went over and sat down on a staircase or something to participate in the conversation and took a big chunk of this into my mouth. Fortunately I have a very quick, sensitive set of nerves in my mouth which immediately tell me I've got something that I'm allergic to. I tasted it, too. It was loaded with mayonnaise, and so I just had to get rid of it. I went up to him. I wasn't angry — I was just puzzled at that point in time. I said, "Did you realize that that was loaded with mayonnaise?" He said, "Oh, sure." I said, "Why did you tell me it wasn't?" He said, "I thought it was all in your mind." You know, I almost hit him! [laughter]. I really almost hit him. Our relationship after that was totally different. I just didn't trust him. My senior colleagues are telling me that he didn't deserve to be trusted, anyhow. Now I have this rather graphic encounter with him. Well, that led me to have an attitude towards him of some skepticism and also of an arm's-length nature, so I didn't really welcome him around that much anymore. This is all in the first year.

There came a time when we were in the dean's office — Dale, Harold, and I were there, and we were talking about a moot court operation. The question was who was going to be responsible for it. I was to do some work about it, but the key question was who was going to be responsible for it. Dale had already indicated to me back in the spring and then later in the summer and whatnot that while he wanted me to have something to do with it, and perhaps more to do with it later, he wanted me not to get

involved with it in the first year that I was teaching, which is not an unusual thing, to let this first-year law professor really get grounded in what it's like.

In this conversation, Verrall indicated he was the one that was supposed to be administering it. As we walked out of the office — there had been some conversation about what was going to happen in it and so on. He and I walked out of the office of the dean, out into the anteroom there, and then he said something to me. I don't remember the precise nature of it, but he was pushing that off on me to do the administration stuff on it. In other words, I was going to do what he was responsible for doing, and I refused. I said, "No, that's not the way it's going to work. That's not what Dale said would happen." He immediately got angry. He said that I was trying to avoid work. I said, "Not at all, not at all. If you want, we'll just go right back in there and talk to the dean about it, and I'll be happy to do that with you." But no, no. He walked off angrily. That was pretty much the end of our having any kind of an ongoing close relationship. That takes care pretty much of my contact with him in that first year or so. On the other hand, he was totally susceptible to any suggestion of desire on the part of the dean. He tended to appear to be — I don't think that he was, but he tended to appear to be sycophantic, actually. He would understand that he was brought here by Dale Coffman. He was brought to Vanderbilt by Dale — No, no, no. Wait a minute. He had gone to Vanderbilt from Cornell; he had been at Vanderbilt a long time. Yeah. But he was brought here by Dale.

GALM: Coffman came after the war, and he [Verrall] had been there before.

JONES: Right, right. But the thing that I saw was that this early trauma that Harold had experienced which had sapped his self-confidence, the way I saw it — his self-confidence was revived by L. Dale Coffman inviting him out here, socializing with him back in Nashville, and so on. So he had every good reason to be psychologically dependent upon Dale. That was understandable to me. I saw that at the time and I understood it. But he was fearful also of disfavor from the dean. He wouldn't go back in there with me to talk about that moot court thing. He might very well have been able to get the dean to turn to me and say, "Listen, do it." But he didn't want to do that. I'm certain that the reason is because of this sense of insecurity which he seemed to have. This is in the first, say, span of two years.

GALM: How much of an influence did Roscoe Pound have on Dale Coffman?

JONES: Dale looked upon him as God on earth — and he really sincerely did, too. It was not any kind of insincere — he just really felt that this was the greatest law man that had ever lived in American legal education. Quite sincere. He also, I think, looked upon it as somewhat of a coup to have the name of Roscoe Pound on the — what did he call it? He had the phrase for it. Well, it was first-year faculty. I forget the adjective. Something like "the founding fathers," but there was another adjective. Maybe I'll think of it down the line. Anyhow, he savored having Roscoe Pound here at the beginning of the law school, at its initiation.

GALM: Were there elements of Pound that became part of the organization or structure or style of the — ?

JONES: I don't think so.

GALM: So it was more just a high regard and respect rather than someone who sort of — in other words, Pound was not manipulating Coffman?

JONES: Oh no, no. Actually, Coffman would go to Pound and say, "What do you think about so and so?" There were things going on of which I had no knowledge at the time between Brainerd Currie and Dale Coffman relative to the oath stuff. That was still ongoing in the first year that I was here in some way that I really still don't know. The documents, as I remember, which I had and which I can't find now — I know I had them a year ago when I showed Ken Graham, but I don't know where he put them. But if we were to look — you may remember my office is full of what my wife calls "trash." It's in that trash there. But in any event, I think the dates on those were 1950, '49 and '50. So I don't remember any 1951 dates, but I'm not sure about that. In any event, I don't have any recollection of observing anything going on. But there was tension. There's no question about that. I remember derogatory comments being made by Helen Coffman about Brainerd Currie, and Dale grunting his assent.

GALM: What would be the substance of those comments?

JONES: Oh, just that he was somebody who didn't fit in.

GALM: That was a very important thing, wasn't it, that everyone fit in and that everyone somehow socialize to a degree?

JONES: Be very compatible. You may have heard — you wouldn't necessarily. Farmer John's? Did Harold talk about Farmer John's? We used to go to Farmer John's for lunch every day. That was the expectation. That was not a casual "Let's go to lunch" thing. I'm sure it must have started out that way, but that was it. You assembled down in the dean's office anteroom and then sorted out what cars would be driven. One of my most vivid experiences is sitting in Farmer John's across the table from Roscoe Pound and watching him eat his salad. He had no teeth. Gums, he ate salad with gums, wouldn't wear false teeth. If you can conjure watching somebody eating salad just with their gums and just think about how that's going to look, it's a very, very funny sight. It really is. I mean, all kinds of things happen to the jowls while this mastication process is going on. Some people might think it not humorous, but I thought it was hilarious. That was my problem! Just glancing would make me start to get these little convulsions that you get before you burst out laughing, which was obviously not something that I should do. But the topic at the table would be public affairs and university affairs — Dale sitting at the head of the table; Chadbourn just eating his lunch, not talking, not saying anything; Currie glancing querulously, without saying too much, at the dean.

GALM: Did he continue to attend the luncheons, or was the point reached where he didn't?

JONES: I don't remember. I don't remember that, whether that deteriorated. I know there came a point in time — yes, that year. The reason that I say that is because I remember Currie got involved with one of our students, a girl whose name — she's dead now. I don't remember her name. It's not important and probably just as well that I don't remember it. But she told the story widely of having watched Jim Chadbourn, who was called "Bunny" by Brainerd — they were close — and Brainerd going out the back door of the library at lunchtime to escape "the draft." The students, of course, were extremely observant of what was going on. It did happen that year because this group of students was the group that comprised our first class. They had gotten all kinds of adulatory treatment from the dean. He kept telling them what great prospects they were, what a great opportunity they had launching their great careers here, and so on. Next April

I'm going to attend the thirty-fifth reunion. Thirty-fifth? Yeah, thirty-fifth reunion of that class.

GALM: Was that first class indeed an outstanding class?

JONES: No, not really. It was of the ordinary range of talent and background, and they were like classes that I was in at Virginia. They had a lot of veterans among them. There were more women in that class than I had seen in law school.

GALM: They did very well.

JONES: They were the top of the class, "the leading men," as the dean always called them. The top men in the class, ho-ho. Currie and Chadbourn were actually heading out the back door there to avoid the Farmer John's. I don't know where that came in the course of the year.

GALM: Was there any one incident that occurred that last year to cause Currie to decide to leave? Or was there just an offer that came?

JONES: No, he got an offer.

GALM: At University of Pittsburgh?

JONES: Pittsburgh deanship, yeah. And at the time Chadbourn said, "You shouldn't do that, shouldn't take that." He was not a dean person but he was just bailing out. That's all it was. And he never did serve as dean there. He got an offer to go to the University of Chicago during the summer after he had accepted the offer of the deanship at Pittsburgh. He ditched Pittsburgh, which was not your ordinary gentlemanly act. Instead of taking his year of purgatory in Pittsburgh and then going to Chicago, he just dumped them, really in a very unseemly way. He just believed in himself, which was basically, I think, it.

GALM: You mentioned that there were the daily luncheons, but what was the Friday faculty luncheon like? Was it all that much different?

JONES: No.

GALM: Except certain topics would be brought up?

JONES: Usually. Not a written agenda. That was one of the sore points, actually, or became a sore point. It was just whatever the dean thought should be talked about. And there weren't that many people. There was some logic

to it. I didn't find this offensive that we met for lunch for the faculty meeting. In fact it was a handy way to do it. I wish we'd do it here! [laughter]

GALM: Well, maybe things will, you know, cycle.

JONES: Actually, right now we have a Monday luncheon meeting that the faculty holds here in the law school with lunch provided, a colloquium-type thing where one of our members will tell us about research they've been doing, whatever. That's a very enjoyable occasion.

GALM: If the personalities had been more compatible, do you think it might have been successful?

JONES: Sure, sure.

GALM: It was just an unpleasant social [function] for certain people?

JONES: You see, I came into it: it wasn't unpleasant to me. I didn't immediately grasp how unpleasant it was to Brainerd Currie and to Chadbourn. It wasn't all that unpleasant to York, although he had a different, more realistic view of it than I did. I was very naive at this point, but York saw it for what it was. So that's the dean. That's being a dean. It wasn't at that point in time, at least. I don't think to Ken it was anything offensive. In fact, I think he tended more to accept it as a regular thing, nothing unusual. He sort of shrugged off — which is a characteristic of his. I hope you do interview him, and when you do, you'll see what I mean. He just sort of brushed off anything about it that might be deemed to be distasteful. He just ate his lunch and shut up and thought about something else. He didn't hesitate to give any response, and any response he gave tended to elicit a lot of laughter because it would seem to come off the wall.

GALM: Did the dean, on these occasions, did he come forth with much right-wing philosophy and pronouncements?

JONES: I have no strong recollection of sitting there thinking, "Good heavens." His whole perception of the world around him was just that way. Any kind of conversation about anything that might have occurred that was in the newspaper or on the radio — no television at that point — would reflect that. But I don't remember discussions. I have no recollection of discussions that got heated about politics.

GALM: Tom [Thomas S.] Dabagh, had he left by the time you arrived?

JONES: No, he was here. I was trying to remember his name the other day and couldn't. He was here at least that first year and appeared to be a very knowledgeable librarian, a decent guy. I have no recollection of what had turned off Coffman on Tom Dabagh except that Louis Piacenza somehow figured in it. Louis Piacenza was the assistant. Tom had, as I recall, a degree. He had a law degree, and he had something beyond that as I recall, maybe inaccurately. Do you have any knowledge of this?

GALM: He had very good credentials.

JONES: He had good law library credentials. He was the butt of demeaning comments and so on behind his back. I don't remember and I don't think I did know what the derivation of it was, except this does pop into my memory now. It had something to do with the oath controversy. I think undoubtedly that had to be a factor. You couldn't be in the university in 1949, 1950, without being affected by that controversy somehow. Coffman took a leading role in that controversy, holding the law school out instantly as witness to the fact that there was nothing wrong with requiring oaths and so on, which immediately prompted Currie to write a long, dissenting, single-spaced memorandum indicating that was not so, that that was not the position of the law school. That was the position of the dean of the law school and, indeed, "For the following reasons it's not my position," signed Brainerd Currie.

That document, the one that I told you about, is totally persuasive, totally well reasoned, dispassionate, just as far as I was concerned. He gave me a copy at the time when I got here, when I talked to him. It just was irrefutable. So I suspect that Tom Dabagh was caught up in that somehow, perhaps the Berkeley background. I don't know. I'd bet dollars to doughnuts, as we used to say, that that's what caused the falling-out. Dale Coffman was really a formidable specter to someone like Tom Dabagh as a result of a falling-out, because behind Dale Coffman sat the chairman of the Board of Regents, very visibly so, constantly so, in entertainment, socially. Tom Dabagh was probably about forty, forty-five years old, as I recall, at that time in midcareer. That would be a very traumatic thing for him. There wasn't any question he was being pushed out. He was being pushed out, my memory is telling me at least, based on a lot of stories being told about him by his assistant, Louis Piacenza. The query was whether those were

accurate or inaccurate. There was a constant drumbeat of little picky stories, critical anecdotes and whatnot, from Piacenza to the dean.

GALM: It seems that there was some criticism of perhaps Dabagh's concept of the law library and how the collection was to be organized and arranged. Did that ever become a big discussion among the faculty?

JONES: It may have, but not when I was here. That probably had taken place in the first two years.

GALM: So it was probably more personality conflict than anything else?

JONES: Well, it could have been more than personality if my hunches are accurate. It could have meant this basic political difference. One shouldn't even call it political. It was an ideological kind of a thing.

GALM: The dedication of the law school building, is there anything that stands out in your mind about that? It occurred in November of 1951.

JONES: I remember going to dinner at —

GALM: That's the program from the dedication. I was just wondering whether anything —

JONES: Yeah, the California Club. The only thing I remember is sitting at the table at the California Club at which Justice [Marshall Francis] McComb of the California Supreme Court was sitting, and thinking, "My God, what an idiot." [laughter]

GALM: So that was the private —

JONES: And he was highly regarded by Dale Coffman. The fact that I was sitting at that table was a compliment to me from the dean. This man was an extremely conservative person. He liked the sauce. The more sauce he got the more we learned about his views on politics and life and American society and the commies and so on. That's pretty much my recollection. I have a little movie in my head of looking up at the dais, and there's Robert Gordon Sproul — the luminaries are up there.

GALM: Did the faculty actually have much to do with the planning of that?

JONES: I don't think so, no.

GALM: Or was it mainly Coffman's show?

JONES: Sure, probably Helen's, actually.

GALM: One of the other things that came up —

JONES: I should interrupt you just to say that Erle Stanley Gardner is the sort of the level of the thing that was going on — you know who Erle Stanley Gardner is. But he was not extremely imposing.

GALM: But he became a very important figure in those early years, not important, but a popular figure around the school.

JONES: I don't know what you mean "around the school."

GALM: In the sense that didn't he teach summer session?

JONES: The Perry Mason type. He taught Evidence as I recall, yeah. He made a gift to us which I don't know where it is now. Surely it's not still down in the hall. It was —

GALM: I think it's still down in the hall.

JONES: Is it? The scale?

GALM: The scales of justice.

JONES: You see how observant I am now. I can't tell you if that's still there.

GALM: Well, it seems to have moved around over the years.

One of the issues that came up in '51 was the question of the accreditation of the law school. There seems to have been some maneuvering upon Coffman's part not to go for full accreditation. Were you, as faculty, aware of that at all or was that sort of something between him and the university administration?

JONES: I'm sure it was discussed at these luncheons, whether at the faculty meeting or not. But I don't have any firm recollections about it.

GALM: It seemed as though the local administration —

JONES: I do remember this much about it. He was very concerned to keep the law school aloof from the Academic Senate. I remember now. He did try to use, and successfully used, the accreditation process as a lever to avoid the kind of close relationship with the Academic Senate that the law school had at Berkeley and that we later had. That itself turned out to be one of the factors which caused the ferment among the faculty. That did happen.

GALM: I was wondering, did any particular faculty member sort of object to his handling of that accreditation matter?

JONES: I'm trying to remember which year that was. I don't think that was Currie. I don't think Currie was still here then.

GALM: He could have been. It was in the meeting '51, '52.

JONES: It was after I was here.

GALM: And that was a holiday meeting, I guess, of the American Bar Association Council.

JONES: Okay, so Brainerd was here then. I know Brainerd pressed for the propriety, just as a law school propriety, in the law school world, of our having a close relationship with the university Academic Senate and that there was nothing inherent in law school status or the profession of law and so on or the teaching of law which would militate against that kind of contact. You've pulled a little plug in my memory now, pouring forth some more recollections of listening to Dale Coffman talk about "basket weavers." We didn't want "basket weavers" telling us what we would have on our curriculum. The *horrendum* was that people who were in other disciplines, basket weaving disciplines, would be dictating what's in the law school curriculum. Of course that didn't happen at Berkeley, I'm sure, and wouldn't have happened here. But that was how he saw it, and I think he was totally sincere about it. He didn't trust the people in the Academic Senate because of the experience with the oath thing. He thought they were a bunch of left-wing, deluded people or worse.

GALM: It seemed like that just naturally led into then the actual change made through the regents of taking the law school out from under the full aegis of the Academic Senate, which then occurred that spring, in the spring of 1952. Was there anything, really, was there any effort that individual law faculty members could do to prevent that action by the regents?

JONES: No. At least there wasn't anything that I remember being visible. You have to keep in mind in my recollection about this, this was my first year in law teaching. I'm a babe in the woods in this context. This turned out to be one of the historic confrontations in American legal education. I just sailed into this on a little paddleboard without any background that would give me any basis for understanding what was going on around me — except I began to be aware of the fact that these black fins were going back and forth around my paddleboard. Then I began to realize what the dimensions were, what I had entered.

GALM: You had mentioned Edward Dickson. Did you also become aware of Victor Hansen as a regent and what was his — ?

JONES: Oh, sure. That came a little bit later though.

GALM: It was really the Hansen resolution.

JONES: But he was off on the side, to me. I met him at the Coffmans'. He was a judge at that point, and then at some point very near — maybe 1952 or so — he became assistant attorney general, as I recall, in the antitrust division in the Eisenhower administration. Beyond that I have no immediate knowledge of him.

GALM: You came here to teach. How did that go? You had mentioned the experience with the Wills text, but how did you find law teaching?

JONES: Well, I enjoyed — I taught Labor Law at the same time. I very much enjoyed that. I remember my first day in class was in the Wills class, and the thing which still sticks in my mind is in terms of an impression. I had gone through college and then in the Marine Corps and then in law school, always with a — I didn't realize it at the time — with a sort of a self-perception of insulation against whatever I might be thinking in a classroom situation. The professor was not sharing in it unless I said something, or the Marine drill instructor wasn't aware of it unless I said something or he asked me — law professors and so on. The thing that struck me so dramatically and forcefully in the first ten minutes of my teaching career was that I could read every single face and what was going on behind that face right out there in front of me. I was having instant radar reception. I think there were fifty-one or fifty-two in that class, and I was getting transmissions from all fifty-two. That was absolutely flabbergasting to me. I had never had that experience before. Of course, what occurred to me was all those years that I thought I was experiencing anonymity, never! I was being observed. I was transmitting, just as every one of these people were transmitting to me. That really shook me up at the time. They were very skeptical as a group. I was younger than many of them. I was more experienced by a year or two but had not practiced law. Well, I had practiced a little law, as I had told you, but very little.

GALM: Were you younger looking than your years? You're very youthful looking now.

JONES: Well, I was. In fact there was one of the students named Goldberg in that first class, and his wife came over in the lobby down here to serve coffee or something to the law students one time and she grabbed me by the elbow at one point and said, "Now, you run down there and get me so-and-so." So I went and got it and brought it back to her. And then somebody said to her, "Have you met Professor Jones?" She said, "No, where is he?" The person said, "Well, here he is, right here." [laughter]. That was a story that was repeated at the time. I did look younger. I was thirty. That's not young.

GALM: Especially with four children or five children.

JONES: There were four then. Became five in July of '52.

GALM: Let's talk about a couple of additions to the faculty, and I'll get us up maybe to 1953. Ralph Rice came in '52. Is that right?

JONES: Right, and Jim [James D.] Sumner.

GALM: And Jim Sumner. You've talked about Jim Sumner in your —

JONES: I didn't tell you about Jim Sumner, that he and I roomed together on the occasion that we took the bar exam.

GALM: Oh?

JONES: In Roanoke, Virginia.

GALM: Did he pass, too?

JONES: He passed, also.

GALM: That's good. Rented a motel room.

JONES: He was a semester ahead of me by that time. We started out together, but he had continued in the summer. So he was one or two semesters ahead of me by then.

GALM: What about Ralph Rice?

JONES: My principal impressions about Ralph are going to be after I became active with tuberculosis again. That's when I have vivid impressions and memories of Ralph and my interaction with him. But as a person he was a mercurial person. He's short in stature, intensely loyal to friends, had an intense sense of loyalty. When he decided something was wrong, it was wrong. He would shake his fist the way I just shook my fist here. He would jut his jaw out and look you in the eye and make all kinds of angry

eyebrows in reacting to something that he thought was wrong. Marvelous human being. Also, this was quite a career opportunity for him. He had not come from — he was not a Brainerd Currie nor a Jim Chadbourn in terms of his background. But he was a hard worker. He had been on the staff of the Labor Board during the thirties, when they had all kinds of problems about whether there were communists running the National Labor Relations Board and so on. He was a staff member. He had an interesting background. Tax had come to be his forte. He was very dogmatic, very dogmatic. There were no halfway opinions for him. He was either totally for it or totally against it and became a pillar of strength in this confrontation that ultimately came about. He was regarded without question by Chadbourn, for instance, as a major ally, as an acquisition of the faculty. The problem was becoming more and more visible.

I think Chadbourn recognized early on, before I even got there, that there was going ultimately to be that kind of a confrontation, which would normally mean that he, Chadbourn, would leave. He didn't want to leave. He had cut some cables back to the East and so on. Although he could have, and he did ultimately go to Harvard, I think he basically wanted to stay here. Also, he had ideas of respect and admiration for the history of the University of California and the academic integrity of it which were offended by what he thought and what he perceived to be going on. Particularly, I think the nettle that started the whole thing — your question reminded me — was the business of manipulating the accreditation to avoid the Academic Senate. What Chadbourn was convinced of, and Ralph Rice also, was the necessity for the law faculty to be part of the academic institution of the University of California, not set off in some isolated category, but to have the intermingling that characterizes the university, which characterizes our situation today. I think that was the major concern at that time.

GALM: [After] discussing some of the faculty additions that took place in 1952, [let us continue] by speaking about three additions to the faculty that occurred in fall 1953. That would have been Allan McCoid — now, he came on as a visiting professor?

JONES: Assistant professor.

GALM: Assistant professor. And Richard Maxwell and Arvo Van Alstyne.

JONES: Right.

GALM: I'll give you your choice as far as which one you'd like to talk about first.

JONES: Arvo Van Alstyne would have been a superb person to have interviewed here, but he's dead now. He left UCLA and went to the University of Utah as a law professor. He was a Mormon bishop here in Los Angeles and was summoned to Utah, Salt Lake City. But he was a prodigious worker. I don't remember knowing anybody that was as consistently hard at work on projects of substantial import and scholarship. I didn't really get to know him very well, certainly in 1953. He was here in Los Angeles. He didn't come to Los Angeles from someplace else. So he was already here.

GALM: Was that again because of his connection with the Mormon church here?

JONES: I'm not sure. Arvo was a Yale Law School graduate, as I recall. I don't remember what he was doing in Los Angeles. It sort of sticks in my mind that his mother may have been in Los Angeles, but I know he was here. I think that Jim Chadbourn and his wife and I and my wife went to dinner at the Van Alstynes' on one occasion. I'm trying to place that, whether that was in 1953. I doubt that it was in 1954. It would have been after I came back out of the tuberculosis sanatorium. So I really didn't get to know him at all. He was an unknown quantity indeed. [There were] lots of high opinions of him when we hired him.

GALM: Do you know whether there was anyone on faculty who was promoting his appointment?

JONES: I don't think so, no. But it didn't hurt his chances as far as the dean was concerned that he was a devout Mormon. The dean was very concerned, I told you before and you know yourself anyhow from other sources, about communism and the role of communism, the threat to the integrity of the university of having persons who were of a communist persuasion or duped by it. But I don't have any specific recollections of the discussions about him in the faculty meeting other than that everybody was happy with it.

Nor did I really get to know Allan McCoid very much until after I had gotten back from my eleven months at Barlow's Sanatorium. So I'll postpone talking about him.

But Dick Maxwell I had met in Dean Thormodsgard's room back in the Edgewater Beach Hotel, so when he was out here we talked at some length about the situation here. He and I and Chadbourn got together while Dick was here. Dick had been at the University of Texas law school [at Austin], where he went from North Dakota, and then had gone to work for — ·

GALM: Amerada [Petroleum Company]?

JONES: Amerada. That was what I was [trying to recall]. So he was being interviewed while he was counsel for Amerada. He came into this with his eyes wide open. I mean, he was totally knowledgeable about what the situation was here and just felt that he could live with it, and it didn't stop him from joining the faculty. He was very impressed with Chadbourn, who was a very impressive fellow, and impressed with the future that UCLA obviously held out. This was really an incredibly promising situation institutionally. I think everybody, even at that point, just figured that nobody could really stand in its way and it would be foolish to turn away from an opportunity to join this faculty simply because of the anticipation that Dale Coffman was going to be the dean still. It wasn't until later that people really began to get the conviction or the realization that his deanship was not operative if the institution was going to be what it promised to be. So in 1953 that was simply not there. It was there in James Chadbourn's mind, no question about that, and Ralph Rice's. Brainerd Currie, who had left by then, certainly had that feeling. And it was abroad in the world of legal education that this situation existed here. So after he [Maxwell] was out here for the visit — he probably talked about it. I've assumed it's February or March, something like that. Then I didn't see him until I was down in Barlow's. He came down to see me there on occasion. That's pretty much the —

GALM: Was it in spring 1953, then, that the recurrence of your tuberculosis — ? And how did it become known to you?

JONES: Well, I had periodic tests. I think that I'm fuzzy on that recollection. It sticks in my mind, though, that I had somehow utilized the Veterans Administration as a testing agency. That was a periodic thing — did it every six months. It came back positive. This was a stomach culture. Poke a hose down into your stomach and drink some water and they suck out the contents, an early-morning-type thing, and then they culture it over a period of, I think, something like six weeks. So that came through,

then, in probably late May, early June. I'm not sure of the exact dates. I don't remember that part, but we were within a week of the time that we had learned we were expecting our sixth child when this news came in. I don't remember whether it was a week before or a week after. That's Bob [Robert Morris Jones], who's now a lawyer. It resulted in some thrashing around in our family, my wife and myself trying to figure out what do we do, because it was a potentially devastating situation. Financially, we didn't have any resources. We had no savings or anything. We had gone out on the limb into the purchase of a house up in the [Pacific] Palisades probably six months before that, which probably was just as well. Well, the way it worked out it was certainly just as well. But that made it seem even more precarious to me at the time.

I had met Cardinal McIntyre, Francis Cardinal McIntyre. He had had some contact with Dale Coffman, and Dale had told him, "We've got this young assistant professor who's a Catholic, and you really ought to meet him." And so I had been invited to a bachelor-type dinner at the cardinal's home on Fremont Place. Howard Ziemann — who was then a Superior Court judge, fairly recently named to the bench, but who had been the archdiocesan counsel — was at the dinner. There was some notable person there whom I don't remember now. We had a very convivial time, dinner, conversation, and so on. He was totally like Dale Coffman. He was very, very sensitive to the issue of communism and was sort of worried about the University of California in that posture. He had been the archbishop when the oath controversy had bubbled up in the university. He saw Dale Coffman as a rock of reliability in the sea of instability or whatever, and this rubbed off on me in terms of his view of me.

And then he had convened some conference or something. I don't remember what the thing was, but there were several hundred people in this auditorium and he was chairing the meeting, and I had been invited there because of this dinner, as I recall it. I was sitting down in the front row, and there was another person there, a fellow name of Quentin ["Bud"] Ogren. And the cardinal came down off the podium before the meeting started and grabbed me by the arm and took me over and introduced me to Bud Ogren. He said, "You two fellows ought to know each other." Ogren later became a law professor at Loyola within a couple of years after that. I had had this kind of relationship to him.

Then there was a priest who was the "labor priest," Father Kearney, Joseph Vincent Kearney. He was a good friend of Bud Ogren, so I met Father Kearney through Bud Ogren. In fact, Father Kearney was the chairman of the annual Labor Day mass in Los Angeles. It was a custom that there be a mass on Labor Day and there would be a celebration of the role of the worker and so on. The Catholic Labor Institute, which Father Kearney had started and was the director of, sponsored a breakfast after the mass at which all of the luminaries in the local Southern California labor field would be present, all of the union presidents and staff people and the rest of it. There would be a speaker and so on. So I got tied into that. That would have been in 1952, Labor Day. Could even have been 1951, Labor Day.

But in any event, when all of this is related to what happened after I became aware of the tuberculosis, I don't remember exactly how we did it, but we talked to Father Kearney about the situation almost immediately. He went and talked to Cardinal McIntyre, said, "Look at what's happened to this family," and Cardinal McIntyre said, "Send him back to us." What we were looking at was the prospect that inevitably I was going to have to be hospitalized. And the prospect was a Veterans Administration hospitalization. There was the possibility of a Navy [hospital], and you know what happened to that possibility rapidly. [laughter]. Well, given the history that I had, I wasn't too enthusiastic about getting in the toils of the Veterans Administration, either, but we seemed not to have too much control over the matter. But all of a sudden there broke through Cardinal McIntyre's offer to sponsor me to the Barlow Sanatorium, which is down in the aptly named area Elysian Park, where the Dodgers later — I thought it was kind of ironically named.

GALM: Where the Police Academy is, too.

JONES: That's right, that's right. Elysian fields, you know. Then that opened up as the place where I would be going. He also said — this was the cardinal telling Father Kearney — "Maybe we can arrange some kind of work for him to do, writing of some sort." So I ended up, then, going down to Barlow's in early June. That was a very heartrending kind of leave-taking.

GALM: Did you have any sense of how long you might have to stay?

JONES: No, but I had very much in the forefront of my mind what that Army doctor had told me back at Fitzsimons [General Hospital], and it seemed to me —

GALM: That was what, three years or — ?

JONES: He wouldn't even put a tag on the end of it. It was several years. He may have used three. It was going to be an extended period. And of course, what I was really concerned about was whether he was turning out to be right after all. If that were true, then I was really at the start of something, a rather horrendous prospect.

We all drove me down there, the kids and everything, so the leave-taking was a very painful kind of thing. So I went in there. Then it turned out, of course, that chemotherapy was just emerging as the treatment for tuberculosis. I had had — I'm trying to remember the name of it now; I think I remembered the name of it the last time we talked. But it was a needle-injection type thing that I had been administered back in Virginia — streptomycin — when I had run into that period of irresolution, which as I looked back on it in 1953 no longer looked irresolute. Now, we were extremely fortunate; throughout all this we were careful. None of this affected any of our kids, so much so that none of them even had positive tuberculin tests — I mean the little patch test — which is quite unusual. In any event, there were two other chemicals. One was a very huge pill, but the other was a little tiny pill, and that was called INH. I think it was isonicotinic acid, hydrazide acid — anyhow, INH — and that turned out to be the great knockout of tuberculosis throughout the world where it was available. So it did knock out the disease for me so that I was able to leave after eleven months, return home with negative cultures and so on.

While I was down there I didn't see Chadbourn. I had a very close — we weren't father–son because it wasn't that much of a gap. There was maybe twelve to fifteen years between us. But it was certainly older brother, and it was sort of like father–son, too. But his father, like I mentioned, had died of tuberculosis when he was a child. He had a vivid, vivid recollection of the burning of these little cups out in back of his house. He was terrified of tuberculosis. When I was diagnosed and sequestered, everybody had to be tested here at the law school. I think even students were tested. I'm not sure of that, but all of the staff, the secretaries and the faculty, all had to be tested. Of course, Chadbourn tested positive immediately with the patch test. He was a hypochondriac. That resulted in X-rays. I think actually there was even some scar tissue in his X-ray, but he didn't have any problem with tuberculosis. But it deeply affected his view of me and

my situation and the rest of it. He didn't want to come near Barlow's, so he would just send messages from time to time, a little note or something like that. But Ralph Rice — If Ralph came down there once, he came down there a couple of dozen times to see me, a self-appointed link to the outer world. He was really very supportive.

GALM: So he was the most frequent visitor from the law school?

JONES: Dick Maxwell came down a couple of times. But people were fearful. Fran [Frances] McQuade, for instance, did not, although we had gotten to know each other quite well. I think she was fearful of it. It was very traumatic, the business of the testing and everything that had to happen.

GALM: Chadbourn's positive result, would that have been probably from his — ?

JONES: His father, sure, yeah. Linked to this is an act of generosity on Harold Verrall's part. I was scheduled to teach in the summer school in 1953, teach the subject of Wills. [laughter]

GALM: Had you gotten a new text by this time?

JONES: Oh, yes. I was good at Wills by then. So what happened was that he and Dale talked about my situation, and he volunteered to teach the Wills course and let me collect the money. And then Dale went across the street to — who would it have been? I guess probably it was Dodd, probably was still Paul Dodd in 1953. I'm not sure. I don't know whether Raymond Allen was here yet or not.

GALM: I think he came in '52.

JONES: Okay, so then it was Raymond Allen, who himself was an M.D. and recommended — and the recommendation was accepted — that I be given a fully paid sick leave. So what happened was from the cardinal I got tuition free at Barlow Sanatorium and, through Dale Coffman and the university, a fully paid sick leave for that whole year — which just boggles the mind when you think about it.

GALM: Is the cardinal James Francis?

JONES: James Francis Cardinal McIntyre. You got it. Marvelous, marvelous man who became very disillusioned in me rapidly. It was an unfortunate

idea to ask me to write. The Catholic newspaper *The Tidings* — Are you familiar with that?

GALM: Yes, very much so.

JONES: Okay. In 1952, the editor of the paper was a Monsignor [Patrick] Roche I think his name was, and the paper was just a flabby, mediocre newspaper. I had edited my college paper and I had started the newspaper at the law school at Virginia. I loved writing for newspapers, the whole idea. So Monsignor Roche approached me with what he said was an idea that he had discussed with the cardinal that on page two of *The Tidings* they thought they would open page two to some kind of commentary about public affairs and would I undertake to do that. I thought about that. I'm obviously thinking very favorably about the idea of doing anything I can to bring some income and to occupy myself. The income part was no longer really something which was screaming at me as a necessity because of the coupling of the tuition — "tuition free" was not my phrase for that — I think that was what Father Kearney described it as. It was an arrangement that they had with Barlow's. I don't know whether they paid anything to Barlow's or just that was it.

But in any event, former Governor John Bricker, then senator from Ohio, was pressing the Bricker Amendment to the Constitution, the effect of which would have been to neuter the presidency in the conduct of foreign affairs. That was a very hot topic in 1951, '52. I was totally convinced of the idiocy of this. There was no question about it. So my first chore was to write a column. The first column I wrote was about the Bricker Amendment. That was printed, and I gutted it. It was "guttable." It was just ridiculous. It was just so against all of the accepted legal analyses and realities, and you had to be just very simplistically anti-communist to think that that was going to be something the United States needed. Dwight Eisenhower was president. So anyhow, I wrote that column and I thought it was pretty good. It was printed. And then the next issue I sent in my second column, which was a follow-out of the first column, and I found when my second column was printed there was another column next to it written by a dentist. It was the party line about the Bricker Amendment! Then I wrote two more columns. Then I got fired. I sort of knew what was coming, but it

was obvious that I really couldn't handle that. I was going to have to write what I wanted to write, and it wasn't going to be operative for them.

GALM: Were you ever approached to perhaps slant your articles in a different way?

JONES: No, no.

GALM: Was it Monsignor Roche, then, that terminated you?

JONES: Right.

GALM: I hope that didn't have any effect on your stay at Barlow.

JONES: No, no, it had none. I never did visit the cardinal again, though. Dale Coffman also was spouting Bricker Amendment theories that made the cardinal happy to listen to. In fact I'm not sure of this, but I think we did discuss it at that dinner at the cardinal's house and I maintained a relatively discreet silence on it. But, in any event, in all modesty, I had a great idea which I wrote in the final two columns, but it never got picked up. I thought it was a great idea. I still think it was a great idea. At that time we had the Korean [War] thing, just on the other end of it. There had been an awful lot of Chinese who had left China coincidentally in those years from '49 after the Mao takeover and all kinds of backgrounds of persons. My basic idea was that we recruit teams of those Chinese and finance them throughout Asia on tours — village, city, whatever, teams. I think I had three people in each team, a lawyer, a scientist, perhaps a doctor or something like that or a peasant farmer. All those people in various occupations and professions. There were apparently hundreds of thousands of them who had dispersed out and I guess were to be found — in fact we just Monday listened down the hall here to a young Chinese lawyer who was educated at Oxford whose parents left at that time and went to Hong Kong. He was telling us about Hong Kong. So that was in contrast to the Bricker Amendment. I was saying if we really want to get after communism, this would be a great way to do it, to unmask communism by using the insights and the witness of people who have been there and left because of it. So I went out, I thought, in sort of a blaze of glory. I also finished up a law review article that I had, was in the process of finishing, on picketing. And that led me into locking horns with my mentor, Charlie Gregory.

GALM: What law review was that for?

JONES: It was in the *Virginia Law Review*. This was 1953. It was "Picketing and Coercion." The burden of my argument was that picketing was mistakenly being viewed by courts as if it were in fact psychologically coercive, not just using coercive as a metaphor but really almost as a diagnosis, and that this was mistaken. I undertook to say why. It was published in the *Virginia Law Review* in 1953. It resulted in Charlie Gregory writing a rebuttal piece to it. He just devastated me in his article. But we had argued —

GALM: He was your mentor, too.

JONES: Oh yeah, yeah. This was great. There was no resentment about this. But he really raked me in that thing, no holds barred. I got to write the final piece. I made up an ancient aphorism, "Never lock horns with an old bull in his pen," I started it out. Ancient proverb. So anyhow that was a boost for me to have the law review article written and to have him pour acid on it and to have me come back at him with some verve also.

GALM: How did your wife endure that confinement?

JONES: That was very rough on her. She got a lot of support from Dick Maxwell and Fran [Frances McKay] Maxwell who lived right out in that area where we lived. We were at Junaluska Way, this little plateau area just — I guess it's west, where the high school presently is. There's a plateau west of that, and that was where the Maxwells had a place, on out closer to the ocean. But it was very rough. She was pregnant. Time came for the delivery. The boy was born in March. What is today? He was born March 16, 1954. So she had to go into the hospital, the whole bit, while I'm down there at Barlow's. The Maxwells figured in that. I don't know whether Dick took her in, but I know that Fran came and stayed with the kids. So even though we hadn't gotten to know each other that well, we got to know each other that well.

GALM: So then you returned in, what, spring 1955? When were you actually discharged?

JONES: I was discharged in June of '54 and returned in the spring of '55. I had a lot of bed rest still to cope with. It was a gradual getting up and walking and stuff like that. This, too, now, I'm very fuzzy in my recollection. But the Coffmans came out to visit us, I remember that, and brought an arbitrator, Clarence Updegraff. Have you picked up when he was — ?

GALM: The appointment of Clarence Updegraff was announced or discussed in December of '55, because Coffman wanted to bring him on to replace Allan McCoid. Had you been sort of kept abreast or did they in a sense protect you from what was happening at the law school?

JONES: Ralph had come down probably biweekly, sometimes once a week. He kept me totally apprised of what was going on. It was very distressing for me in the prospect, because I knew the time was going to come when I was going to have to fish or cut bait. Thinking of the thoughtfulness that Dale Coffman had evidenced towards me and the compassion really gave me quite a bit of concern whenever I'd get onto the subject with Ralph. I could see shaping up that this was going to be very unpleasant at some future date.

GALM: By the summer [of 1955] were you more or less in the swing of things?

JONES: Well, I must have been, because it was in the fall when Saint Crispin's Day came.

GALM: October 24?

JONES: Is that when it is?

GALM: I did my homework. Battle of Agincourt. [laughter]

JONES: Yeah, okay, there you go. I don't have any fix in terms of recollection.

GALM: It seems that what the events were building towards was not necessarily a confrontation between Dean Coffman and the faculty, because these were happening in minor ways. But it was really the meeting with the faculty, the dissident faculty, and the chancellor, Chancellor Allen. Did you participate in any meetings of this group?

JONES: Well, there were no meetings, as such, of this "group," in quotes. There were conversations in offices. Yes, I did participate in them. Everybody knew what my dilemma was and sympathized with it. Everybody recognized that I was coming down the pike — I was going to have to become very visible. Well, I don't know what their internal thoughts or expectations were of what I would be doing or saying, but I'm pretty sure that they would have thought that I would do, in fact, what I did do ultimately.

But also, I didn't want to get into a conspiratorial mode. There was a small group, actually. The faculty was not a large faculty obviously. So you didn't have to think about convening meetings. Allan McCoid was obviously headed for trouble in my book. I could see that was going to come. He was very outspoken and he was bright. He didn't go looking for trouble, but both he and I were assistant professors. We were obviously extremely vulnerable to anything by way of retaliation from either direction, but neither of us was thinking about it from either direction. The thought never occurred, I'm sure, to him. The thought never occurred to me.

The problem that we had — he had a different one than I had — was centered on Dale Coffman. My problem was that I just couldn't conceive how I was going to make it intelligible to Dale Coffman what my feelings were. Not my feelings — it would be easy enough for me to make my feelings known, the emotional side of it. But the intellectual side of it, my perception of what was going to have to happen to this law school. He was going to have to resign or be removed as the dean. There was no question in my mind that that was ahead, that was coming. It had to come. It was inexorably going to come no matter who did what at that point. And that was based on my perception of the strengths of this youthful university here in Los Angeles, that it just wouldn't sit still. It just would not sit still and allow this opportunity to run off the tracks. I had a very strong conviction about that. But I also had this enormously deep, profound sense of gratitude to Dale Coffman, who had from the beginning, from my very first contact, been nothing but forthcoming and candid and talked about things that concerned him. He told me things about his attitudes towards Chadbourn and the others, which I never repeated to them any more than I repeated to him what insights I was getting from them. I think they recognized that also, that I was not a pipeline going in either direction. It was a difficult situation.

GALM: Did it really come down to almost a Chadbourn–Coffman confrontation, with support on both sides? Was he the key person?

JONES: Chadbourn was the leading law professor on the faculty.

GALM: And also the senior —

JONES: He was the senior. Well, he was the senior in terms of appointment amongst the dissidents. Coffman and Verrall and Perkins came together in

1949. They had tried to get Chadbourn to come when they got Currie. In fact, I think they tried to get Chadbourn before they tried for Currie, and I wouldn't be surprised if Chadbourn didn't suggest Currie to them. That sort of hangs in the fringe of my memory. So he didn't come the first year that they offered him when they came. The following year, they renewed the offer and he came. But he had a national reputation as an outstanding scholar and law professor. So it was natural enough. Nobody close to his stature was here after Currie left. Even Currie, though, didn't have the reputation that Chadbourn had, although it was certainly close. And later, I would say, probably Currie's reputation really burgeoned. But it wasn't as if Chadbourn were running around marshaling troops. It was an erosion sort of thing from the standpoint of Coffman. It was an evolutionary, growing, progressive kind of thing from the standpoint of the faculty people involved.

GALM: So you don't see it as being conspiratorial or clandestine?

JONES: Oh no, no. You know, "clandestine" is a loaded word, has a CIA tinge to it. Obviously they weren't running around saying —

GALM: Announcing?

JONES: Announcing things. I was the one that did that. As the way life turned out in this, that turned out to be my role twice, once with Chancellor Allen and once with Dale Coffman. The Chancellor Allen thing came — and this may be the appropriate time to do it, because we had met in the fall of '55. When we went across the street, that's what I told you before, I wrote a one-page statement in which I took account of — at least my recollection of it was one page. I don't have that document.

GALM: Right.

JONES: I'm almost certain it was one page, though, in which I just simply recited my situation, but also acknowledged that I was there with the group. And that I acknowledged — some of it may have been reflected in that memo which you're looking at.

GALM: No, I'm trying to get the dates.

JONES: Here it is, September 21, 1955. That's when we went over —

GALM: What was the October 24 date, the Saint Crispin's Day? What was supposed to have happened then?

JONES: No, that was a misnomer. Nothing happened then. It was the September 21 occasion that Ken York dubbed the "Saint Crispin's Day."

GALM: So it wasn't actually the date?

JONES: Right, although for a period of time I used to think it was. But I see here on the first page of this April 21, 1956, memo which was going to Vern Knudsen's committee, Louis Slichter, and [Gustave O.] Arlt. Did you confirm that Arlt was the third one?

GALM: No, I didn't confirm that. I can.

JONES: I don't think that it makes any difference. So there were eight of us. That's a lot of people.

GALM: Eight out of about eleven members, right?

JONES: Right, other than the dean. Two weren't there.

GALM: See, from that original memo that I have a copy of from September 21, 1955, it seemed to me that the memo was divided into two parts. One centered on things such as the understaffing of the law school as a problem and an issue, and then under that category the memo addressed the existence of anti-Semitic prejudices that Dean Coffman had and had expressed on occasion. It even quoted you as being one of the people who had heard the slur. Do you remember the specific occasion?

JONES: Oh, I don't remember the specific occasion because there were several of them. But the line was always the same, one set of words for it, and that was that the one hundredth member of this faculty would be Jewish. That was it. In my statement I know I referred to that statement. Maybe you could have a copy of that made for me so I could look at that before the next time we get together, because that might pull some stuff in. But I know that I had read it, of course, and I know I referred to it in my statement. I'm pretty darn sure that what I said was that factually I concurred with what they were saying but that I felt it necessary to make a separate statement because of the peculiar circumstances in which I found myself. I referred to what he had done for me and my family and pretty much left it

at that. But I did concur factually with it, and I know that there were things in there that they referred to me.

GALM: What were you saying, though, in that memo, your separate thing? Was it more that you were also saying that there was another side to Coffman?

JONES: Well, sure, that was it exactly. I was simply not prepared psychologically to say, "I think he ought to be kicked out." I couldn't do that at that point in time. I just couldn't do that — this is given my relationship to him and how he had reached out to me and to our family. I could objectively say that what they were saying was true, that we had this problem, but I just wasn't going to say that he should be ousted, although I knew it had to happen, basically. And then, of course, there began the jockeying that we had with Chancellor Allen, who was not — he did not welcome this visitation one little bit.

GALM: How long did that meeting last? Do you have any memory of it?

JONES: Oh, it was a couple of hours. Maybe it was an hour. But it was at least an hour.

GALM: In his office over in the administration building?

JONES: Well, he had a conference room in the corner, as I recall, of the second floor at the time.

GALM: Of the administration building?

JONES: Yeah, it was across the street, what's now Murphy Hall. So he received this delegation of eight law professors. He had a relationship with Robert Gordon Sproul which I suspect was rather stormy itself, totally dissociated from us, and also with Chairman Dickson. I think probably he had to be considerably less concerned about Sproul than about Edward Dickson, because it was common knowledge that the chairman of the Board of Regents was a great supporter of the dean of the law school. So Allen did not rush out and embrace this visitation. He was there and he was gracious and so on, but from then on it became pretty clear that he was not about to launch into any kind of action if he could possibly avoid it. He had received this, and that was that.

GALM: Was there a spokesman for the group?

JONES: I think everybody spoke. My recollection is that Chad spoke first. But everybody had something to say.

GALM: And was the memorandum — ?

JONES: Actually, as I think, I'm recalling some of it now. Allen went around the table, more or less polled the jury, asked each of us, "Do you concur with what's in this document?"

GALM: Was that his first reading of the document at that meeting or was it sent on ahead?

JONES: I believe so. The document's not that long, is it? How long is it?

GALM: Well, this is a document with some supplementary memos that were added as things developed and problems developed. The original document is about seventeen pages long. But it's a lot of material to absorb.

JONES: I can't remember whether he had — I think that he must have read it before the meeting. I don't remember the procedure that was used. I know he polled us. That's my recollection, at least, that he went around the table, asked each of the faculty members there. For one thing, it had to be a natural concern of his that this was not some kind of thing that was being honchoed by Chadbourn or somebody on the faculty or somebodies on the faculty. That was when I had — at some point, I don't remember exactly, I handed him a statement. I think it was probably when he asked me what I thought, and I'm pretty sure I said, "I have taken the opportunity to write down a brief statement. Perhaps the best thing to do is for me to give you that now. It's just on the one page, and perhaps you could read it now and I could answer any questions you have." And he did. He read it and then I think I just volunteered that I — in fact, it said it in the document itself, as I recall, that I concurred with the fact-finding laid out there.

GALM: Do you know whether he gave equal time to the other faculty members? There weren't that many, but the ones that there were.

JONES: Verrall and Perkins. Well, I'm certain that he did not, because the way the thing evolved from there on, a period of some weeks went by and it was with no response whatsoever coming back over here. Then there was considerable conversation about, "What do we do now? We fired the shot. What next?" Since there was no response whatsoever, no feedback. He was

a very smiling, gracious sort of administrator. But we just simply got no feedback about it. As I said, it was a matter of weeks. So there then emerged — I can't remember the lawyer's name, but he was a Los Angeles lawyer — I can remember his face — who was appointed by the Republican administration as the chairman of a commission. It could have even been called the civil rights commission. [United States Commission on Government Security]. This was not the present commission. And it was being formed. Loyd something — the first name Loyd comes through. [Loyd Wright]. Anyhow, he was proposing Coffman to be the general counsel of that commission, which would require a year's leave of absence. When that emerged — this is maybe around Thanksgiving time — we still hadn't heard. I'm pretty sure that we didn't hear anything from Allen until pretty close to Thanksgiving.

GALM: Is this the commission, then, that he did indeed go on to?

JONES: In Washington, yes, yes.

GALM: The security something commission.

JONES: Okay, whatever it was. It's the one he went on as a consultant. He was being proposed as the general counsel, and then a letter went forth from here. There was a big debate amongst the eight faculty, including me: What do we do in this context? What is our moral responsibility? To lay back and say nothing and let Dale Coffman become appointed the general counsel of this commission? We decided no, even though it would serve our self-interest without question if he were just to go ahead and be the general counsel of that thing. But it was too important a governmental function, too sensitive an area of concern to the public, that we finally decided we should apprise — I don't remember who the people were, but my recollection is somebody in Texas — could have been in the University of Texas law school. I'm not sure what the Texas contact was. But it was to apprise that person, who then could feed it into the Republican administration, that this was not the man who ought to be the general counsel of this operation. That happened. There was a letter written, and I don't remember — I'm certain that I didn't sign it, and it may not have been a multiple-signature letter, but it certainly was written, framed by the group. Dick Maxwell would probably remember this. We might have gotten it from him. But in any event, that put the kibosh on Coffman becoming the general counsel. Then the fallback from this lawyer who had been desig-

nated the chairman of this commission or committee, or whatever it was called, then was thinking in terms of a consultancy which would require his [Coffman's] presence on a year's leave of absence in Washington.

It was at that point, when that became manifest, that a meeting was held with Chancellor Allen. It was in the week before Christmas, and I was unable to attend. I had the flu. So I came to the law school on Christmas Eve. Jim Chadbourn and Ralph Rice and Dick Maxwell were working. I came to work, and we ended up very shortly in Chadbourn's office with them telling me what had happened over at Chancellor Allen's. "The thing is solved. What Allen's going to do, he's going to give him leave to go back to Washington for a year effective January 1, and then while he's gone, arrange with the regents and President Sproul that his deanship will be removed."

I can still remember how I felt about that. I had two observations about this. Number one, this is insane and number two, it's immoral. "You can't do this. It won't work. It won't work because it's immoral. You can't send that man off to make a career choice like this with the expectation that he's coming back as the dean and then at a later point in time say, 'Ha-ha, we fooled you.' That won't wash. The regents wouldn't buy it. Anybody looking at that way would say, 'What is this?' That won't work." And I repeated it. "It won't work because it's just plain immoral."

Ralph got very upset at me. "We have this all set," he said. "You know Allen is a pusillanimous son of a bitch. He won't be able to do anything by himself." [Gestures] with the arms and shaking and everything, he said, "We've got to go through with this." And Chadbourn sat there and didn't say anything. Dick Maxwell was standing. He didn't say anything, and finally Chadbourn looked up at me and said, "You're right, but we can't do anything about it. It's too late." I said, "Well, I can do something about it. I'm going to call the chancellor and I'm going to ask to meet with him today."

Ralph went, "Grrrr." Dick Maxwell and Chadbourn said, "You talk about insanity. That's insane. Not a chance. It's too late — it's all done. You may be right, but it's all done. The events have occurred." So I said, "That may be."

So I went down. We didn't have phone service because of the weekend and we didn't have any switchboard. I got on the pay phone and I called the chancellor's house. This is probably about eleven o'clock in the morning, Christmas Eve.

GALM: Christmas Eve?

JONES: Christmas Eve. I got Mrs. Allen while the chancellor was down at Bullock's shopping. I said, "Do you think there might be some chance that I could see the chancellor after he returns?" Silence on the other end. She said, "Well, we have a party later this afternoon, a family gathering." I said, "When do you think the chancellor will be back?" She said, "Well, he'll be here for lunch." I said, "Maybe I just better call again," and left it at that. I waited, went back upstairs, told them what it was. They were just — Ralph had the teeth on edge. The other guys didn't. They figured I was right. They were persuaded that I was right, but they were also quite convinced that the thing had — it was gone. Whatever was going to happen was going to happen. But he was going to go under the misapprehension that he was going as the dean of this law school rather than as somebody who's being set up to be removed in his absence. Yeah, you just think about it. That never would have occurred. It was so patently unfair, lacking in due process. It couldn't have happened. Anybody looking at that from the outside would have said, "This proves it; these people are unscrupulous. Whatever their motivations may be, they are unscrupulously conspiring to get rid of this sound dean who is fighting communism and they're trying to drag him down, just a bunch of jackals." This was the way I was talking to them. "I think it's so patently obvious that it isn't even — I cannot imagine how it is you could have agreed to this."

GALM: Now, whose plan was this? Was this strictly Allen's?

JONES: It was a spontaneous-combustion plan. They had this discussion in Allen's office, and it got into the conversation, through Allen, that he had been contacted about this by Coffman. Could he get a year's leave of absence to be a consultant, since they weren't going to do the general counsel thing? "What do you think of that?" Everybody said, "Great. He's gone. Then all that we need to do is convince Robert Gordon Sproul and the regents while he's away. We won't have to worry about it."

So I called again around lunchtime and I got Allen on the phone. "Chancellor Allen," I said, "it's enormously important that I come and see you." Now, he knew who I was because of the tuberculosis business and the whole thing. I said, "I really have to see you if you can possibly squeeze me

in this afternoon." "Christmas Eve?" [laughter] I said, "Yes, sir. I know it's Christmas Eve. I know it's awkward, but I just have to see you."

"Well, all right, Professor Jones. Can you come over right now?" I said, "Yes, sir, I'll be right there." So I went over and he met me at the door, led me into the living room, the same house that's up there now, and sat me down in a chair. He sat on the sofa. He was a fairly large man. He started to lean forward, pleasant look on his face. He said, "Now, what may I do to help you? What's the problem?"

I said, "Well, I'm here to talk about Dale Coffman leaving here without being told that this is a terminal leave as far as his deanship is concerned." He sat back and sort of looked askance at me, and he said, "Well, what about it?" I said, "Sir, it's immoral. He turned beet red, just beet red. I thought, "Oh brother." [laughter]

GALM: You might be looking for a job!

JONES: Yeah, rapidly. So then he just sort of hung his head while he was trying to get control of that beet redness which he was obviously feeling. Then he said, "Maybe you better explain that a little bit more than you have." And I went into it as I had with Chad and Dick and Ralph. And then I stopped. He said, "I'm afraid you're right, but I wish you weren't."

What that did, then, was open up the combat arena. It killed it. What it meant was we had to fish or cut bait. The chancellor had to fish or cut bait. He couldn't let him go unless he knew the circumstances, and so he couldn't let him go — that's what happened. That resulted in his divulging it for the first time, as I understand it and my recollection, to Coffman. He arranged an appointment with him. Then it was set on the confrontation course.

GALM: Do you have any sense of when he may have met with Coffman?

JONES: It had to be that week after Christmas, because everything was — you may have a better shot at this.

GALM: No, not really.

JONES: No, I'm pretty sure that leave was [scheduled for] January 1, and that was why they said, "The events are out of our hands," and so on. The only person that could stop it from happening was Raymond B. Allen.

GALM: But then he didn't actually leave — did he? — until, what, summer or something?

JONES: Yeah, yeah.

GALM: But he was actually scheduled, perhaps, to leave already January 1?

JONES: I believe so.

GALM: So that was part of the urgency on your part.

JONES: I believe so. I may have it wrong. I'm almost certain that that was it, because I wasn't going to be trotting up there on Christmas Eve unless this thing was activated imminently. So I'm pretty sure he was to be gone January 1. So he would have had to have met with him in the week between Christmas and New Year's and indicate that there was this problem and he better stay and so on and so on. Then, of course, all hell broke loose in mild, muted ways. I don't remember too much of the details between Christmas Eve and March 1.

GALM: I'll give you this document to help refresh your — one question, how did Coffman stand with Robert Gordon Sproul?

JONES: I have the impression that Robert Gordon Sproul totally understood Coffman and his situation and thoroughly disapproved of the appointment, but he was, I gather, just the consummate political animal. He had a chairman of the Board of Regents who felt very strongly, had the flag and everything wrapped into his feelings about Dale Coffman. Dale and Helen Coffman were very gracious hosts. They were very, very nice people to get along with. They treated the chairman of the Board of Regents periodically and treated him well indeed. It was obvious he was sincere. I mean that Dale was sincere, that she was sincere. They weren't pulling wool. They just deeply believed the same things that the chairman of the Board of Regents deeply believed about the political situation and the threat to America and all the rest of it that exercised people at that time. I know we had the feeling that Chancellor Allen was not going to be rushing the barricades on behalf of the law school and the dissident faculty. But also there was the widely shared belief that it was going to be touch and go to get Robert Gordon Sproul to stand up when the time came, even if we got Allen to carry the message to Sproul. There was considerable doubt about what would happen from Sproul. Allan McCoid, as a matter of fact, became the victim, I think of that lack of — I shouldn't say "lack," I suppose — of that dilemma that Sproul himself perceived, that Raymond Allen perceived, and that

was they were not about to just take on Dale Coffman and Dickson for fear that greater things might happen, namely their removal.

GALM: It is your feeling that Chancellor Allen would have spoken with Dean Coffman immediately following the time before the first of the year?

JONES: In terms of disclosing that there was this problem so that he would want to think about it rather than just take off. I really am quite convinced that that's when it happened.

GALM: After your meeting with Allen, do you remember reporting back to — ?

JONES: Oh, I came back.

GALM: Oh, that day?

JONES: That day, sure.

GALM: They were still there working or whatever?

JONES: Yeah, yeah. Ralph Rice was very angry at me because of the result of the conversation with Chancellor Allen, but both Chadbourn and Maxwell were happy with the situation. I mean, they both were convinced. They thought, as they looked back on it, that they had agreed to something because it looked like such an easy way to resolve it and it had come from Allen, I mean the impetus for this idea. There was a very real concern throughout that year, and it was mounting with the passage of time, that Chancellor Allen wasn't really going to be forthcoming with any kind of a meaningful solution to it, and any way that he could get out of it, he would take. It was obvious that there was no way to get out of that. It was either going to have to be a decision upholding the dean or the reverse. There wasn't really a compromise available that would leave him in the chair of the dean, nor would he have seen it that way.

GALM: Now, by that time, Allan McCoid had actually been sacrificed, hadn't he? I mean, he had been notified that his appointment wouldn't be retained.

JONES: Yeah, you gave me a copy of those documents. My recollection is that all of these things came together after January 1. It wouldn't really be normal for Allan McCoid to have gotten the offer that he did get from Minnesota, which he later accepted. He was a very able, very sharp young

law professor. He was also very blunt, very outspoken. Not in a loud manner. He was a very slightly built person, short, thin.

GALM: Yeah, that initial letter said that — it opens with [the statement] — and this is from the dissident faculty — that McCoid had been notified by letter December 23 from Coffman that he would not recommend him for reappointment.

JONES: My impression's erroneous.

GALM: There would still seem to be some effort upon the faculty's part to have that situation reversed and certainly reexamined.

JONES: Right, right.

GALM: But it seems that it was never successful.

JONES: It was not. I'm trying to understand why that date. I don't recall. [pause]. The conversation I had with Allen, you know, was Christmas Eve. This letter is the day before to Allan McCoid from Coffman.

GALM: Right.

JONES: So I have to think that's just Coffman tidying it up before he leaves.

GALM: But, as far as you can recall, you weren't aware when you went to Allen that McCoid was being dropped then?

JONES: No. I'm sure I would have —

GALM: And he was never discussed, really, in that meeting?

JONES: No, no. But, as I'm looking at this letter and thinking of the dates and the juxtaposition of the January 1 leave-taking, I'm hypothesizing — this would make sense because he wanted to clear Allan out. Allan was up on an annual appointment basis as an assistant professor, and I would assume that the reason the letter came when it did is because of the fact that Coffman would be going out on that leave. I don't remember whether the leave that he posited was for six months or for a year. I think it must have been for six months. That would make sense relative to this McCoid letter, too.

GALM: Do you recall what, then, might have transpired, say, in January of that year?

JONES: Sticking to McCoid just briefly, I know there was a conversation — apparently it happened in December — between McCoid and Coffman

in which Coffman asked leading questions from McCoid, and McCoid answered, "Well, as a matter of fact, now that you ask me," and then told him what he thought. And what he thought was very negative to the idea that Coffman should be the dean. I don't think that Allan would have said anything to the effect that "you should resign" or something like that. I don't think that was it at all. It could very well be that it was a conversation in which Coffman is telling McCoid that he doesn't intend a reappointment, but only after asking him some leading questions, which elicits from McCoid language which Coffman took to be personally insulting, and which he then repeated to Chancellor Allen who, whether in good faith or — surely in good faith, but I mean whether the chancellor was equally offended by the language or seized the occasion to make an objective move to indicate his impartiality in the situation. I think we all had the feeling that it was the latter, that Allan really had been used as a pawn in the situation. Allen had the power to set that aside as part of the total reaction to the situation. I remember vividly there was a sense of absolute incomprehension on everybody's part.

GALM: I think you have a copy of it, too. On April 4, 1956, a confidential memo from Allen to the dissident faculty in which he opens it by referring to an —

JONES: This was a serious rebuke.

GALM: That there was a meeting of McCoid with Allen on January 6, 1956.

JONES: Right, I see that. Well, my recollection is that Allan McCoid was equally blunt with the chancellor about what he had said to Coffman. I think he was asked if it was true what Coffman was reporting that he had said to him, and he said, "Absolutely." He had a very clipped way of speaking, and he looked very, very young. I mean diminutive. I could picture Allen having the feeling that he shouldn't talk to his elders like that!

GALM: Under normal circumstances in, perhaps, any other law school, would he have had any problems in working with administration comfortably?

JONES: No. He was a very —

GALM: So it wasn't a personality —

JONES: No, no, no. He was a very nice guy, actually. A very pleasant guy. Hardworking guy, very hardworking, and very, very able. He was good in

the classroom, and he was a writer. He was a great appointment, actually. Another winner.

GALM: So he really became a sacrificial victim?

JONES: Yes, yes. You know he ultimately committed suicide.

GALM: Oh, I didn't know that.

JONES: On the Minnesota faculty. I have no idea why. It came maybe about ten years later. He has a brother, who may be a twin, named John McCoid, who taught for years at the University of Virginia. I think he may still be in the law school there. But Allan was just a really decent person. Very decent person. If he had said anything obnoxious to Coffman, it would have been only elicited by Coffman. There wouldn't have been any language in it that would be other than very gentlemanly, even though blunt, of disapproval.

GALM: Well, you were called in by Dean Coffman February 2, 1956.

JONES: Yeah, right.

GALM: To discuss the faculty memo of that past September.

JONES: Right, including mine.

GALM: Including your statement?

JONES: Right.

GALM: Do you think, then, between the time that you saw Chancellor Allen, he was shown that memo?

JONES: Yes, absolutely.

GALM: And that's —

JONES: I think that Dale Coffman got those documents after I met with the chancellor on Christmas Eve. Quite possibly, on the occasion when the chancellor disclosed to him that he might want to consider these matters before he made up his mind to leave on this six months, or whatever it was.

GALM: But he actually stayed away a year, didn't he?

JONES: He did stay away a year.

GALM: From July 1 to July l?

JONES: Is that right?

GALM: Yeah, because one of the key issues that you had to take up with Dean Harno was the fact of his teaching assignments. Harno would have come on that fall, the fall of '57.

JONES: So then, in that gap period there we had Chancellor Allen functioning as the administrative head of the law school with Chadbourn and Rice as a committee of the faculty.

GALM: What is your recollection of that February 2 meeting with the dean?

JONES: I have a clouded — I don't have a little movie of that meeting, except a little snippet, and that is I recall having no sense of apprehension about it, because I didn't really anticipate what we were going to talk about. He just asked me in a rather friendly way to come down to the office. And then, once I'm there, he indicated to me that he had become aware of these things. He wasn't being unfriendly. Very sober, solemn, but not angry or anything like that. I had a feeling of considerable apprehension after the conversation started, because I had the distinct feeling that he was really seeking to elicit from me some kind of statement that would become the occasion for my demise, as I was aware had happened to Allan McCoid. So I didn't answer. I said, "I'll just have to think about that." He put the question to me direct. "Do you think I should resign as dean for the good of the law school?" And I thought that was a real tough position to be put into. Understandable. It's understandable to me now that he would do that. It's understandable then that he would, but I didn't want to answer that question sitting in that office. I didn't want anything to do with oral statements and recollections. So I simply said, "I'll just have to think about that and then I'll — ." I may have told him that I would write him about it, or I may have told him I would get back to him, but I was not going to answer it then. That was a fact.

GALM: Yeah. There was another occasion that had occurred the previous summer, and I wonder if you could sort of flesh that out a bit. You make reference to it in a later memo when you're talking about your tenure and your seeking promotion to associate professor, of having met in August 1955. I think the circumstances were in your home with your wife present, in which Coffman sort of indicated that —

JONES: I think Updegraff was probably there on that occasion. I have a memory out in the Palisades, in the house that we had there, in the living

room, of Clarence Updegraff and Dale Coffman arriving and my meeting Updegraff for the first time. He was a well-known labor arbitrator from the Midwest. That's pretty much my recollection. I'm not sure it was on that occasion that this conversation about loyalty — He didn't use the word "loyalty." It was a matter of working —

GALM: I think the term that you used, and you later put it in quotes, was "active support," that only faculty members who gave him active support would be promoted.

JONES: Yeah, okay. Then I don't have a movie on that in my memory.

GALM: But that still must have been in the back of your mind when you saw him —

JONES: Without question, sure.

GALM: — when you saw him in February.

JONES: Sure, sure, sure. You don't give active support if you suggest he resign.

GALM: Right, right. Do you know whether he was calling in anybody else from the faculty and addressing the same question to him?

JONES: That's a good question. I think it's inconceivable if he did. He did not like confrontation. He would never have called Chadbourn in. He just wouldn't have incurred that. I saw him on a number of occasions in these luncheon meetings, and then when things got somewhat tense, when Chadbourn was asking for documents and stuff like that relative to prospective appointments that are mentioned in the memo that you let me have a copy of, Dale Coffman would withdraw from any abrasion. He didn't really rush to it when it manifested itself. He preferred just to make some dogmatic statements and then sort of withdraw from it. So I just think he never conceivably would have asked Chadbourn or Rice or Dick Maxwell to come in and see him. They were beyond his control. Allan McCoid and I were within his control. Of course, I was really concerned about it because I had ambivalent feelings about the whole thing. I had a sense of guilt throughout that whole proceeding because he had come to my rescue without hesitation, and our plight was really very grisly with Robert Morris Jones on the way. You know, five youngsters and a sixth on the way. That was a devastating situation, and he immediately came forward to help. So

I had a very strong sense of "Is this the right thing that I'm doing?" I was totally convinced of the rightness of what the faculty was seeing and doing, and I was totally convinced that it had to be that he was going to have to leave that deanship or else this law school was in really deep trouble. It was in deep trouble as it was, but that would have been nothing like the trouble that we would have encountered had he been sustained.

GALM: Did he ever bring it up to you, the fact that — ? "Is this the thanks that I get?"

JONES: No. I have no recollection of that. The only thing that touches that is I vividly remember going to a meeting of the Association of American Law Schools in San Francisco after he had returned. It was immediately after he returned — that would be the December after his return. I was walking with Chadbourn up the steps of the St. Francis Hotel, inside up into a ballroom area, and Helen and Dale Coffman came walking down. She looked at Chadbourn and then she looked at me, and if those eyes had lasers in them, I was dead. Chadbourn would have been lacerated, but I was dead. I mean, the anger and the bitterness. You could see the eyes focusing first on Chadbourn — level-one bitterness. Then on me — boom, level ten. Totally understandable. They just had to feel that I had really betrayed them in a very bad way, which I deeply regretted, actually, but really didn't know how to do anything about it other than what I was doing.

GALM: What was your final relationship during the remaining years in — ?

JONES: Total lack of contact. You know, I thought to write them or something like that. I'm sort of oriented in that direction, but I decided no, there's no point to that. It wouldn't help anything. If anything, it would just exacerbate the situation. He had to be, I think, left in his state of mind. I don't think I would have changed his state of mind, his view of me. But it just had to be left the same as it was, as I saw it. Nothing that I could really do about it, and it wouldn't be seemly for me to try then.

GALM: Now, if he ran into you in the hall, would he acknowledge you?

JONES: Oh, just a nod or something like that, maybe even, "Hello, Ted." Not immediately after, but over the years.

GALM: After that meeting you did give it some thought, and you did write him a letter.

JONES: I was writing that letter with a dual purpose. I remember thinking about it. I thought at the time it was a little on the Machiavellian side, as a matter of fact, because I figured that I was insulating myself from retaliation by writing that letter. In other words, my going directly to him and saying, "Yes, I think you should resign" put him in the position that if he then told me I was fired, having asked me — and I didn't use, as I recall, any inflammatory language in that letter. You see the whole thing. I was really speaking quite sincerely here about my feeling of obligation and so on. I don't think he would have thought to fire me after that letter, but if he had thought to fire me, I don't think he would have gotten away with it.

GALM: What were the main points that you made in that letter? I know them, but just for the record.

JONES: Oh, sure. It's a letter of several paragraphs — only five of them. And I just led it off with telling him that I had considered further his question. I wanted to get that up right in front, that he had asked me if I thought he ought to resign for the good of the law school. And then I told him about my deep feeling of obligation to him for his treatment of me during the months of my illness, that this itself prompted me to want to answer him. Now, I'm not sure how sincere that was. I was really concerned that I was going to get caught, just as Allan had, in the vortex here. but in any event —

GALM: Especially as an untenured faculty member?

JONES: Yeah, yeah, right. So I was pulling out all the stops of reasons implicit why he really shouldn't, if he tried it, get away with it. I see I hoisted the Marine Corps flag here. [laughter]

GALM: But that was true, wasn't it?

JONES: Sure it was true. He had lost the capacity to lead. You know, there was no question about that. I was telling him the honest truth as I saw the honest truth, but I remember telling my wife after I had written it and she had read it, "You know, this is really — I'm being honest, but I think at the same time, it will have the dual result of insulating me." I don't know how he would have reacted to the sentences that [reading letter] "I say this without the slightest trace of rancor, as you well realize. Indeed, it has seemed to me that I should say it to you precisely because I am, perhaps, the only one here who can do so without arousing in you the suspicion of malice or

hope of gain." I know they had to be deeply disappointed and bitter about having me line up with that group, because there was a good deal of affection, sort of a paternal-type thing. Actually, I had two relationships here like that. One was with Chadbourn and one was with Coffman, and before the years were over, I lost both of them.

GALM: How much did you discuss this situation and your relationship to it with your wife?

JONES: Oh, continually. Sure. She had the same perception that I had, because they had been very gracious to her while I was in the sanatorium and so on. And we liked them. We liked each other. I've always been inclined to be very forgiving of other people's faults of the sort that he had without condoning them — but I mean, I would take the occasion to say things. Anti-Semitism, for instance. I know I had said on occasion, "It's a little difficult for me to understand how somebody could really be anti-Semitic when you look at Christ, who was Jewish; all the apostles were Jewish." And that would be the extent of my observation. This was my first job in the real world, you know, and it was a very appealing job as I came into it from back East and out of the months in the hospital and the rest of it. So I was really very impressed with him and with her.

GALM: Did he acknowledge the letter?

JONES: I don't think so. I remember how I delivered it. [laughter]

GALM: How, late at night?

JONES: I had made sure it was about five thirty or six o'clock, and I waited until I was sure that he had left the dean's office. And then I slid it under his door. I did not want to be there to be interrogated. I didn't want anything oral to happen as a consequence of that.

GALM: So you have really no sense of how he received it.

JONES: No. None.

GALM: How much do you think he shared with Verrall and Perkins what was happening to him?

JONES: Constantly. Verrall would be, I think, an excellent source for that. I gather there's some reluctance. I don't mean on your part, but I gather there may be some reluctance to quiz him. I think that's a mistake.

GALM: [pause] I think he has his own memory of what occurred, and sometimes it is hard to reconstruct what happened thirty years ago.

JONES: Yeah, right.

GALM: So then at some point, an administrative committee was appointed by the chancellor to actually investigate the law school.

JONES: And that was Vern Knudsen's —

GALM: Right. How did the faculty become aware that this committee was — ? Was there some type of memo?

JONES: No, I think it was oral from the chancellor. Not direct. My recollection is that after he wrote this letter of rather blunt —

GALM: The one in which he sort of states that Coffman is in charge of the [law school]?

JONES: April 4. Right, he's the dean. As long as he's the dean, that's it. Coffman had probably said some things to Allen. I can very well picture Dale having said to the chancellor, "Do you mean to preempt my deanship? Are you calling the shots now?" Which would scare the wits out of Allen, I think, as I understood Allen. Of course, Allen was very insecure in his tenure as the chancellor. I think he was aware of that. He was a very nice human being and he just wasn't the type. He wasn't really fitted for that job because it came at a period of time when there was lots of tension at this university because of the oath and all these things were bubbling around. He just was really not the man to sit there at that time. He wanted everybody to feel nice, be nice. [laughter]. "Don't bother me with bad things." I can picture that that could have prompted this April 4 letter, or it could have been that he had gotten a phone call from the chairman of the Board of Regents [Edward A. Dickson] saying, "Dean Coffman has told me that there are things going on, that you are interfering with the administration of the law school." That could have happened. I wouldn't be surprised if that happened, even more — on a scale of probability, on a higher level than Dale Coffman needling him into it. Because he changed — there was no question about it — [after] this day. I remember sitting around with Chad and Ralph and Dick Maxwell trying to figure out what would have prompted this. Why this all of a sudden really arctic letter? "It should be clearly understood that Dean Coffman is the dean of the school,

and all of the business of the faculty should be transacted with him." You know, that's heavy stuff, and it really looked as if — and, of course, it says right here that the committee's on its way. I didn't pick that up earlier, the findings of the committee.

GALM: Right. Was the idea for a committee proposed by the faculty, the dissident faculty?

JONES: No, no. I think it was gone from our hands at that point. I thought it was an excellent idea, and we obviously — when that committee was appointed and it was announced who was on it and chairing it and so on, although you could never be assured of what was going to happen in this situation because it was such an unusual one, I know I felt confident in the way it was going to come out.

GALM: Do you recall your own appearance before that committee?

JONES: I do. I do. Indeed, the day that I met [the committee], or the day after, I was driving in from the Palisades and I reached [Mandeville Canyon]. Off the Will Rogers Polo Field, which is now the Paul Revere Junior High School, the road goes up into the canyon there. Anyhow, there was a bus stop there, and Vern Knudsen was there waiting for the bus about eight o'clock or so in the morning. I stopped to pick him up and gave him a ride in and we chatted, he noncommittally, about it. I think it was after I had appeared, and he was saying — without any commitment-type talk — he was conveying to me a sense that we were in pretty good shape, actually. They were shocked, I remember, by Judge [William C.] Mathes, the federal district judge. He told them, "Fire them." [laughter] He had the solution for it. As a matter of fact, it could be that that's what Dale Coffman should have done. It certainly would have —

GALM: You mean just get rid of all the —

JONES: Chadbourn, Rice, sure. Well, actually, probably Chadbourn and Rice. I would be caught up in that, just thrown in, because of lack of tenure. They had tenure, obviously, but Mathes thought the dean ought to fire them. And, you know, it's sort of like the "burn the tapes" thing with [President Richard] Nixon. I hesitate to say it, [but] if he had had the guts to do it, I think that might have worked at that point in time. I think the thing was just so irresolute when this letter was written that if he had just taken

hold of it and said, "All right, this is what I'm doing," it certainly wouldn't have ended up any worse for him.

GALM: How much influence did Judge Mathes have at that point in his career?

JONES: Well, he was a federal district judge, and I think in those days, even more than now, a federal district judge in the Southern California area had a lot of clout just as a position. He had associated himself with the law school, with the moot court program and so on. He was a very genial, slow-speaking, dignified person. Had a lot of judicial demeanor and bearing to him. He would be very impressive to listen to. Apparently, he blew his influence, though, when he met with that committee because he was so intemperate. I remember that very vividly, that they really were shocked at his whole approach to the thing.

GALM: Had he had a special relationship with either Regent Victor Hansen or Dickson that you know of?

JONES: I don't know of any, no. Hansen was a [Superior Court] judge. He became the [U.S.] Antitrust Division assistant attorney general. But I don't know any connection.

GALM: But Coffman was the one who originally either invited him into the program or —

JONES: You mean Mathes?

GALM: Right.

JONES: Yes, oh sure. Absolutely. He was quite proud that, as a matter of fact, that he had been able to enlist Judge Mathes. And Judge Mathes had a lot of — as I say, he gave it a considerable dignity, the little program that we had.

GALM: What was the committee's approach to people who appeared before them?

JONES: They were very courteous. They sat around a table, just sat around a table. As I recall it, I think Vern Knudsen sat across from me, and I think I sat next to Louis Slichter and Gustave Arlt, I think, wasn't it? The other one. And it was very conversational. They had these specific concerns. They had a little agenda, which had been culled, really, from the charges that had been made, and they just wanted recollections of things that had been said

and whatnot. And, basically, "What do you think? Should the dean remain the dean? If so, why so? If not, why not?" They clearly were conveying a sense of impartiality, and they also were very temperate. I think that's why they were so shocked by Judge Mathes. The whole demeanor of the thing, the way it was run by the three of them, just a little faculty committee and conversation and nothing pressing or formal.

I don't remember too much about my actual dialogue with them, but I know I made the same statements to them that I had made in the previous September about Dale Coffman and my family. That was one concern I remember having. Anybody looking at how I had been treated by this dean would have to be thinking, "What kind of a monster do we have here." In the realm of ingratitude, this begins to look rather substantial. So I was really very keenly aware of that. In fact, I had, as I said, some uncertainties about that myself. I wanted to make it very clear that I felt a sense of obligation but that I, nonetheless, had this net sense of obligation that the law school and the faculty were right.

GALM: Was anyone taking down your testimony as it was being given?

JONES: No, no. It was just conversational.

GALM: Did they, then, ask of everyone a summary report be given back to them, or was that volunteered?

JONES: No, I think I came with it. I think I came with it, as I recall, and they just thanked me and that was it. In their procedure I know that they were seeing people on a schedule, and they had left a fairly significant period of time in between so that they could talk about what they had just heard and evaluate it and perhaps make notes then. But none of that was in evidence at the table, as I recall.

GALM: What do you think? Were they giving weight to certain charges over other charges of the memo?

JONES: I don't remember. I don't remember. My recollection of it now is that they were just questioning the totality of the circumstances and that they didn't convey — and I think that the comments were made also by Chad and Ralph and Dick Maxwell later — that they didn't give a sense of particular interest in particular events. It was just that it was a general fact-finding inquiry without any emphasis on any particular points. So

each of us was concerned to psych out their concerns so that we had some sense of premonition on what was going to happen. And each of us felt that we had failed to do that, because they just didn't convey anything.

GALM: But they did ask about the anti-Semitic charge?

JONES: Oh, yeah. Yeah.

GALM: But you did discuss your various appearances amongst yourselves?

JONES: Oh, yeah. Oh, sure. Yeah. It was touch and go. I remember Chadbourn, at one point, commenting on how this could very well end up with a mass firing here. "We'll really make history," he might have said sardonically.

GALM: So at the point of the inquiry, you really had no sense of how it was going to come out?

JONES: Destiny was in the clouds. I did have a sense of confidence, though. I remember that very distinctly, because these were really three very fair-minded men. And I remember when I brought Knudsen in, although he said nothing to me of any substance, I have a distinct recollection that I dropped him off and had a very good feeling about what the prospects were. I have a recollection that that may be where I came to know about Judge Mathes's intemperate statements. I think that it may have been that Knudsen said something about that on that ride. That sticks in my head that that happened.

GALM: But would you have had any sense of who they might have spoken to beyond the faculty?

JONES: We knew — and I don't remember how we knew — that Judge Mathes, Victor Hansen, Dale Coffman, Harold Verrall and Rollin Perkins had spoken. I don't remember anybody else, but we did know those people had.

GALM: That spring there seemed a lot of continuing discontent among the faculty with Dean Coffman. A lot of it seemed to center on Professor William D. Hawkland.

JONES: He was an innocent victim.

GALM: Right, right.

JONES: He was like Allan McCoid.

GALM: But sort of the other side of the coin in the sense that Coffman wanted to appoint him?

JONES: It wouldn't have made any difference at that point whether Hawkland had been another Allan McCoid. Hawkland was a little bit more experienced, would have taken a tenure position. But, you know, Coffman hadn't done too bad a job at recruiting people.

GALM: He had recruited all those faculty.

JONES: Yeah. I mean, none of us could fault him on that, but now he was looking really — I can't say this about Hawkland because Hawkland had credentials, as I recall it, but it wouldn't have made any difference how high the credentials were, how good they were. He had just gotten himself into — unwittingly, innocently — this turmoil. At one point in time, as the documents indicated here and as I recall it — he was a very decent guy. He was not a conflict-minded person. He decided, "I just better get out of this, withdraw my name, or I'll be having real problems as a law professor from now on." And I think that that was a consequence of a conversation that he had that he solicited with Chadbourn. I don't know whether Ralph or Dick Maxwell were involved in it, but I think Hawkland wanted to know, went to Chadbourn and asked him, "Tell me what all this is about," and then after that decided to withdraw his name from consideration, which Coffman refused to do or to honor. I can't even remember the vaguest memory of what Hawkland looked like, but I just have a sense of a moon-faced, really nice, genteel person who was flabbergasted at all of the bitterness that he found himself in, in what looked like a really very nice situation as you look into it from the outside, if you knew nothing about it. It was very attractive.

GALM: I know that during that spring you had addressed a letter to Harold Verrall as secretary for the faculty minutes and questioned the accuracy of some of the reporting. Was that a problem that occurred more than once?

JONES: It was totally related to this confrontation. I had the feeling — I don't remember any discussion of this — there undoubtedly was a discussion of it with the others — but I had the distinct feeling that we had to be very careful about what those minutes were showing now, lest there be something built here. Anyway, I don't even remember now, I don't have a recollection now, what it was that I was being careful to correct. It's on March 1 [in] the proposed minutes [regarding the] register of my vote. I

think that was probably just a pure error on his part, or maybe it wasn't. Abstaining is what we're saying there.

GALM: It also just seems that Verrall seemed too terribly cautious about what he was going to be doing in his position as assistant dean, because later in March, the faculty had put forward a resolution that they wanted to have forwarded to the chancellor regarding William Hawkland.

JONES: He wouldn't do it.

GALM: And we wouldn't do it. [laughter] So he was covering —

JONES: Right, right.

GALM: How did you then find out about what the committee had decided and what the chancellor decided and so forth?

JONES: I was racking my brain to draw up that memory and I can't get it. I just have no recollection of that. My last recollection, you know, of scenes is sitting there with the committee. My next recollection is in the assistant deanship. And what happened in between then, I just don't have a recall on. That's why I thought earlier today that it must have been that this return had happened that summer, because I've got a blank in there. I do remember that Chad and Ralph were the committee of two, and the chancellor was the chairman. I remember some joshing around by Allen about that and so on. But I just have zero recall on the events that occurred in that succeeding twelve months.

GALM: So you don't recall any meeting that the chancellor might have called in which you made any announcements as to —

JONES: I know there were meetings. I know that he came and sat at the head of the table. But I can't remember. I don't remember sitting there listening or anything like that.

GALM: Do you know how long, and do you have any memory of the actual departure then, of Dean Coffman? Was there any awareness that he had resigned or that he was not going to be coming back as dean?

JONES: Sure. But, once again, all of that came in one package, I'm sure, of information. I don't know whether it came orally or in writing. Did any writing show up?

GALM: No, no.

JONES: I suspect it came orally, but I can't remember how. My recollection is — but I don't have any great assurance in its accuracy — that he just sort of slipped away in the night, as it were, and that we had that year in which he was sort of out of mind almost. I know that sometime, or sometimes, during that period of time that I thought — I undoubtedly expressed the thought more than once — that we would not see him back here, that I didn't think that his sense of pride would just allow him to come back here. But I was wrong. I was flabbergasted, as a matter of fact, when that occurred. I just didn't remotely expect that.

GALM: How did he handle the situation when he did come back?

JONES: With dignity, yeah. He conducted himself just — we had this meeting, I remember, in the assistant dean's office. I'm sitting behind the desk; he's sitting in front of the desk. Chadbourn and Rice are there, as I recall it. Perhaps Dick Maxwell. I think Dick Maxwell was the Curriculum Committee chairman, so he was there. And Coffman made his pitch to take my course. Perfectly straightforward. Straight-faced and so on. I listened to him with a poker face. I remember that. I didn't feel very insecure about losing the course at that point, but I also had a sense of, "Gee, this is a very unpleasant situation that we find ourselves in here," and it had to be for him. But he pulled it off with great cool.

GALM: Did that oddness diminish over the years? Of his being there in a different capacity?

JONES: Yeah, it evaporated. It just came to be accepted fairly shortly that he was going to be around for life, and he was more or less shunted into courses in which he could handle it without doing any damage, basically. Came and went and, I'm thinking right now, I don't even remember seeing him in a faculty meeting. I think he probably went to them, but I don't have a recollection of it.

GALM: So once he left and the deanship, so to speak, was open, do you recall what happened then? Was the committee set up to search for a new dean?

JONES: Well, it wasn't. We were so small a group that it wasn't really a committee. There was an effort made by correspondence and by word of mouth during that interregnum year, when Allen was the administrator, at the law school meeting, the annual meeting, and also, as I say, by

letter, issuing from Chad and Ralph as the group of two. It was, actually, not the most appealing prospect for a dean at that point because this still looked pretty bloody. It also was not totally resolved what was going to happen. I mean, when Coffman came back, he was obviously not going to be the dean, but was he coming back? What were the prospects for the law school? Would a successor dean actually be able to do anything, given all this administrative trauma that had occurred? Or would the law school be experiencing, "Don't come and talk to me anymore; I've had enough of you people" from Chancellor Allen and from President Sproul? And our compadres up north during this period of time, there was a distinct feeling among us that they weren't all that deeply concerned about what was happening to the UCLA law school. They were supportive but not unduly so.

GALM: Do you know who may have been approached to accept the deanship?

JONES: Howard Williams definitely was. I'm trying to remember what the sequence was. Page Keeton was. I think Page Keeton came and taught in this summer that I'm not recalling, as a matter of fact. Page Keeton was the dean of the law school at the University of Texas [at Austin].

GALM: That's right.

JONES: Super person. Excellent administrator. I'm trying to remember whether it was a summer session or possibly the fall semester, but there was a fairly extended stay as I recall. He was an old friend of Dick Maxwell's who had been on his faculty, and we tried — I remember we tried hard to get him and we had some prospect of success, we thought, but then it turned out he was playing us a bit. He was able to get I think it was maybe a 100 percent rise in the salary scale at Texas out of this. It was some phenomenal jump. I think it was as much as 100 percent. What I was about to say was 150 percent. I remember it was awesome, the impact that our trying to get him had on the faculty down there. Their salary scale just burgeoned in order to keep him.

Then, and I'm not sure of the sequence here, but Howard Williams was a Property professor at Columbia — once again, a really decent person. He could have made an excellent dean. We tried to get him, but I don't remember what the specific problem was. Dick Maxwell undoubtedly has ventilated this in the interview with you, but there was some hang-up problem that we couldn't get Allen to commit on. I know we had problems

with Chancellor Allen throughout that whole period of irresolution. We couldn't get him to do things, take positions, make decisions. He seemed really to be congenitally not able to make decisions. And I think, as I recall it, that we lost Howard basically because we couldn't get Allen to do stuff, and that itself convinced Howard Williams that this was not going to be a good deanship to get into.

GALM: Do you think that irresolution on the part of Allen was only in regard to the law school, or was it just an administrative weakness?

JONES: I don't know. I think it was probably an administrative weakness, but you remember this reaction that he disclosed in this letter about Allan McCoid. I don't think he liked James Harmon Chadbourn one little bit, nor Ralph Smith Rice, but I think it was principally Chad that — I think he sort of had the feeling he had had enough to do with the law school and really didn't want to — I may be just fantasizing that. I guess that's an impression.

GALM: I'm sure it did absorb a lot of his time.

JONES: Oh, yeah. It was all fractious, you know. Not giving him the sense of some kind of glowing accomplishment that's just getting us through this very stormy period.

GALM: Were Chadbourn and Rice elected by the faculty to represent them during that period?

JONES: I don't remember that we had any formal vote on it. I kind of doubt it, but there certainly was an understanding. A consensus existed.

GALM: But they wouldn't have been appointed by Allen would they?

JONES: They might very well have been, yeah, yeah.

GALM: Besides that, the Advisory Committee is an elected committee, right?

JONES: Right, right.

GALM: I was just wondering if that was the beginning of —

JONES: It could very well have been, but we weren't that many people. It's possible that Allen might have said, "What does the faculty want to do?" or whatever. And I'm sure everybody would have said [to add] those two guys to make the triumvirate.

GALM: I guess it's a sense of whether it really does indicate, as an outsider to this, that in a sense they won.

JONES: Yeah, yeah.

GALM: By having the strong administrative role in the post-Coffman period.

JONES: Yeah, yeah. Well, they were absolutely out of it as far as the deanship was concerned. There wasn't any question about that. I think they had that sense very strongly, and I think the sense existed outside the law school, too, within the university. So they were not in a position of seeking to gain something from it.

They had throughout the whole thing, I thought, when you look back on it, they had taken quite a bit unto themselves in a very proper and admirable way throughout the thing. It could have destroyed their careers. There's no question about that in my mind. I think, as I said before, if Coffman had fired them out of hand when he heard about this, he might have gotten away with it. There was more at risk for Ralph than there was for Chad. Chad was a nationally known law professor, and indeed, if Coffman fired them, that would have escalated Ralph's reputation, too. They would have had no difficulty going elsewhere, but still, they didn't want to go elsewhere. I mean, they had settled in here. They had roots in here. I admired them for really confronting the situation. I certainly didn't urge them to confront the situation. You know, I was caught up in this thing, but they really just did confront it.

GALM: So Keeton and Williams declined the offers?

JONES: Right. I remember Dick Maxwell and I spent a lot of time together with Howard Williams. I think it was at that San Francisco meeting that I was talking about earlier. I remember sitting in a hotel room with Dick and Howard Williams and myself. We spent at least an hour and a half or two hours trying to convince him that he ought to say yes. Unsuccessfully.

GALM: What was his main reason for saying no?

JONES: He just didn't see that this would be administratively feasible with Chancellor Allen in the chancellorship. The university had a — I guess it's not comparable to today, but it had a really very strange look to it, administratively, at that time. This campus was very junior to Berkeley at

that time and painfully aware of it in practically all the departments and schools, and I think most painfully aware of it perhaps in the chancellor's office. Somebody looking at the need for a strong deanship, one that would be strengthened by complete acceptance of the faculty — and looking for the necessity of having strong support from the administration of the university in making strong appointments so as to overcome this reputation problem which we had — didn't see it there. I think that was basically why we didn't get Howard Williams.

GALM: At this point in the appointment process, were any current faculty considered for the deanship?

JONES: I don't think so. I don't remember when the perception grew that Dick Maxwell would be the appointment that we would really need. I don't think that it was at that point. I think that when we were dealing, for instance, with Howard Williams — I don't remember any conversation, really, about anybody on this faculty except — nobody on this faculty, at the first. That would have included Dick Maxwell. So I think we all made the assumption, and I think that was also true across the street, that nobody on that faculty should succeed to the deanship, having ousted that dean. And that was just a given.

Now, what turned that around, of course, was our inability to find somebody of any stature and a sense "We have got to get on with it." Before we turned to Dick, we turned to Jim Harno.

GALM: Now, Albert Harno, is he — ? I know he was brought in in an acting capacity, but was it ever thought that he might remain or become permanent dean?

JONES: No. I think there was a hope that he might stay longer than just one year, might stay as long as it took us really to get somebody in there. But he had a very good reputation himself as the dean at Illinois. Illinois was not in the top tier of law schools. For instance, this report of the reputational law schools that the regents commissioned several years ago, in which we ended up as number ten on the list of the national law schools, Illinois wasn't in the top ten. It would have been pretty far down the list. That would have been true in those years too, but nonetheless, he had a very good reputation personally, and he was certainly a stabilizing influence. Obviously a man who could just be expected to keep an even temper.

Unfortunately, he was flabbergasted by what he encountered here. He just wasn't prepared, after thirty years in Champaign, Illinois, for all of the burbling that was going on in Los Angeles, California.

GALM: What was your connection to him before he came?

JONES: Well, he was one of the persons influential in my getting here. He was one of my references. He was the one who told me, "Go talk to Coffman over there." I was very fond of him. I liked him a lot. I had corresponded with him while I was a law student and so on.

GALM: That dates back to your paper?

JONES: Right, right. I had gotten him to be on the board of advisers [of the *Virginia Law Weekly*]. I was delighted when he said he'd come.

GALM: And then he approached you, then, to serve as assistant dean?

JONES: No, no, no. I was pre-picked. You know, it's the old business of the chiefs and the Indian. Somebody said, "Well, now, who are we going to put in here to do this assistant dean dirty work?" Each person turned his head and I was the last person in the line. That was basically how I was selected.

GALM: But it was something agreeable to you, more or less?

JONES: Oh, yeah. Well, there came a point in time when I regretted it before it happened, and that was when I got the offer to go to Michigan. I felt that I was committed here and really couldn't turn away, but that really was a very attractive offer for me. It came around February or December. I don't remember exactly when, but it was in —

GALM: Early January '57.

JONES: Yeah, yeah. There was a call from Russell Smith, who was a Labor Law professor and later became a good, dear friend of mine, and I was to take over his courses for a year at Michigan. Boy, that was a great opportunity.

GALM: Nice salary, too.

JONES: Twelve thousand! Yeah, right. Actually, it wasn't the salary so much, although that looked pretty big at the time, too. That meant I was in the big leagues, if I had gone there. It was unclear what league I was in here at that point in time. I was still an assistant professor.

GALM: Right. It seemed that you were spending a lot of time trying to establish just what your permanent relationship with the law school was going to be.

JONES: Yeah, right.

GALM: You had good support from your fellow faculty?

JONES: Sure.

GALM: But was this something also that went back to Dean Coffman, in a sense, not promoting you along the way?

JONES: I had no call on anybody for a promotion, given the sick leave and everything. The last thing that I had was any legitimate claim until after I had come back. And, actually, I talked about it with Chadbourn. He talked me out of the sense that I had, and that was that from now on, it's up to the university to do with me what they will as far as appointments or promotions or salaries and the rest of it — that I was so beholden because of that year of support, really a year-and-a-half support, that I wasn't in a position for the foreseeable future to be pushing for this, that, or the other. He talked me out of that. He said, "No, that's not the way it works. You're a professor. That's in the past. You earn your keep now, and if you get to the point where in earning your keep you're entitled to a promotion, you seek it. If you're entitled to it, you'll get it."

GALM: Do you think the offer from Michigan helped you to finally solidify — ?

JONES: Without question, sure. Well, I was running into the same thing that we had run into before with Chancellor Allen. He just didn't want to respond, or didn't. All the goodwill in the world — no problem about goodwill. But that offer crystallized the whole thing.

GALM: You had mentioned that summer, then. I guess late in the summer Harno arrived, and at the same time one of the problems that you had to deal with was what was Dean Coffman going to teach.

JONES: Yeah. I didn't approve of what was happening there. I thought they were really putting the stick to him. I think what they were trying to do was convince him he really ought to go away, but that was cruel and unusual punishment to ask that man to pick up those courses that he had

never really taught. There was an element of vindictiveness in that, without any doubt. I was a little embarrassed by that at the time.

GALM: Did it work out fairly well?

JONES: Worked out perfectly well, yeah. It worked out totally fairly to him, but not — it wasn't handed to him. He got it himself. It was a negotiation-type thing. He made a claim for my course, and they wanted to stick him into these other courses. I think, as I said, there was some sense that maybe he would just figure it's not worth it if he had to work up those courses. That's hard work and would have been very hard work for him.

GALM: But you must have also been concerned about protecting your area.

JONES: All I wanted to do was protect my area of Labor Law. I didn't care about anything else. I think I was teaching Trade Regulations at the time. I didn't mind surrendering that if that became a problem. But I've always, right to today, taught Labor Law here from the beginning. I've had occasion to protect it. I had occasion then, and I had one other occasion later.

GALM: So then when Harno arrived, how did that year go for him and for the school?

JONES: Well, he was getting inputs that I was unaware of, you know, across the street. I mean by that, he was telling me things, but he was also having perceptions and so on that I wasn't there with him to share. I think he was very forthcoming with me about everything that was happening, but he created the impression with Chadbourn and Ralph and Dick Maxwell and the others and myself that it was a good deal more than he had thought it was going to be, that it was dealing with Allen [that] frustrated the hell out of him. I can remember him coming back and sitting here exasperated because he had been unable to get the man to focus on "this," and then he'd point the fingers at the table. And what the "this" was was appointments and budget stuff and so on. I think he thought it was going to be much more smooth as a transition, but it wasn't. We still had a big fight on our hands to get the resources that we needed.

Then, secondly, he was totally out of his element geographically. Champaign, Illinois, marvelous bucolic town, and here we are in this frenetic Westwood area. He had an apartment, he and she, his wife [Maud Wendelken Harno]. They both were very ill at ease. She also had been the queen

of the hill for three decades, and here she wasn't. She didn't have the facility. They had a beautiful home in Champaign. They entertained. Long friendships with faculty members and so on, other than law school faculty, the university generally. All of that was gone, and I think it bothered them. Sort of gave them a sense of ill-at-easeness.

GALM: One thing that comes to mind — we've talked so much about the faculty and how they reacted. How did the students react to this period?

JONES: Oh, this was, I think, a great fun experience for the students. They got a big kick out of all this. They were totally biased in favor of Chadbourn. Chadbourn was their hero. And Brainerd Currie. Brainerd Currie and Chadbourn were really very beloved of our first class, who went through law school with them. Well, went through law school totally with Currie all three years and with Chad the two years, second and third year. So they were constantly getting gossip and bringing gossip, taking gossip away, from Chadbourn. It was generally, for them, a very intriguing experience.

I remember one thing that happened. It was quite interesting. Bill Cohen, William Cohen, is a professor of law at Stanford University now. He's one of our graduates, and he was a law student then. It's possible he was in his first year. First or second year of law school during the critical year when Allan McCoid was here, the last year that Allan was here. And I remember Bill Cohen came to the door of the hall downstairs where you walk into what was then the dean's office. Just as he came to the door, Dale Coffman walked out of his office. Allan McCoid was standing there. I was there and I remember this occasion. I was standing there, and Dale dropped something, pencil or something, and Allan immediately bent for it and picked it up and gave it to him, just quick. Cohen formed the judgment that Allan McCoid was a sycophant [laughter] and passed that information on to Chadbourn. This came right in the middle of when he was on the way out because he wasn't the sycophant. That was the level of perception normally that students have. You know that's the case.

GALM: At that time, did the students have any power in influencing administrative decisions or whatever?

JONES: No. Zero. I remember another thing. I wrote an article which was published in our first regular issue of the *UCLA Law Review*, antitrust. I don't remember the date of that. Was it 1956?

GALM: 1956, and the article was, "The Problems of Size in Antitrust Thinking: Theories in Search of Facts" [3 UCLA L. Rev. 141 (February 1956)].

JONES: Yeah. Coffman was still the dean. A fellow who was the editor of the law review was named Charles Rickershauser, [later] one of our prestigious alumni, and Coffman called him in and cautioned him never to print articles like that again.

GALM: Yeah, the reason I came across it in my research was that in June — June 12 to be exact — of '56, you wrote to Allen regarding that article because Dean Coffman was reported to have categorized the article as socialistic and warned the incoming —

JONES: He [Rickershauser] didn't immediately tell me about it, is my recollection, but that the conversation between him and the dean happened fairly close on to the publication of the article. Obviously, that was right in that period of time where everything was vibrating very nervously. Although I do not have a clear recollection, I'm deducing that I heard about it later and I felt that it was a prudent thing for me to inform the chancellor about that, given what had happened with Allan McCoid. It was never clear to us that whatever Allan McCoid had said to Dale Coffman was accurately repeated by him to the chancellor. There was some concern lest Dale had really escalated the language and the attitude and so on in such a way as to make Chancellor Allen feel somewhat outraged that such a thing would have happened. That was sort of in the minds of each of us at that time, so I think I must have been concerned that that socialistic tag on that article might somehow turn into a ground in Coffman's mind, even though today we would think that would be a ridiculous ground. At that point in time, that was not a ridiculous ground, and certainly not to him.

Throughout that — it sheds a little sidelight on our plight as we saw it then — we weren't at all sure of Raymond B. Allen and how he was going to react to all this. So when we got that letter [dated April 4, 1956], which was a rebuke letter, it really looked as if we were in deep trouble, that he was going down the Coffman line. He was a person, I think, who was really quite susceptible to "important people" and their viewpoint. And I know that Judge Mathes contacted Allen on a one-on-one basis. It sticks in my head that he may even have gone across the street to see him on the day that he was on the campus. Mathes was a rather formidable physical

person and had a demeanor which was extremely solemn and not quite pompous. He wasn't really pompous, but if you were at all impressionable about judicial power and the federal judiciary and everything, this man really carried himself as sort of a prototype of that kind of individual. I rather suspect that had something to do with our rebuke letter. It could very well have been that Mathes or somebody else other than Coffman — I'm sure Coffman did himself, but other than Coffman — may have remarked that it looked as if the chancellor was becoming the dean of the law school and that maybe this shouldn't be, and so on. Anyhow, I was prompted to write Allen about that article with two motivations, undoubtedly: one, self-protective, and the other, though, is just another illustration of the problem that he had. Even at that late date, he was doing a thing like that. At that point in time that was the last thing he should have been doing: calling the third-year law student in, the editor of the law review, and telling him, "Don't publish articles like this." All it did was just add another item to the agenda of things that deans don't really do.

GALM: I've reread the Maxwell oral history, and he talks about this period, the return of Coffman as a faculty member only, as being a very difficult time because Coffman still had a very direct line to the regents.

JONES: Sure.

GALM: And seemed to make use of that.

JONES: Yes.

GALM: I think you indicated in a letter that you had sent to Allen in January of 1958 that —

JONES: Things were being said to somebody about —

GALM: Well, Regent Hansen you specifically mention. Just that things were going to be very difficult for anyone coming on as dean because of that relationship.

JONES: I remember also that we were getting back, through the pipeline from the regents, things which had been said in the faculty meeting. That was the only source for them. Things that weren't said anywhere else, which Regent Hansen was using in regent meetings. That was what I probably felt, that since Regent Hansen might very well read this letter I really shouldn't

get that specific about it, because we didn't have proof of it, except the circumstantial evidence is rather convincing. But that was the story on that.

GALM: During that year of Dean Harno's acting deanship, there was certainly a strong effort and committee to select a permanent dean. It seems that you did submit James Chadbourn's —

JONES: I wrote a — what I thought then and think now was a strong letter of recommendation. There was some concern — I think maybe Harold Marsh had the concern that maybe I was trying to set myself up to become the dean of the law school, which I thought was ludicrous. What I was learning in the process of the job was that this was not something I wanted to spend my academic life doing, because to do a successful deanship in any setting, I'm sure, but most particularly in the setting that we had, you had constantly to be concerned about the most minute hurt feelings and the prospect of hurting feelings, walking a really very careful line to avoid appearing to arrogate the slightest bit of administrative power. Because we had come through this holocaust. I guess that's a bad word to use in a setting like this. It gives it too much importance. But storm. The kind of storm that we had. Everybody was extremely sensitive that what we wanted was certainly a decentralized law school administration.

What I was confronted with was — I had the perception that we really needed to reach out to the community in every way we could. Not just the legal community but the community plus the legal community subcomponent or component, so that they would realize that things had changed in this law school. I remember I put together a group of lawyers and judges plus members of the faculty to meet with Jim Harno in my house in Santa Monica to talk about the law school and its future and the law school in the community, and so on. I was doing that because Jim Harno just wasn't interested. He encouraged me to go ahead and do it, but he himself wasn't really thinking along those lines. There was no reason particularly why he should. He saw this as just an interim year at the outset, or maybe he saw it longer. At the time I just thought he was thinking of it as a year. But, in any event, I think that my activities because of his sort of phlegmatic method and his aloofness from the details of the law school and its relations with others in the Southern California area — I could see, looking back on it,

how I might have created a perception that I was interested in becoming the dean. But that was not even on the fringe of my consciousness.

GALM: At some point during that year there must have been a shift in thinking. There must have been the realization that there wasn't going to be an appointment of a permanent dean for the following year, and that an acting dean would have to come from somewhere. Is that correct?

JONES: I think that that's probably true, but it's not quite true. We really were confronted with a rather high degree of irresolution with the chancellor, and that was caused, obviously, by Regent Hansen and Dale Coffman. The static was coming from that pipeline, and so we were getting nonaction in a period of time where things had to happen in a fairly quick lockstep manner in order to get a topflight law professor who would be recognized nationally as an outstanding dean. But we couldn't button it down. I remember there were always other conferences, other discussions that had to be [held], and so on. Letters, of course, had to be gotten from outside the university, and I remember my impression of it was that we were just getting sort of the octopus-ink phenomenon, really backing off and masking out and so on. And that was, I think, the pervading perception at the time. There did come a point where we obviously were out of it for the following year. I don't want to be creatively recollective.

GALM: No. I understand that.

JONES: But my recollection is, though, that there came a shifting process, but it wasn't in any visible marked change but a growing realization that we just weren't going to get anywhere with anybody worth getting on the outside who had to come in and confront what we were dealing with.

GALM: Was there any attempt by the faculty to put forward Richard Maxwell as their candidate?

JONES: Well, there came a point in time where that was the case.

GALM: But was it a real effort by the faculty? Was it presented as a possibility and you supported it?

JONES: My recollection is that we didn't have a mechanism for creating an effort to get something like that done. I was really the only person other than Jim Harno that had contact with the chancellor — whom the chancellor felt free about talking to. He wanted nothing to do with Jim

Chadbourn or Ralph Rice. I don't know what he thought of them as persons, but after he wrote that letter —

GALM: So when Maxwell was appointed as acting dean, do you recall how you felt about that?

JONES: No. I thought that was a very good stroke. I really didn't think that he was going to be there as the dean a year after, because we were still, and he, too — we viewed this as just giving us time in order to persuade the kind of person that we wanted to come in as dean. And I think only during the following several months, probably till around Christmas — it could have been related to the Association of American Law Schools meeting — there was a lot of conversation throughout the country about this vacant deanship. I think it could have been then that it began to be a very palatable solution for Dick to be the dean. I don't know. He probably had ambivalent feelings about it at the time. Although, in the law school world, it seems, once a person is attracted to administration like that, it becomes a habitual attraction. He did become attracted to it at some point in time. I think it was after he was the acting dean, though. I think he enjoyed it, and he just did a superb job, just an unbelievably good job as the dean. Once you become the dean — it rapidly got around the country that we had one of the best deans in the United States. Now, where that transition came, in his view of it, I couldn't trace.

GALM: In fact, he identifies himself as the reluctant groom.

JONES: Yeah. I think that's a fair self-description. I know we worked awfully hard on Page Keeton, thought we had a pretty good chance with Page Keeton. Page was very fond of Dick Maxwell, who had been on his faculty at Texas before.

GALM: How did you manage to recruit Murray Schwartz and Addison Mueller during the interval period?

JONES: That was Jim Chadbourn.

GALM: In both cases?

JONES: Yeah, I think so. Chadbourn taught at Pennsylvania, and it's my recollection that Murray was a student of his. I may be wrong at that, but I'm pretty sure that's the case — that Murray went to Pennsylvania and was Chadbourn's student. Chadbourn had an enormous charisma in

class. I've never known any law professor who attracted so universally the affectionate admiration of his students the way Chad did. Just really phenomenal. You can talk to anybody in all those classes that he had over the years that he was here. They just rave about him still. So it wouldn't be at all beyond conjecture that when we started looking that Murray was the — I'm trying to remember Murray's sequence. He clerked for Chief Justice Vinson; I think that was the year of 1950–51. I don't remember what Murray did after 1951, before we got him out here, but I think he practiced in Philadelphia.

GALM: I think he held some municipal role, too, in Philadelphia. [first deputy city solicitor, 1954–56].

JONES: Yeah, yeah. So I would think, without really recalling it, that that was how we got onto Murray's existence and invited him out. Addie [Mueller] was an old friend of Chad's. He was tailor-made to come here, in a sense. He had been a Yale law professor. He was a late bloomer — went to Yale law school late, later in his life. I guess he was probably in his late twenties, early thirties, when he went to law school. They kept him on on the faculty. Really an imaginative — once again, a very charismatic classroom professor, a very reflective, thoughtful person in all contexts. Wonderful friend.

There was a law professor named Vern Countryman, who's on the Harvard law faculty now. He was a Yale law professor who was an associate professor, but at Yale an associate professorship was not tenured, and he was up for tenure. There were some conservative types on the Yale law faculty. Countryman was always a right-out-there-in-front liberal with a capital L. Very strong Constitutional Law man, freedoms and so on. Someone like Dale Coffman would think he was at least socialistic, probably communist, but he was neither. He was a strong constitutionalist. When the Yale faculty turned him down for tenure, Addie Mueller resigned in protest, said he couldn't stay on that faculty any longer, which just rocked everybody in the law-professoring world. And he went back to Milwaukee, Wisconsin, and took over his family lumber business and did that for, I guess, about four years maybe. Something on that order. He was the spaniel up on top of the seat when the fire alarm starts going. [laughter] He was ready to run.

Chad said, "Why don't we see if Addie Mueller might be lured back into law teaching," which was a great idea. And he was very wary. He was very, very wary of it because of this Hansen stuff and whatnot that we were going through. But he was impressed with Dick; he knew Chadbourn. He came and sat in my class. The only person who has ever, outside of a student, sat in my class. He asked me if he could come sit in the Labor Law class. I think it was Labor Law. Yeah, it was Labor Law. And he sat there for the full fifty minutes. Then he went out and gave his benediction, which didn't hurt me, either. He wanted to see what the quality of everybody was. Here he knew the older people. He didn't know me. We got along very well on a personal level. He just wanted to see what I'm like professionally, I guess. So we persuaded him to come, and for several years at least, he used to wail about that. We had fraudulently induced him to leave the lumber business. Semi-facetious.

I have another recollection about faculty recruiting during that period. When we were at the San Francisco Association of American Law Schools meeting, the winter meeting when we were trying to persuade Howard Williams to be dean, I got a message at the front desk. It was from Erwin Griswold, the dean of Harvard. I was invited to breakfast with the dean of the Harvard Law School. I remember thinking, "My gosh, the dean of the Harvard Law School is interested in me!" This was the way deans contacted prospects at these meetings, pancakes and sausages and personality. "Well," I thought, "why not?" The University of Michigan had been. If Michigan could be, a bolt out of the blue, could Harvard be far behind? So I tied my bow tie and went to breakfast with the dean of the Harvard Law School. Only it turned out I wasn't the focal point of interest. It was Kenneth L. Karst. He was at Harvard on some postgraduate program, and Dean Griswold was selling Karst, not buying Jones. As the assistant dean, I was the evident point man on the scene from UCLA. But I didn't tumble to the reality until my second cup of coffee. I thought we were both being interviewed. I think that was when Ken Karst's name first got into our appointment files. I don't recall when, but he later joined us and has been one of our outstanding faculty members for years.

At that same meeting Chadbourn and I went out for a walk shopping for souvenirs to take home to our kids. We were in a Chinese shop, and hanging on the wall was a large, brilliantly painted, orange, white, and

black tiger's head on a black background. Ferocious eyes, piercing; mouth wide open; white fangs — too scary for children. As we came back to the hotel with our purchases and started up the steps outside [as mentioned previously], Dale and Helen Coffman emerged, arm in arm. He didn't look at us, although he saw us. But she did. She looked straight at us, step by step, as we went up and they went down. Pure, unadulterated venom. As we got inside, we each simultaneously recalled that tiger's face glaring out of the poster.

GALM: I have just one short question. It seems that at one time your name had been brought forward in an advisory committee meeting as a possibility for the acting deanship and that you were dismissed because of your youthfulness. You sort of objected to that strongly. That's the word that came back to you. Any memory of that or not?

JONES: No. That I objected because of the factor of youthfulness?

GALM: Right. That you wouldn't be given legitimate consideration.

JONES: That surprises me, because I apparently have coated my recollection. My recollection was that I really was not interested in being the dean. It's conceivable to me that I might have been — where? In that paragraph? I'm a little surprised I added that, principally because there would appear to be no possibility of succeeding because I don't have any recollection that I really wanted to be the dean of the law school.

GALM: But I guess, again — you know, I keep coming back to that, whether the idea that the acting dean would come out of the faculty —

JONES: You mean the *acting* dean?

GALM: Yeah, the acting dean.

JONES: As against the dean? The dean would come from elsewhere?

GALM: Right. Whether that came through as a decision for that year.

JONES: Yeah, yeah. I think you're right, and I could see where I would not be antagonistic to that. But I can remember talking to Helen, my wife, and both of us were completely in agreement that I was not a career dean. That was quite obvious to me. It became obvious to me because I was doing, as the assistant dean, things that would come naturally to me — to think of things to do and then to do them. Yet I became conscious in the doing of

them that I was creating an impression. A little concern about "Maybe I'm cut out of the same mold of Coffman" (not sensitive enough to consensus, the need to involve the faculty in everything in depth, with functioning committees and the like). We really needed somebody with that sensitivity. It turned out that Dick Maxwell had it in spades.

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From the Oral History of

L. DALE COFFMAN

L. DALE COFFMAN (1905–1977) served as the first dean of the UCLA School of Law from 1949 to 1956, having served previously as dean of the Vanderbilt University Law School for three years. He continued as professor of law at UCLA until his retirement in 1973.[1]

L. DALE COFFMANN

* * *

WINSTON WUTKEE (UCLA ORAL HISTORY INTERVIEWER): When did you first meet [Board of Regents Chair Edward] Dickson or hear of him?

COFFMAN: I met Mr. Dickson before I came out here. It was before Christmas of 1948, when I was invited out here. As a matter of fact, I got a call from — who was the provost at that time?

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

WUTKEE: [Clarence] Dykstra.

COFFMAN: Dykstra — a telegram from him asking me to come out. I had just started a school there at Vanderbilt. It had been for all practical purposes closed during the last two years of the war, and so I really had to build it almost from the ground floor up. I knew they were building a new school here, and I thought that Dykstra wanted to talk to me about some of the problems of building a new school. I didn't have any idea really that I was being considered as dean.

Dykstra had a cocktail party for me and Mrs. Coffman, and during the afternoon I met Dickson there. Dickson was the first one who said anything about my coming here. He wanted me to come. He said, "I want to be sure that you come." Dykstra hadn't said anything to me about coming yet, and Dickson had remarked that the campus had had a bad reputation for too many — well, Dickson said — "Reds" on the campus, and he said he didn't want anybody like that.

I said, "Well, a lot of things can be said against me, but that's not one of them." Then Dykstra that evening did make an offer, and I went back to Nashville, Tennessee, and wrote him and turned it down. I didn't think it was enough to make a change.

So then I went on to the Association of American Law Schools' meeting. I think it was in Cincinnati that year. While there I got a telegram from Dykstra increasing the offer, asking me to come and asked me to call him. So I talked it over with Mrs. Coffman, and I called him and told him I would come. (So I turned it down once.)

WUTKEE: Did Mr. Dickson phone you after you turned it down or contact you at all by letter or any other communication?

COFFMAN: No, he was working through Dykstra. I know it was Dickson then who got the increase and, as a matter of fact, increased all the salaries up and down the Pacific Coast.

WUTKEE: The first meeting that you met Mr. Dickson, how did you size him up?

COFFMAN: Oh, I liked him from the start very much. He was my friend on this campus. He called me regularly about university business and asked me to call him. I told him one time that I understood there were

rules about any member of the faculty calling a member of the regents. He says, "With you, pay no attention to that. If you have something on your mind, I want to hear it." So he called me regularly and insisted that I call him on any problem that I had.

After I was here a short time, I found out about this Academic Senate control of the university. I didn't have any such business as that with Vanderbilt, and I'd had associations with three other universities: the University of Iowa, the University of Nebraska, and Harvard (Iowa and Harvard as a student, Nebraska as a member of the faculty). There was no such control in any of those schools. And as a matter of fact, I told Ed Dickson that if this was continued with reference to the law school, he'd better think about getting himself another boy.

WUTKEE: Then what did he say immediately on that?

COFFMAN: Immediately on that, he, working through other regents, eliminated that control of the law school. [UC President Robert Gordon] Sproul didn't like it, I know, but after all, the regents did do it, and so I was not subject to Academic Senate control.

WUTKEE: Had you known of Mr. Dickson's prior career in California at all? Had anyone briefed you prior to your meeting him?

COFFMAN: Not in any detail, no. I knew he had been in the newspaper business and he was the owner–publisher of the newspaper, which he later sold to Hearst. And incidentally, John Francis Neylan was personal counsel to William Randolph Hearst. John Francis Neylan was the best man when Ed Dickson and Wilhelmina got married. So their friendship goes way back. I got to know Ed Dickson and Neylan both very well during the so-called oath controversy here on the campus. I stated publicly that I'm not a Communist, I never have been, I never expect to be, and I don't see wherein it interferes with my academic freedom to say so.

WUTKEE: Did you and Mr. Dickson have talks over that issue?

COFFMAN: Oh, indeed so.

WUTKEE: Can you relate Mr. Dickson's feelings on this?

COFFMAN: Oh, Mr. Dickson, of course; was — let's not — have you got that thing going?

WUTKEE: Yes. You can review this and, of course, seal it.

COFFMAN: What is not generally known, and Mr. Dickson told me, [was] that the Legislature was getting concerned about the communist influence on the campus. The Legislature was about ready to pass some legislative requirement as to qualifications for teachers of the University of California. Then Mr. Sproul went to the regents and said, if they would require an oath or affirmation by all members of the faculty that the persons are not members of the Communist party, that would forestall any action by the Legislature. So the man who objected to it was John Francis Neylan, a great American. He said that he didn't think that was necessary. Sproul insisted upon it. Neylan told me this, too.

So the regents did pass the requirement that a member of the faculty should say either under oath or by affirmation or, Mr. Dickson told me, just simply by a plain letter, in writing, stating that the person is not a member of the Communist party; that was all that was required. Well, after there was the big stink raised by the Academic Senate of the university, then President Sproul took the position that he was acting as a go-between between the regents and the faculty, which irritated Mr. Dickson no end, and Mr. Neylan quite a bit. As a matter of fact, that's where Sproul and Neylan just broke completely. The oath had been requested by President Sproul, and then after the stink was raised by the faculty, Sproul was taking the position that he was conveying the wishes of the faculty to the regents, as though they had been the sole ones responsible for this so-called oath requirement. Mr. Dickson, I know, was not at all pleased with that, and he told me so.

But that was finally resolved, and then we had the act of the Legislature, of course. Even so; after the regents' action was stricken by the [U.S. Supreme] Court, which I think was a wrong decision myself, because I think the regents have a perfect right, constitutional right — they are a constitutional corporation —

WUTKEE: Did Mr. Dickson share with you his attempt to get John Caughey [professor of History at UCLA] to acquiesce to Mr. Dickson's opinion?

COFFMAN: I know John Caughey called on Dickson at his home. Dickson liked John Caughey as a man, but he couldn't understand why in the hell he wouldn't say he wasn't a Communist. I said I couldn't see why, if a

man isn't, why isn't he willing to say so. Now [Roscoe] Pound was raised a Quaker, and he had — always has had, of course — some objection, because of his raising, to taking an oath. But in this instance he had no objection whatever. The regents' requirement was oath or affirmation; if you didn't want to take an oath, Mr. Dickson told me that just simply a plain statement in writing, not under oath or affirmation, would be sufficient.

WUTKEE: Did Mr. Dickson ever discuss with you the fact that perhaps this loyalty oath controversy just stemmed primarily, say, in John Caughey's case, from perhaps overstating an intellectual concept? In other words, did Mr. Dickson realize that that might have been part of the problem?

COFFMAN: Oh, yes, but he couldn't understand why anybody would say that it interfered with his academic freedom, and I couldn't either.

WUTKEE: Did this really make Mr. Dickson mad about John Caughey, or did he sort of let it slide off?

COFFMAN: Oh, Mr. Dickson was not a one to hold grudges, never, never. He liked John Caughey as a man; he told me so. And he couldn't understand why Caughey would object to taking an oath.

WUTKEE: Did you ever have occasion personally to meet John Caughey?

COFFMAN: Oh, yes.

WUTKEE: And did you get into discussions about this at all?

COFFMAN: No, I knew where he stood, he knew where I stood.

WUTKEE: How about [University Librarian] Larry [Lawrence Clark] Powell? Did Mr. Dickson talk to you about that incident? He phoned Larry Powell and attempted to dissuade Larry Powell from joining the growing list of dissenters.

COFFMAN: Yes, well, of course, Larry Powell did admit before a [State] Senate committee that he had been a member of the Communist Party.

WUTKEE: And Mr. Dickson then helped him live that down or not have suffered from it.

COFFMAN: Oh, yes, Dickson was never a man to hold any grudges, never. He liked Larry Powell as a man. Of course, he couldn't understand why an intelligent young man would join the Communist Party, because Dickson

was always, if he was anything he was a good American and he did not like Communists.

WUTKEE: Yes, I well know that from my own knowledge of him. Was there another individual that came in to this situation? I don't know of any without doing research. We've got John Caughey and Larry Powell. Was there any other individual that consternated Mr. Dickson? I can't think of any.

COFFMAN: Oh, yes, there were. Well, the whole Academic Senate, of course, did. The great majority of the faculty, of course, were on record as opposed to the oath.

WUTKEE: But yet only a minority group actually chose to not sign the oath. Is that correct?

COFFMAN: That's right.

WUTKEE: In other words, the whole situation, though, caused Mr. Dickson, even if he didn't hold grudges, to be pretty unhappy about it.

COFFMAN: Indeed so. As a matter of fact, that's why he came to me to see if Pound and I and other members of the faculty would make public statements in that regard. I did to the *Examiner*. Pound did, too.

WUTKEE: Speaking of Pound, did Mr. Dickson get to know Roscoe Pound quite well?

COFFMAN: Oh, indeed so, yes. Yes, we have attended many social gatherings together with Dean and Mrs. Pound and Ed and Wilhelmina Dickson.

WUTKEE: I wanted to ask if Dean Pound gave you a summary of Edward Dickson ever that we can get into the record or [if he] gave you some opinion about what he felt toward Mr. Dickson?

COFFMAN: Pound and Dickson had the utmost admiration for each other..

WUTKEE: Pound then became aware of Mr. Dickson's work in reform politics in California?

COFFMAN: Oh, indeed, yes. Pound was fully aware of Dickson's supporting of Theodore Roosevelt. Pound and Dickson saw eye to eye on so many things.

WUTKEE: I see. It was at that cocktail party at the Dykstras' that Dickson first met you?

COFFMAN: Yes, that's right.

WUTKEE: Had someone brought you to his attention?

COFFMAN: Owen D. Young. He was the chairman of the board of General Electric Company, and he was the man responsible for my going as counsel for General Electric Company. Two men who probably had more effect on my professional life than any other two would be Owen D. Young and Roscoe Pound.

WUTKEE: I see.

COFFMAN: Young was, in my opinion, an industrial statesman. He was my mentor in General Electric Company, and I could never get out of his office, even if I just needed a signature. Why, I'd have to come in and sit down and he'd load up my pipe with his pipe tobacco and we'd visit for a half an hour or so. Young was a great man. I understand from Dykstra that Young did write out here about me. Young was a law teacher himself at one time. As a matter of fact, I didn't leave General Electric Company until I had talked it over with Young at his home down in Van Hornesville, New York, in October, I think it was, of 1945. I left G.E. on March 1, 1946, to accept the deanship of Vanderbilt University. Young had asked that I come down to Van Hornesville, and so Mrs. Coffman and I drove down there. It was his birthday, as a matter of fact, seventy-second birthday as I recall, and we had a delightful afternoon with him. That's when he said that the happiest days of his life were in law teaching at Boston University, which he did before he became counsel for General Electric Company and then was later made chairman of the board. Young and I always got along beautifully. I went to Vanderbilt from General Electric Company. I was dean down there until I came out here in '49. Young wrote, I believe it was, to Dykstra and, of course, I think that Mr. Dickson probably saw that letter.

WUTKEE: I see. Mr. Dickson wasn't a friend of Owen D. Young, then, or an acquaintance?

COFFMAN: I don't know whether they knew each other, but certainly Mr. Dickson knew Young by reputation. He was the author of the Young Plan after the First World War. I know Dickson had great admiration for him; even though Young was a Democrat, he was a "good" Democrat.

WUTKEE: Well, tell me: how did Mr. Dickson buttonhole you and try to persuade you? Can you give us a little bit of his technique?

COFFMAN: It was all very forthright, very forthright. At this party that the provost, as he was called then, [gave] at his house here on the campus, why, Dickson simply came to me and said, "I hope you will come" — just that forthright. I didn't tell him that I hadn't had an offer yet. [laughter]

WUTKEE: What other activities brought you together then until his passing in 1956?

COFFMAN: Oh, almost daily, certainly weekly. He would call me on the telephone, I would be at his home for dinner, he would be at my home for dinner. We'd discuss the university. Yes, he even suggested me for some higher positions in the university.

WUTKEE: Can you name those?

COFFMAN: Chancellorship.

WUTKEE: Which year would have that been? Before Allen came here?

COFFMAN: Yes, before Allen came.

WUTKEE: I see. Did he ever discuss Western Federal Savings with you, or business?

COFFMAN: Yes, I put some money in his savings.

WUTKEE: Could you characterize his approach to making money, or did he ever discuss his philosophy of making money with you?

COFFMAN: I don't think that Ed Dickson was concerned primarily with making money. He was concerned primarily with what good he could do in the community. If he had been concerned solely and primarily with making money, he would have made a lot more than he did. I know Wilhelmina thought that, too, and I think that's true. But Ed Dickson was so involved in so many community affairs here in Los Angeles that I think Los Angeles and the university — or maybe the other way around, the university and Los Angeles — were his great loves, his business life.

WUTKEE: Did he ever mention to you whom he particularly liked or disliked as a person, either a political individual or —

COFFMAN: Well, you're going back a few years now. I know he admired Robert Taft very much. He admired General [Douglas] MacArthur very

much. In fact, he thought a ticket of Taft and MacArthur would have been an ideal ticket.

WUTKEE: Rather than Eisenhower and Nixon?

COFFMAN: Eisenhower and Nixon, yes.

WUTKEE: Did he at all begin to move towards pulling strings that way, do you know?

COFFMAN: I don't know. Of course, Eisenhower had the thing pretty well buttoned up, he was such a popular man. But Ed Dickson was thinking not just of popularity but of ability to do the job. He thought Taft had the political ability, political savvy, and that MacArthur is a man who would learn the politics very quickly and he could learn it quickly from Taft, and he certainly was a man of intelligence and honor and integrity.

WUTKEE: In other words, Edward Dickson was still thinking —

COFFMAN: Oh, of course, of course. And he was a great supporter of Dick Nixon, of course, in his early career.

WUTKEE: He was? Can you expand on that for the record at all?

COFFMAN: Well, I think he was probably one of a group who got Nixon to run for the Congress.

WUTKEE: I know Wilhelmina Dickson highly regarded Richard Nixon, especially because of the Whittaker Chambers incident.

COFFMAN: That is right, and that's what sold him to Ed Dickson, too.

WUTKEE: I see.

COFFMAN: If Ed Dickson were alive today [1971] and under the present circumstances, whether he would be as enthusiastic, I don't know, but I have my suspicions.

WUTKEE: Yes. Do you remember Edward Dickson assessing the Chinese Communist drive on North Korea at all and the fact that MacArthur wanted to bomb the Chinese group? Did Mr. Dickson ever give an opinion on that?

COFFMAN: Oh, yes, we talked about it. I'm sure that we both thought that if MacArthur had been given his head, the whole thing would have been over a lot sooner, and we would have saved probably ninety percent of the casualties that did occur in Korea.

WUTKEE: The Army–McCarthy hearings: now how did Mr. Dickson express himself on those? Maybe at the outset one way and towards the end of them did he change or did he stay the same?

COFFMAN: I think he respected McCarthy for his objectives. I believe that Ed Dickson felt that there were traitors in our government — call them by the right name. I think there still are. And so I don't believe that Ed Dickson would ever criticize Joe McCarthy's objectives. He might have used bad judgment sometimes, but never his objectives would he criticize.

WUTKEE: Did Mr. Dickson ever convey to you a philosophical approach to life or religious approach to life in a moment of conversation?

COFFMAN: Oh, yes, yes. Ed Dickson was a man who believed in the dignity of the individual man under God and the law. He believed a man should make his own way in life. He should not be handed success on a platter. Of course, he can't be handed success, but he shouldn't be handed material things on a platter without working for them. Everybody should earn his way. Ed Dickson belonged to that same school, I think, that my father belonged to. When my father wanted to say something, the worst that could be said about any man was to say, "He acts as though he thinks the world owes him a living."

WUTKEE: Did he express an opinion to you about Dwight Eisenhower?

COFFMAN: Oh, he supported Eisenhower, yes. He thought Eisenhower's heart was in the right place. I believe that Mr. Dickson thought as I did and as Roscoe Pound has said many times, "It's a wonder this nation has succeeded as well as it has, because so few times have we elected as president of the United States the best-qualified man for the job."

WUTKEE: How about Adlai Stevenson? Did Mr. Dickson say anything about him?

COFFMAN: He didn't like him.

WUTKEE: He didn't?

COFFMAN: No, no.

WUTKEE: Did he ever state specifically why or what attributes he didn't like particularly?

COFFMAN: He was a glib liberal.

WUTKEE: Plus the policy of ending testing of atom bombs at that time especially, 1952, perhaps would have seemed incongruous.

COFFMAN: Yes, Mr. Dickson was against anything that would weaken this country.

WUTKEE: Irrevocably against it.

COFFMAN: Yes, absolutely. If anything, you could convince him, would weaken this country or weaken the people of this country, he was against it. And so was I — am I.

WUTKEE: Had Mr. Dickson passed on before the problems within the law school, where Raymond Allen stepped in — did that occur after he died, or did it occur before he died?

COFFMAN: The last telephone call, so Wilhelmina told me, that Mr. Dickson made to Raymond Allen was to tell Allen to stay away from some of the younger members of this faculty. Dickson called me then and said Allen told him that he was not seeing any younger members of this faculty. I have it in writing, after Dickson died, that he [Allen] was at the time seeing some of the younger members of this faculty, not the older members.

WUTKEE: Yes. But in other words, Mr. Dickson died before you were no longer dean here? Is that right?

COFFMAN: Oh, no, I was dean when he died.

WUTKEE: You were.

COFFMAN: He died on February 22, 1956, and I had at that time received an appointment with the United States Commission on Government Security. That spring of '56. I was commuting between Los Angeles and Washington, really. Then the next year I took a leave of absence for the year, and that's when Allen put in the constitution and bylaws of the law school whereby the dean has no authority to make appointments to the faculty. There is a faculty committee on appointments. He does not have any say about the curriculum of the law school. There's a faculty committee on curriculum. The dean has a vote only if there's a tied vote in the faculty. So when I saw that, I told Mr. Allen what he could do with the deanship, because I would stay on the faculty and at least have a vote.

WUTKEE: Yes, yes. Did Mr. Dickson ever give you an opinion of Raymond Allen?

COFFMAN: Yes.

WUTKEE: Well, give it to us for the record, which can be sealed if you want.

COFFMAN: Well, maybe I shouldn't say, because Allen is gone and so is Mr. Dickson gone. But, let's say, there was not any love lost between them.

WUTKEE: Well, it's been documented by Ann Sumner and Vern Knudsen and a number of others that Mr. Dickson, later especially, didn't care for Mr. Allen in a number of ways, especially as a speaker, and felt that he was weak. Probably he was more definite about this. But was there any one particular thing that you could say that Mr. Dickson definitely stated about his ability to handle the university?

COFFMAN: Well, he indicated to me that he thought he was extremely weak and could be led by others.

WUTKEE: In other words then, Mr. Dickson came to your defense as much as he could. There wasn't a real reason before he died to change any of the events that occurred.

COFFMAN: Always he certainly did object to — I told Dickson that I thought that Allen was meeting with some of these younger members of the faculty, and that's when Dickson grabbed the telephone and called Allen and [asked], "Are you doing that?" and Allen told him no. I later, after Mr. Dickson's death, had proof that at that time he was.

WUTKEE: Were there critics of Mr. Dickson in those years in the law school that you know of?

COFFMAN: Oh, I hired some people who didn't think as I did. I thought there ought to be a balance on the faculty, which we don't have now. Yes, there were some.

WUTKEE: But they never interfered or really had any effect on Mr. Dickson, I'm sure.

COFFMAN: Well, he really didn't know what undercutting was going on prior to his death. He suspected some, and that's one reason for the phone call to Allen.

WUTKEE: I see. But other than that there were no other contacts between you, I mean, socially and business, university business?

COFFMAN: We had many social contacts as well as business contacts. If Mr. Dickson had lived I'm certain that the law school would not be put back under the Academic Senate as it has been.

WUTKEE: Who was responsible for that?

COFFMAN: Sproul.

WUTKEE: Sproul. How about Franklin Murphy, while you're on that subject? Could he change — well, you had no reason to see him anyway.

COFFMAN: No, I knew Franklin Murphy. He was on the commission with me back in Washington when he was president of Kansas University.

WUTKEE: Suffice it to say Mr. Dickson would have approved of Murphy, do you think?

COFFMAN: Oh, I think so, yes.

WUTKEE: As a person and as a mover. How about Chuck Young? Again, this is certainly going a little beyond to ask you what you think Mr. Dickson would have thought of Charles Young.

COFFMAN: That is pure speculation.

WUTKEE: Pure speculation.

COFFMAN: I wouldn't care to speculate on that. I know Mr. Dickson would want to have somebody in the job of chancellor who would stand up to left-wing elements on the campus.

WUTKEE: Did Mr. Dickson ever speak about Abraham Lincoln and the Lincoln Club.

COFFMAN: Oh, yes. Oh, heavens, Mr. Dickson sponsored me in the Lincoln Club here in Los Angeles. As a matter of fact, [at] my first meeting of the Lincoln Club I gave the principal address.

WUTKEE: What year was that? Probably '52 or — ?

COFFMAN: Oh no, that was 1950 I believe. My first year here.

WUTKEE: Now, that's right, you were here, obviously, before the dedication of the law school.

COFFMAN: Yes, I was here in '49. I came on March 1, 1949. We opened the school in September of 1949, only to a first-year class and in temporary quarters.

WUTKEE: Do you have any anecdotes that stand out, besides the several that you've given me about Mr. Dickson, that you'd like to have in the record, things that you remember he did over and over?

COFFMAN: Oh, I just remember him as a true friend and, I think, a really great man.

WUTKEE: Did he speculate on the university or UCLA as a whole?

COFFMAN: He wanted to reverse the trend towards the left of the university.

WUTKEE: He very definitely saw that as a continuing trend then?

COFFMAN: He spoke to me about that in 1948 when I was here. He didn't think that the university was any place for any indoctrination of students in any left-wing philosophy. A member of the faculty should teach his course and in class confine himself to the subject that he is supposed to be teaching. And with that I thoroughly agree.

WUTKEE: OK. Well, unless you have some further comment to make on him, why, that probably covers the situation.

COFFMAN: I think probably so. We spent many, many fine hours together. We worked very closely during this oath controversy, of course. I think the history of the university, the recent history might have been changed had he lived.

WUTKEE: Thank you very much, Dr. Coffman.

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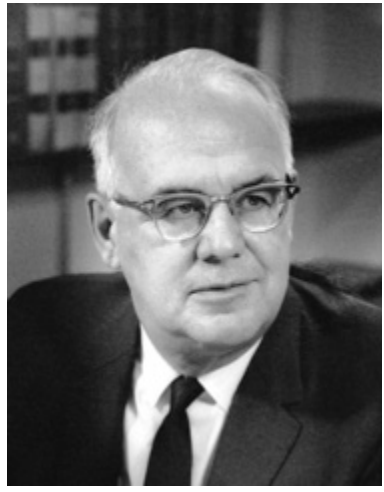
From the Oral History of

HAROLD E. VERRALL

Harold E. Verrall (1902–1995) was brought to the UCLA School of Law from Vanderbilt University Law School by Dean L. Dale Coffman in 1949. As assistant dean, he was one of the two faculty members who supported Dean Coffman against dissident faculty members. He remained at UCLA as professor of law until his retirement in 1970 and continued as professor at UC Hastings College of the Law until 1979.[1]



Harold E. Verrall

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BERNARD GALM (UCLA ORAL HISTORY INTERVIEWER): [Before Dean Coffman came to UCLA in 1949], what were his major accomplishments [as dean of the law school at Vanderbilt]? Expansion of the library, expansion of the faculty — ?

[1] For further information, see the Editor-in-Chief's introduction on page 1 of this volume: 11 Cal. Legal Hist. 1 (2016).

VERRALL: And he had to supervise the construction of classrooms, which were far different from those of the university because the classes would be larger. So we had to have the classrooms with built-up benches and seating so that all the students could see the instructor at the podium.

GALM: Later on, when we talk about the building at UCLA and so forth, I'll ask you, or you can volunteer, for comparisons between Vanderbilt, ideas which he may have already begun at Vanderbilt, or introduced at Vanderbilt, that he later reintroduced at UCLA.

VERRALL: Well, I would say that probably his policies were very much the same, except on a magnified scale. In other words, the building we got built here was probably three times the capacity of the Vanderbilt building that we had left. Oh, maybe even more than three times, four times. But they figured the school here would be a school of 1,000 to 1,500 students, so we'd need that space.

GALM: Did you teach, more or less, the same courses that you taught before the war — Property courses?

VERRALL: That was the dean's policy. He wanted somebody who had had years of experience in teaching in the Property field, years of teaching in the Criminal Law field, years of teaching in the Procedural Law field, years of teaching in the Torts field, not quite as much, but that was the field he was going to take over himself.

GALM: I know that in the early years at UCLA he had weekly luncheon meetings with the faculty. Was that also a feature at Vanderbilt?

VERRALL: At Vanderbilt we had, oh, I would say, more daily luncheon meetings, with a faculty meeting about every two or three or four weeks. At luncheon we'd have our faculty meetings. At UCLA we also had the daily luncheons for years and years. For the first ten years of the school a group of the faculty, and indeed practically all of the faculty, would go out to lunch. No, it was about the same.

GALM: Was there any interaction with other departments or schools at Vanderbilt?

VERRALL: Really, the answer should be no. We knew many of the other department heads and the faculty, and we maintained social contacts. But

from the point of view of university functioning, no, Vanderbilt was run in a little different way, I would say each department almost separate from the other.

GALM: Did Dean Coffman have an assistant dean at Vanderbilt?

VERRALL: Well, a member of the faculty would assist on admissions. I was the goat most of the time. The school wasn't big enough to require a full-time assistant dean.

GALM: Do you recall what your first impressions were of Dean Coffman?

VERRALL: Well, I noticed the first thing he did was to fill up his pipe, and light it without saying very much, and then smoke. So I assumed he was doing that for the purpose of attracting attention to himself. He was a person who wanted to be front and center all the time, ever since I knew him.

GALM: Had you known him before he came to Vanderbilt?

VERRALL: No, I only knew him over the telephone before he came to Vanderbilt. And that was during the six months before I returned, before I left the government service and came back into teaching.

GALM: Did you socialize much with him at Vanderbilt? I mean, separate from the entire law faculty.

VERRALL: Yes. [Rollin M.] Perkins and Coffman and myself, we got together, oh, probably once a week.

GALM: Dean Coffman then was appointed here at UCLA in 1949.

VERRALL: Yes.

GALM: Before he left had he discussed with you the possibility of your coming?

VERRALL: Oh yes.

GALM: Had he discussed it at all before he accepted the deanship?

VERRALL: Yes. He had talked to both Rollin Perkins and myself. Well, I don't know just when it was, at one of our social meetings. We always talked a little bit of business as we socialized.

GALM: When did you say yes?

VERRALL: I told him that I'd like to come to California the very first time he broached the subject. So he knew it was yes all the way from my point of view. The only question would be what the university would say. They have certain procedures and they have certain likes and dislikes, like all people do. So I didn't say yes to UCLA until I got a formal invitation.

GALM: Had you ever been to the West Coast by that time?

VERRALL: Oh yes. In the middle thirties, during the Depression, I had driven out to Washington and then down from Washington to Los Angeles, all down the coast. So I'd been familiar with the California weather, California people.

GALM: Was that a family trip that you made?

VERRALL: No, just myself and my wife. We wanted to see what the West was like. We both liked it.

GALM: What did you see as being the advantages for you in the move? You were a full professor at Vanderbilt.

VERRALL: Well, the advantages would be great because the University of California never did things in a little way. So we figured from the very beginning they were going to build a good-sized law school that would have a national reputation. And, you see, Boalt Hall [University of California, Berkeley] was known throughout the whole of the United States as one of the leading law schools of the nation. And we figured that UCLA would be the same, become one of the leaders. No, we were very happy, both Perkins and myself.

GALM: When you arrived, what was the state of affairs as far as the law school was concerned?

VERRALL: They had an old military barracks that they had put some partitions in for [counts] one, two, three, four about six rooms in it. Perkins took one; I took the one next to it. Dean [Roscoe] Pound across the hall from Perkins, and Brainerd Currie across the hall from where I was. The other two little rooms were the dean's office, the office of the dean, and the secretarial office.

We were in that barracks, and then they had another barracks they were building into a law school library. The librarian, Tom [Thomas S.]

Dabagh, was there. Then they had a third barracks which was to be the classroom for that first year. And somehow or other they had, either along with the library or in a separate little building, lockers for the students and a reading room for the students. So it was really basically just some old military barracks back of Royce Hall.

GALM: What were your duties before the start of school?

VERRALL: Well, we had a problem of admissions. And the entire faculty — no, not the entire faculty. Myself and the dean and, I would assume, to some extent Perkins — I don't know that Brainerd Currie ever participated in that — we had to decide what were to be the basic qualifications and to go through the applications and pick out the best students. We clearly couldn't take all of the applicants. We had to take maybe the top ten percent, the best students.

GALM: In speaking with Mrs. [Frances] McQuade about those early years, she stated that they were really quite surprised by the number of applicants for that first-year class. There were several hundred.

VERRALL: I was distinctly surprised at that, but afterwards it didn't surprise me too much because the dean was a good talker. He liked to make speeches. He liked to be front and center, even if it was contentious. He made innumerable speeches throughout the Los Angeles–Long Beach area. Dean Pound was also in great demand, and he made numerous speeches. And the media publicized the fact that they were building up the new law school. Undergraduate student groups became very interested in the new law school, and they wanted to know what they would have to take to qualify. And so I was asked to go out and make speeches to these undergraduate university groups of students. I don't know how many I made in the Long Beach, Los Angeles, and Valley areas. Quite a few.

So there was a great deal of publicity about the law school at that time. The net result was that the lawyers heard about it, and if a youngster was going into the law school, he would ask a lawyer normally, some friend of the family. One way or another the school became known to them, and the number of applicants was phenomenal. We expected to have more applicants, of course, than we had students. We had space for only fifty students, and the number of applications was probably three times or four times that. Some of course were not absolutely complete applications. So if you'd

take, say, fifty that weren't complete, that would leave a hundred and fifty completed applications. We could only take one out of three. So we took the best, the top-notch. And it was a top-notch class. I never had a class of students that pleased me more than that original group of students. And when they got out in practice they showed they were good.

GALM: I suppose in a way they were taking a certain chance too, weren't they?

VERRALL: That was pretty well handled. Well, as a matter of fact, the faculty at their luncheons did a lot of talking about law school matters: Should we require certain courses in college? Or should we give certain courses extra weight? Should we do this and that and other with respect to admissions? And we reached the conclusion, consensus of the faculty, that it didn't make a great deal of difference what courses a person took in college, as long as he really did the work of those courses. If he drifted through, it wouldn't make any difference what courses he took. But if he didn't drift through and he really concentrated on his work and became a good student, it didn't make a great deal of difference. However we would recommend that all students take as much English as possible. Two, that they would take logic if it was given. Three, they might take such courses as advanced mathematics. Because law is breaking a complex problem down into parts, solving the problem of each part, and then building it up again; and that's exactly what you do in higher mathematics. So we discovered over the years of our teaching experience that some of our best students were students who had taken English, logic, and mathematics in college. And so while we didn't say take them, we said such courses can't hurt you. But take any course you like, because there's nothing that you can learn in college or out of college that you can't use as a lawyer, if you really know what you're talking about. So it didn't make any difference what courses they took.

Now through the publicity of our talking to students, through the speeches of those who made good speeches — and the dean and Roscoe Pound were the two that did a lot of speaking — the school became widely known. The number of applicants just flooded the school.

GALM: Did you enjoy giving these speeches?

VERRALL: I'm not a front-and-center person. I'm hesitant to get up and talk; even when I'd get up before a class, after fifty years of teaching, my knees would rattle. No, I don't like to make speeches.

GALM: But at that time it was really promoting the school and therefore was necessary.

VERRALL: Well, if the dean asked me I would do it.

GALM: Why don't we talk about the first members of the faculty. You've mentioned some of them by name, but maybe we could discuss them a little bit more — their backgrounds, and then the courses that they taught.

VERRALL: As I analyze it, the dean's policy was portrayed in the original faculty, from the point of view of faculty. He wanted somebody on the faculty of international repute, if possible, as a stimulus. So that the students would be stimulated. Because you don't teach a student anything. If he doesn't learn himself, he's not a good student. You can't teach anybody anything. He has to learn it. And so we wanted to stimulate the student body.

One of the policies of the dean, which the faculty approved of very much, was to have someone of international repute teaching. So the visiting professor that first year was Roscoe Pound. He had had at least fifty years of teaching experience. He'd been the dean of the number one law school in America for years, Harvard Law School. For thirty, forty years he was dean of Harvard [in fact, twenty years]. He'd been a judge. He'd been a graduate student of international reputation, even in the area of botany. He was the author of innumerable books on jurisprudence and was, I would say, one of the two or three leading American, what I would characterize as, legal statesmen. As a stimulus for our students it was just wonderful to have him teaching first-year students. That's in keeping with the policy that the dean had, and I know the faculty at that time approved.

So Dean Pound, with fifty-odd years of teaching experience and more experience in the field of law; secondly, Rollin Perkins, with thirty or forty years of teaching experience — also, author of at least two books in criminal law, one of which was *Elements of Police Science*, which was translated into many different languages and used throughout the world as an educational tool in the area of police science. He had some thirty years of experience, and he was also a stimulating teacher like Dean Pound, rather on the conservative side of teaching. Myself, with twenty-odd years of teaching experience, maybe a little more than that, also of the relatively conservative type of teaching. I'd taught Property Law for twenty, twenty-five years. Perkins had taught Criminal Law for thirty-five, forty years. Pound had taught

Procedure and other courses for fifty-odd years. Then the fourth member of the faculty was Brainerd Currie. He was the editor of *Law and Contemporary Problems*, one of the leading legal publications of the nation, but relatively young as a teacher, and relatively on the liberal side as a teacher.

It gave our school a little mix that way. We had the old type, Harvard type of teacher, and the newer type of teacher who would like to change courses around and like to approach courses in different ways, and be, I would say, of the Yale type, more liberal. I should say, I was a graduate of Yale, so I'm kind of fifty-fifty, halfway between Harvard and Yale as a teacher.

GALM: Did Yale have that reputation?

VERRALL: At that time, yes, very much so.

GALM: Was it the leader of the liberal direction in law education?

VERRALL: Yes. Yale and Columbia both. Yale probably first and Columbia secondly. And indeed, Wesley Sturges, at one of the meetings we had at Yale, said, "Now we have a faculty half this way and half that way. It's either going to have to go one way or the other. It's can't continue on this way." He was the dean at the time, and he made that statement. And while you can't define what is liberal and what is conservative from the point of view of teaching, we've denominated Yale as one of the liberal schools and Harvard as one of the more conservative schools.

GALM: What was the reputation of Boalt Hall at that time? Do you recall?

VERRALL: Very good, very good.

GALM: I mean liberal/conservative.

VERRALL: I would say Stanford and Boalt Hall were the two westerly schools with a real reputation for being good. And I would say probably Boalt Hall would have ranked more on the conservative side when I came out here than on the liberal side. More like Harvard than Yale. And Stanford would be more like Yale than Harvard. Indeed, they called Stanford sometimes — no, they called it the "Cornell of the West." That's right.

GALM: Why don't we go back and just —

VERRALL: Hit the faculty. Roscoe Pound. I would guess in his late seventies, maybe even eighty —

GALM: He was pushing eighty.

VERRALL: — when he came out here. He rented a suite in a hotel [Chapman Park Hotel] about a block west of the Ambassador Hotel. In the morning he'd get up, go down to the corner, and get himself a cattleman's breakfast. He liked a big breakfast. He was a big man, around six feet four, I guess, weighing two hundred and forty pounds. So he could handle a good cattleman's breakfast. Then he would catch the Red Bus — and in his conversation, no matter with whom he was speaking, it was never just the Red Bus, it was the goddamned Red Bus — and come out to campus.

He would then go into his office. It was the policy of the school at the time that the faculty would not post office hours. Their office hours would be all week, and any student was privileged to come in any time that the door was open. And if the door was closed, they could knock and see if the door wouldn't be opened. But normally the door to the office would never be closed until the man went to teach his class. So the students had unlimited access to the faculty. And that was the policy of the school for at least the first ten years.

He would come into his office and plump himself down and start to work. After fifty-odd years of teaching and sixty-odd years in the practice of law you would think he had read everything, but no. He would concentrate on reading law all day. He had a philosophy he said of setting his goals very high. He said, "Make your horizons high and as you approach the horizon raise the horizon some more." So he was working at that time on a new set of books that he was going to publish on jurisprudence. He was going to bring together his ideas that he had developed over fifty-odd, sixty years. And I would say within three or four years after he left UCLA he completed that set of books on jurisprudence, a five-volume set [*Jurisprudence* (1959)]. While he was here he worked on that as well as on his classes.

GALM: How many years was he at UCLA?

VERRALL: I would say about three.

GALM: How much influence did Roscoe Pound have on Dean Coffman?

VERRALL: I think a great deal. Coffman had been a student at Harvard when Dean Pound was there, and Dean Pound had that faculty of remembering people. Even thirty or forty years after he had met them, even casually, he could greet them by name. It was fantastic. And the same with cases that he'd read twenty, thirty, forty years earlier. He could remember

the case, the name of the judge, the principle involved, and indeed he could even quote portions of cases that far back. I don't know how he did it but he did.

And he read just about as fast as any person I've ever known. Indeed, I think I told you once that I stood across the desk from him while he was taking a book out of a cardboard carton and saying, "Jules [Julius Stone] said he would send me a copy of his book." He started turning over the leaves, and he forgot I was there for two or three minutes. And I think it was at page 78, he says — whang, with his big hands on the desk — "Jules should know better than this. Here on page 78 he says so-and-so, but back on page 14 or 17 in the footnote, he said the exact opposite." That was the sort of rapidity with which he read. He had read seventy-odd pages while I stood across the desk waiting for him to give me a copy of a speech that he had just made. And he remembered what he read. His advice to me was: Concentrate when you read, because if you ever know something you'll never forget it. Well, that's true until you get to my age, and then you start forgetting things, particularly names.

Well, at four o'clock in the afternoon then, or four-thirty — a set time, I don't know, it was just enough time that he would have three or four minutes to get down to the bus stop — he'd slam his book closed, slam his door closed, and leave, and waddle down the hill. He wouldn't walk, he'd run down the hill, all two hundred and fifty pounds of him, to catch the bus home. And he'd have dinner with his wife and probably make a speech that evening. He had taught at Harvard and at Northwestern, mostly at Harvard, most of his lifetime. Had written a dozen or more books, had made speeches throughout the world, and had been guest of honor for royalty throughout Europe. Very well known. I think he was a real stimulant to our students.

GALM: Was he a stimulus also to the faculty?

VERRALL: Very much so. You were afraid to make a mistake. Well, that was true when I went to Hastings College of the Law also. I was scared to make a mistake. So I worked harder probably than I had ever worked in my life, just so that I didn't make a mistake in his presence. No, that was a real stimulant to the faculty. And I have assumed that the dean was right in saying that it would also be a stimulant to the students. Because they did

become good students, not only the first year but the second and third year too. The second member of the faculty —

GALM: Let me just ask one thing about Pound. Do you remember anything specifically that he might have done to influence Dean Coffman in introducing something to the UCLA school that was either particularly him or the Harvard model?

VERRALL: No, I don't know. Such influences would have been accomplished by Dean Pound in a casual conversation over the dinner table at Coffman's house, or while he was drinking a highball after dinner at the dean's house or at my house. You can't tell where. The dean would, Dean Pound, would suggest and he would teach you without your knowing he was teaching you. He never looked down or talked down to a person, and even though you had made a bad mistake he would never correct you directly. He would do it indirectly, so you were not hurt. No, he was a gentleman and a scholar and a real teacher.

GALM: So the next member was?

VERRALL: Well, Rollin Perkins had taught twenty-five years at the University of Iowa and had taught at Vanderbilt, was the author of a couple books, and was a slave driver sort of a teacher. He would tolerate no laughter, no fun about anything. It was work, work, work, work. He drove himself that way, and his class was conducted that way. The students liked it because he ruled with an iron hand. He did that when he was a young teacher at Iowa, he did that when he was at Vanderbilt, and he did that when he was at UCLA. And he continued, after he left UCLA and went up to the "Sixty-Five Club" in San Francisco, to teach that way at Hastings.

The third member of our faculty was Brainerd Currie, editor of *Law and Contemporary Problems* before he came to UCLA, and a teacher of a few years' experience — I don't know how many; maybe four or five before he came to UCLA, maybe six. He was a very good teacher. By way of degrees: Pound of course had all sorts of degrees; Perkins had a doctorate in law; Brainerd Currie had only his baccalaureate and law degrees, but he was a student of exceptional ability in the field of law and a teacher of exceptional ability. After a class was ended during those first years, it was the practice for the faculty to stay at the podium and let the students come up around the podium and discuss law matters (what we called a bull

session), concerning the law of the course, as long as the students wanted to after class. Sometimes those bull sessions would last for an hour after the class. Well, when Brainerd got through with his session in the classroom, he would go to his office. Six or eight of the students would come into the office with him, and they would discuss the law with him for maybe another hour in the office. The arguments were loud and long.

One of the law students once came across the hall and said, "Do you wonder why we argue so much in Professor Currie's office?" I said, "No." He said, "We don't want you to think we agree with him in his politics, or agree with him in his philosophy of life, but we go in there and argue because he can approach the law of a case in more ways than all of us together could imagine. So we have to go in there and argue with him to get various approaches to the law given us in our casebooks." That was the sort of teacher he was. He stimulated the students to try to find out more in the cases than the average person would discover by reading the case, even though he concentrated on the reading. He was an exceptional teacher.

He was the one member of the original faculty that was somewhat a loner. He didn't seem to appreciate going out to lunch every day, as the other members of the faculty did, and he didn't seem to want to socialize with the faculty or outsiders very often. He was very much a family man, and he had a brilliant family. Indeed, his son [David P. Currie] is one of the brilliant [law] teachers of today. So Brainerd would go home. I used to go out to his place, maybe try to go out there at least once a week, and play some cards with him, just go after dinner and discuss matters with him. Play some cards with his son, play checkers with his son, who could beat me every time.

Brainerd became more and more alone over the two or three years he was here. But he was very popular with the students. When he went on, he went on to [University of] Chicago, a big, good law school. It wasn't because he wasn't qualified that he went on so early, he was an exceptional student and an exceptional teacher.

GALM: How did he get along with Dean Coffman?

VERRALL: I saw no friction whatsoever. Because Brainerd was not a person who would want to confront; if he didn't agree and if it wasn't something of real importance to him, he'd just go his way and forget about it.

Well, that was the only way you could get along with Dean Coffman, of course, because he would be delighted if you would confront him and argue against him. So I never argued against him unless it was a matter of principle; then I had no hesitancy whatsoever to speak my mind. He never took it out on me because I didn't agree with him on a point. If it was a matter of principle he would recognize it and accept it; he'd accept my position. No, Brainerd had no confrontation with the dean as far as I know. If it was, it was in private, and I know nothing about it.

GALM: I believe he began teaching Contracts.

VERRALL: Yes, he was teaching Contracts that first year. Pound was teaching Procedure. The dean was teaching Torts. Perkins was teaching Criminal Law. Currie was teaching Contracts, and I was teaching Property. Those are the five areas you normally introduce the students to.

GALM: The other member would be the director of the library, Thomas Dabagh.

VERRALL: Well, Tom Dabagh was a librarian long before the law school was even thought of, a law librarian. He had the contacts and ability to build up a library, and he rapidly built up the UCLA Law Library into a library of substance. It was a really good library. For instance, he discovered that some law school was closing and had a whole library, that he could buy the whole library. In that way, even though he got some duplicate books now and then, he accumulated the books necessary for the student use and the faculty use. For research it would take more years than the first two or three to build a library for research purposes.

Tom had a desire to stack books according to the subject matter, and he wanted to index the books according to the subject matter, and put all the contract books in one place and all the tort books in another, et cetera.

Well, that didn't work out too well because many of the books could be stacked in five different places. If you went to the wrong place first, you might have to go to four other places before you found this book. You didn't want to always go to the card index to find books. So there was a little bit of friction between Tom Dabagh and the faculty concerning the cataloging of the books and the shelving of books. In the end I believe a compromise system was developed.

Tom Dabagh then went on to the librarianship in one of the libraries maintained by the state. He was a good librarian but didn't quite fit in with the faculty during those early years. Not that he wasn't likable socially, he was. Not that he had ideas that they couldn't agree to at all, but there wasn't the camaraderie that was close between the librarian and the faculty. Which normally is true.

GALM: When he was brought on in the position of law librarian was it also thought that he might be an assistant to Dean Coffman?

VERRALL: That I don't know. I believe he would have liked to have had his hands in law school administration.

GALM: From reading the early faculty minutes I get the impression that he might have had that possible role.

VERRALL: I don't know. Knowing Coffman at Vanderbilt three years and here while he was the dean, I would doubt that Coffman would have been able to tolerate him as assistant dean at the time. Just speculating. But I really don't know. I'm —

GALM: What would have been the area of incompatibility?

VERRALL: Oh, I would just say personality, nothing else. This is speculation on my part.

GALM: I understand, I understand.

VERRALL: The fifth member of the faculty of course was myself. I'd gone to school at Iowa and Minnesota, and got my baccalaureate degree at Iowa and my first law degree at Minnesota. I'd gone on and got a graduate degree in political science at Minnesota because I could take that in a law area. Then I'd gone on and got a doctorate degree in law at Yale. (Perkins had his doctorate degree from Harvard. Coffman had a doctorate degree from Harvard. Brainerd Currie, the other member of the faculty, didn't have a graduate degree at the time.) Then I'd gone to teach at Vanderbilt for about twenty years and came out here and taught at UCLA for almost twenty years, about twenty years.

GALM: Did the faculty have any influence on the building itself?

VERRALL: Oh, I would say yes.

GALM: In what way?

VERRALL: The architects would ask concerning what we needed, and then they would draw up plans. The plans, rough plans, would be given to the dean, and the dean then would get the faculty together and we would discuss the plans.

GALM: Again, was this modeled after what he had done at Vanderbilt — the division of rooms and the size of the quarters?

VERRALL: I would say yes. There was a duplication, except the first-year classroom at UCLA was to be at least twice, maybe two-and-a-half times, the size of the first-year classroom at Vanderbilt. We didn't have an [existing] building here. At Vanderbilt we had to put the classroom into the building, and it would only take a classroom of a certain size. Here, they figured that the first-year class might have to be two hundred students. So we'd have to have a first-year classroom that would take that number of students. A second-year classroom would be slightly smaller, and a third-year classroom slightly smaller than that. Then, the small classes would be held in rectangular rooms throughout the building. We'd need a few of those.

But with the three big classrooms, with benches elevated as you go back in the room and with a baffle board at the front of the room, with a circular wooden paneling behind the podium, a student in the back of the room could hear very well. Three classrooms, really, were what the school started with, and several rectangular rooms that would take fifty, seventy students.

GALM: I know that the sectioning of the first-year class became an issue later. Were other law schools doing sectioning of the first-year class? Or was that a new endeavor?

VERRALL: In most law schools during the beginning of this century, at least down to the fifties, the classes were relatively large. They didn't section the first year. Then, the student bodies started to outgrow the schools, and sectioning was required. Just physical facilities required sectioning. I believe that it was discovered that sectioning rather helped the school than hurt it. The idea had been that you should get together all those students that are taking Contracts. It would be better to have them all together, being taught the same case the same day, so that they could discuss the matters among themselves. But they found that sectioning, even though the sections got out of whack with each other, and some of the students would

be maybe three or four days ahead of the others, still the smaller sections were producing better students. So, at least in the fifties, schools did start to section, and more recently it became a practice to section, with many sections of the first-year class rather than just one or two.

GALM: Was there any thought at the time of the new building that UCLA would be moving toward sectioning, or was that even discussed?

VERRALL: It wasn't discussed to my knowledge. But whether the dean thought about it and discussed it, you know, casually over the dinner table or in the back room afterwards, I don't know. I don't recall it being discussed.

GALM: Were you present at the ground-breaking ceremony?

VERRALL: Oh yes.

GALM: What is your recollection of that event?

VERRALL: [laughter] I don't know. I think it was Ed [Edward A.] Dickson who took the shovel, picked up the shovel, and turned over one spade of dirt. He was a member of the regents. Indeed, he was the president of the regents, or chairman of the regents.

GALM: Chairman of the board.

VERRALL: I guess they call it chairman of the board. He was very interested in the law school, and I would think he was probably the principal regent responsible for bringing a law school to UCLA. Ed Dickson, yes.

GALM: What do you remember about him? Did he come around the law school much?

VERRALL: Oh yes. He was a nice fellow to meet. He'd come around the law school. He knew the faculty by name, and we had little get-togethers now and then. The regents weren't at a distance from the faculty. Indeed, when the regents had a meeting here on campus, Dickson would invite members of the faculty over. I remember going over and meeting [Earl] Warren for the first time. That's before he became chief justice of the United States.

GALM: Oh, Governor Warren.

VERRALL: He was governor, yes. Governor Warren. They'd have their little get-together room for socializing before they'd have their formal university meeting.

GALM: The other regent that was an important southern regent was Victor Hansen.

VERRALL: Judge Hansen was a close friend of the dean's. He was a probate judge. And when the trouble arose here at UCLA he was one of the commission [United States Commission on Government Security] that took Coffman to Washington. He was a very close friend of the faculty, just like Ed Dickson was, but in different ways. Judge Hansen would have more social functions than Dickson would. We always thought of him as the lawyer who did as much as any other lawyer to put UCLA law school on the map.

GALM: Who were the other lawyers on the Board [of Regents] at that time? Do you recall?

VERRALL: I know Governor Warren of course and —

GALM: Was [John Francis] Neylan a lawyer?

VERRALL: Oh yes. No, he was a newspaperman, that's my recollection. No, I don't know whether he was a lawyer or not. [Neylan was, in fact, a lawyer.]

GALM: Dickson was a newspaperman also, from the *Los Angeles Express*.

VERRALL: Yes, but that was before he went into the finance business, savings and loan.

GALM: So the strong supporters were Dickson and Hansen.

VERRALL: Hansen, yes. There were others, I'm sure — Ed [Edwin W.] Pauley, for instance. I think Ed Pauley was a good friend of the law school while he was a regent and, I believe, a close friend of Bill [William C.] Mathes, District Court judge, who taught part-time at UCLA during the first years and was a big supporter of the school. I think he was a very close friend of Ed Pauley.

GALM: I know that Judge Mathes spoke at the dedication of the law school. He was on the program.

VERRALL: He was a big help to the faculty and to the students, and also one of the stimulants that the dean tried to give all our students during those first ten years. He always tried to have somebody of national and international repute: for instance, Dean Pound as visiting professor; Judge

Mathes as part-time teacher; Wesley Sturges, dean of Yale, as visiting professor; Page Keeton of Texas as visiting professor; Louis Sohn of Harvard as summer school teacher; Howard Westwood of the number-one law firm in Washington, D.C., chief counsel for Western Airlines, and a man of international repute in the area of administrative law, here as a summer school faculty [member].

GALM: Yet, in those first classes, there didn't seem to be a large number of dropouts, were there?

VERRALL: Oh no, not with that group. They were good. You don't get many dropouts among good students. Maybe once in a while you get a Phi Beta Kappa who at the end of the second week reaches the conclusion that he made a bad mistake: he was not cut out to study law. And he'd quit. But the dropouts were very, very few among good students, and during the first years of our law school the dropouts were negligible. We had a good student body. Indeed, so good that I didn't want to quit. Indeed, why should I have? At the end of the rebellion [against Dean Coffman] the chances of going to another law school would be relatively few. They [other law schools] don't want to take a chance after a school has had an upheaval.

But anyway, I wasn't ostracized by either the faculty or the student body. Indeed, one illustration, the dean [Murray Schwartz] was going to have a little get-together after dinner with one of the controversial judges of the District Court of Appeals in Washington, D.C. He wanted some of the faculty to just have a little conversation with this man, who was a brilliant man, and he invited me out to his home — Murray Schwartz.

And there was a Jewish law student from Beverly Hills [who] came into my office one day and said, "Would you like to come out this weekend and meet my friends and, particularly, meet Dr. Wei [Tao-ming] the Chinese ambassador to the United States, who has just resigned?"

He had cancer and was here from China to get treatment for his cancer in the Los Angeles area. So I went out to the home; I never had such a delightful afternoon in all my life. I met the ambassador, [who was] Chinese ambassador to the United States for a long time, and his wife. His wife was Madame Wei, who was one of the leaders of the revolution against the imperial dynasties of China. She wrote a book, "My Outlaw Years," no, *My Revolutionary Years: The Autobiography of Madame Wei [Tao-ming]*,

and of course she autographed it. After the meeting at this girl's house she sent me a copy by special delivery, autographed "S. Cheng Wei" (her name would be the last one of the three).

No, I never had such a delightful afternoon in all my life, thanks to one of our Jewish students. I never had any problem with the student body or their families. The rumor was that the dean was biased, and I know that that rumor was spread among the student body, because a group of students in the lounge one day were overheard to say, "Well, we have the law school now. We better be on our toes so we don't lose it." Which indicated to me that the rumor that had been spread about the dean had reached the student body. That is what it was supposed to do. It was successful.

GALM: Was the essence of that true, the essence of the rumor?

VERRALL: I was closely associated with him. At the time of the rebellion I'd been closely associated with him for eight or ten years — well, maybe only seven or eight years — and at no time did I find any evidence of bias. If you look at the student body. Well, it wasn't shown in his selection of friends or in the selection of faculty. Louis Sohn came out here from Harvard to teach in summer school and came back a year or two later. I know if there'd been any real bias during the two summers that he was here he would have discovered it. At least, he wouldn't have been back the second year. Father [Joseph J.] Donovan of Loyola [Law School] was a very close friend of ours at the law school, and I'm sure if there had been any evidence of bias Father Donovan was sharp enough to have seen it. And he would not have tolerated friendship with us if we were biased.

I believe only one time during the whole of the years I'd known him up to the time of the rebellion was the question raised, and that was raised with respect to the rise of Hitler in Germany. The only statement was the history of the period shows that the Jewish group had taken control of the universities, the control of getting chairs at the universities, and that was considered to be the number one honor of the legal profession. For instance, a judge to be invited to go to the university would feel that he was being honored. He'd give up his judgeship to become a member of the university faculties. Coffman's only statement was that history shows that there had been that sort of a problem, and that was one of the reasons for the rise of the Nazi party in Germany. The statement was, history shows

— and then it was completed with a statement: But of course such a thing as that couldn't happen here. One, we don't consider university chairs to be such a prize as they were considered in Germany. Two, we have too many chairs to make it a possibility here, so there is no chance of history repeating itself here in America. Now that's the only time that I ever recall a statement being made concerning the Jewish race.

GALM: The statement that has been attributed to him is in regard to [UCLA law] faculty appointments, and that is, the hundredth member of the faculty would be Jewish. Do you know the background on that?

VERRALL: I really don't know. I think I know where the statement came from, but I don't know any basis upon which it was made.

GALM: Did you ever hear him say that?

VERRALL: No. No. No. I don't know, I can't recall any names that were brought to the faculty as potential faculty members that would have been a background for such a statement. No.

GALM: Was there anti-Semitism among law schools at that time, either [regarding] the acceptance of students or faculty appointments? Were there any glaring [examples]?

VERRALL: Across the United States, I really would hesitate to say. I don't think so. I'd been very closely associated with the faculties at [counts] one, two, three, four, five, six schools. And at no time over a period of thirty years had I run across any indication of racial bias. So I don't believe it was common. Indeed, some of my friends in the teaching profession were Jewish at the time, at the schools where I was. There weren't many of them, but I can recall two or three now, two at least. I don't recall any bias. At Harvard they had some Jewish teachers, at Yale the same. But there weren't many of them in the teaching profession at the time. Indeed, that's not at all surprising. As a race they are a very ambitious people, and there is far more money to be made and prestige to be won outside of law school teaching. So I don't recall any bias.

GALM: Was —

VERRALL: And I say they didn't have a large number of teachers, not because of bias but because they just didn't want to be. Indeed, when you

get to know them, some of the sharpest of minds and brilliant of men are among the Jews.

GALM: I think later, when we're talking about the law school at UCLA in the sixties, we'll talk more about minorities and the role that they played in the expanding enrollment.

VERRALL: They were principally the Blacks. The problem was the same, I suppose, here as it was at Hastings when I was up there, when they were pushing for more rapid recognition and sometimes couldn't realize that the people that they were pushing on the schools were not really qualified to become law students at all. Either [they] were not capable of handling law school work because of lack of prelaw school training, or two, they didn't have the temperament to become lawyers.

GALM: What was the policy of Vanderbilt towards Blacks in the forties?

VERRALL: I don't believe it was ever a problem. It was never presented. I know of no [Black] person who applied to the law school, and so I don't believe there was any problem in the whole of the university. From the point of view of recognition of the Blacks in society, there was a different sort of acceptance than you find here: acceptance that might mean that they would go out of their way to do everything possible for a colored man who was being abused, or who wasn't being recognized, but they wouldn't want him to be in a classroom with their children. Now things like that, it is completely different than it is today, but I don't believe there was any evidence of bias, among the faculty at least.

GALM: But at the same time, were there any Blacks as part of the general university enrollment?

VERRALL: Not that I know of. No. And we had two colleges, one right across the street from Vanderbilt, and the same there. While I was in the South I didn't see any occasion, no Black ever applied, while I was at Louisiana and while I was at Vanderbilt. So I don't believe there was any problem. But if there had been an occasion I don't know how it would have been handled. As far as the faculty in the law school was concerned I'm sure they would have said admit. But as far as the administration was concerned, or the controlling bodies in the case of a public institution like Louisiana State University, I don't know what the reaction would have been.

GALM: Here at UCLA, in those initial years, were there — I know there weren't many minority applicants, but were there minority applicants who were accepted?

VERRALL: I would think that among the early students you would find some Mexican Spanish. I do know among the early students, you found some Blacks, Billy G. —

GALM: Mills.

VERRALL: — Mills was a student who felt, it seemed to me, as though he had been ostracized from society a little bit. But as a law student he not only was accepted by the students and the faculty, but he was a good student. He still hadn't quite overcome that feeling of oppression. That's my feeling about him. No, I liked him very much, and I think the faculty did, too. And he was a good student. There were one or two others. No problem really from the point of view of discrimination because we always had three or four times as many applications as we had positions. We'd take the top of the group, and regrettably among the top applicants you'd find very few minorities. It wasn't because of discrimination. They just didn't apply.

GALM: Was it that they didn't apply, or that they scored too low and so forth?

VERRALL: Oh, no. I mean if they had high scores and high college work they didn't apply. They would know that they could get into Harvard, Columbia, or some national school.

GALM: So they would pass UCLA by.

VERRALL: They would pass up the newer schools and the smaller schools. Again, I have no basis upon which to base that other than this is the way I feel that it happened.

GALM: Well, we digressed a bit. Let's get back to the building itself. Did the faculty find the ultimate building satisfactory for their uses?

VERRALL: Yes. It worked out very well during the first few years. We later discovered that we needed more smaller rooms and discovered that if we were sectioning classes, we didn't need the big rooms. So while they were happy with the facilities, they also discovered that change was necessary.

GALM: The actual dedication of the building took place on November 10, 1951. I have a program of the ceremonies for that day. I wonder if you have

any recollections. Did the faculty participate in formulating that program, or was it more or less the dean's ideas?

VERRALL: I would assume that the dean with the administration decided what was to be the character of the dedication. Probably the dean had talked with Ed Dickson and Judge Hansen and the chancellor, and they reached a conclusion that this would be the way it should be done. The faculty at that time wasn't very interested in administration. I had no interest whatsoever in it, and Perkins had no interest in administration. Roscoe Pound, he'd had administration all his life, so he was no longer interested. And so I believe the dean handled it with the university administration and Judge Hansen and Ed Dickson and others that he would talk to concerning the dedication.

I see here that Dean Pound was to be on the morning program, which is entirely justified; he was one of the two or three great legal statesmen of the United States at that time. Bill [William L.] Prosser was dean of the university law school up at Boalt Hall — a fellow student of mine at Minnesota, by the way, and a very close friend. He was probably the leading man in torts in the whole of the United States. His book on the law of torts was, and is, the number one book. He had a phenomenal record as a student and as a teacher.

GALM: Do you know if he had much contact with Dean Coffman in those early years?

VERRALL: Well, they kidded each other a great deal, but I don't believe there was a very close relationship between Bill Prosser and Dean Coffman. I don't believe their personalities were such that they would get along very well over a long period of time together. I don't believe there'd be any conflict, but I don't believe they would pull together. Dean Coffman was more apt to go over to Hastings to Dean [David E.] Snodgrass. I liked Bill Prosser very much, but I liked Dean Snodgrass [because] I could fit in with him more than I could fit in with Bill Prosser, although Bill Prosser was in the "Sixty-Five Club" when I got to Hastings, and he was a delightful man to be around.

Homer Crotty of the [Los Angeles] Bar was the other man to discuss. He was also one of the lawyers in the area befriending the law school and helping to make it, build it into a good law school. There was a lot of outside help.

Ed Dickson on the luncheon meeting; [M. Philip] Davis, another lawyer who was another very close friend of the law school, both professionally in the law school itself and socially. John Francis Neylan, another close friend of the school. [Paul R.] Hutchinson of the Los Angeles Bar the same. Bill Mathes, Victor Hansen, Herman Selvin. Again, if you are looking for evidence of racial bias, he [Selvin] wouldn't have been here if there were any racial bias. A great lawyer and a good man. [At the time of his appearance on the law school dedication program in 1951, Selvin was president of the Los Angeles Bar Association.] Dr. [Robert Gordon] Sproul, toastmaster at the dinner; [Frederick F.] Houser, a judge, another very close friend of the Coffmans and of the entire faculty during that period, one of the speakers. Erle Stanley Gardner, a very close friend of Perkins and Coffman and myself.

GALM: Was that [friendship] before UCLA days, or did that come about at that time?

VERRALL: Erle Stanley Gardner, during the first two or three years that the school was in session, came out and talked to our students on the practical aspects of the law of evidence. You know, he was not only a great lawyer but he was a great man. He was one of the three men on the "Court of Last Resort," which court was to find out why certain people had been convicted and put in prison when they were really not guilty. The Court of Last Resort took their applications and investigated and then brought the proper legal proceedings to protect them and to make the administration of criminal justice fair and equitable. So Erle Stanley Gardner was a great man in his own right.

He'd written hundreds and hundreds of books. Indeed, the last time I'd heard, somebody said there were 300 million copies of his books in circulation. He came out and gave a couple of hour lectures to the students each year on the practical aspects of evidence. He was a wonderful lecturer, and he was always prepared. I know in his writing he was the same way. He never did anything slipshod. He always did something well. He would bring the ex-FBI man out who was his chief investigator, and they'd spend a couple hours in the afternoon, maybe three hours, with the students on the practical aspects of evidence.

GALM: Is that Marshall Houts?

VERRALL: Yes, that's Marshall. Yes. He taught at Western Michigan University, afterwards, and wrote a couple books on the law of evidence, the practical aspects of the law of evidence. Erle Stanley Gardner would come out in the morning with Marshall, and he'd go round the law offices. (By the way, if there was any bias he would have discovered it and would have had nothing to do with it.) He would come out, talk to the faculty, and go around to all the offices and invite the faculty out to lunch with him at Farmer John's (that's where we always ate our lunches whether he was there or not). He'd take us out to lunch, and at the close of the lunch he'd reach down in his side coat pocket and take out a role of bills that would choke a mule, honestly. [laughter] Money didn't mean a thing to him. Of course he was — he told me he was at that time writing eight books a year.

Once when he came out here, I believe the second time, one of the law school wives said, "I just saw an old Mexican Spanish scales downtown here in Westwood. There are the scales of justice." That was at a dinner where Erle Stanley Gardner was, and so he went into that coat pocket of his and went down there and bought the scales for the law school. They still have them down here in the halls of the law school. He then gave them enough money to build a foundation and a glass cover for the scales. They're pretty dusty right now, but they're there.

GALM: They're still there.

VERRALL: Erle Stanley Gardner's gift to the law school, in 1952, about. Earl Warren, governor —

GALM: The administrators at that time, the university administrators: why don't we start first with Provost Clarence Dykstra. What is your memory of him and his relationship to the law school?

VERRALL: I remember Dykstra from way back when I was a student at the University of Iowa. They had a political science meeting of administrators of cities at the University of Iowa. They held the meetings in the old capitol of the state of Iowa. Dykstra was one of the men who came. I believe he came from some town in Ohio at that time.

GALM: Cincinnati, I believe.

VERRALL: I think so; Cleveland or Cincinnati. And when I came out here I recalled those old days. He always came over to the law school, would

walk across to the law school, and walk around and talk to the faculty. I told him about the meeting in Iowa and how I remembered him from then. He was quite a chap. Very interested in the development of the law school, apparently. And very reachable. Anybody on the faculty who wanted to talk to him, he was available. Delightful man. That's all I remember.

GALM: What about President Sproul?

VERRALL: Sproul was more up in the Bay Area, very seldom down here. Once a year, at least, he would come down here and make an effort to meet all of the faculty. I was normally delegated to go out to the anteroom and get a member of the faculty, get his name and department and what he was doing, and take him in and introduce him to President Sproul and the other high officers on the line in the next room. I don't know very much about him. Personal contacts, relatively few, only at these annual meetings. I don't know very much about him.

GALM: What kind of impression did he make on a person?

VERRALL: Very good, very good. Yes. I think he was a good administrator. As far as the law school was concerned, we had no run-ins with him that I can recall. If there were, they were on the private, and I don't know anything about them.

GALM: I think there was some criticism early on of Dean Coffman, perhaps, bypassing the local administrator and going directly to the president. Do you have any knowledge of that?

VERRALL: There was that feeling that I discovered among the faculty on this campus. I didn't know many of them but I knew some of them, and two or three of them would reveal such facts as that to me at social gatherings. I believe there's some truth in the fact that he would bypass the local administration, sometimes. For instance, I don't know whether it was intentional or just a byproduct of relationships. He would be invited over to Ed Dickson's very frequently. They were close friends, and they would discuss law school matters. As a result of that, Dickson might have got the ball rolling without having the dean first go to the chancellor and then on up to the president and then up to the regents. But I don't know that there was any close relationship between Dr. Sproul and Coffman. I didn't know it if there was; so I wouldn't believe that Sproul would have been available

to listen to him. He would have probably told him if he'd gone directly, "You'd better go to your chancellor first."

GALM: So it was perhaps more his special relationships with the southern regents —

VERRALL: I think a byproduct of that was the basis of the rumor that he was bypassing the local administration. There was a time, however, when there was very little local administration. They had the triumvirate for a while, three men [Vern O. Knudsen, Paul A. Dodd, Stafford L. Warren] were handling the chancellor's job for a while.

GALM: That was upon the death of Dykstra.

VERRALL: Yes, until they got [Franklin D.] Murphy, or whoever came in.

GALM: How did that work out as far as the law school was concerned? Did that create problems?

VERRALL: I think it did. But they would be problems that would be known only to the dean and not to the faculty. The faculty didn't mess with administration. Most of us had no concern with administration. Indeed, even when I was a vice-dean, it was primarily for purposes of admission and for purposes of having somebody that the students could come and talk to when the dean wasn't available. So I had very little to do with administration.

GALM: Were you the first individual to hold the assistant deanship?

VERRALL: I think I was, yes. That was when Dean Pound left, and the dean brought me down into the dean's office there on the first floor at the time. I suppose that's now the librarian's office. The dean was in the corner there, and then they had the secretarial office, and off on the right-hand edge of it was a small office that I had. Dean Pound had it while he was there.

GALM: Was that a move that was supported by the faculty, to have an assistant dean?

VERRALL: I have no idea. All I was told was, would you take charge of admissions and be available if students want to ask questions? It didn't mean anything, because it was just a name, and there's no salary connected with it, at least as far as I know. [laughter]

GALM: There was no compensation?

VERRALL: It really wasn't an associate dean's job at all. The handling of admissions — that was something where the girls would do all the work, and we would then divide up the applications among the members of the faculty. Each man would take, say, twenty-five and run through them and decide whether the student showed prospects of being a good student, whether he met the conditions and the like, and then send them back to me. So I just did what everybody else was doing.

GALM: Did Dean Coffman reserve to himself [the right] to accept certain students?

VERRALL: Not that I know of.

GALM: There was an issue that occurred early on for the university as a whole, and I'm curious how it might have affected the law school. That was the loyalty oath. That was in 1950, which would be about the time that you arrived.

VERRALL: The end of the first year. Yes, it was actually during our first two years in the law school. I think it did affect the law school in two ways. The law school faculty as of that time, with possibly one exception, would have seen no real problem from the point of view of academic freedom if the oath was continued. I was one of those who didn't think that it would have any effect whatsoever on academic freedom. The university faculty at that time was opposed to that. In that way, the year of the oath was detrimental. It kept the law school, I think, a little more separate from the university than it would otherwise have been. From the point of view of publicity and getting the law school before the minds of the lawyers and the judges and the business people of the community, the year of the oath I think helped the law school. The position of the university and members of the faculty was considered to be newsworthy. The media did come out very frequently, and they did come to the law school. If you voiced an opinion — and we did, at least I did — it was considered to be newsworthy and was found in some of the papers as of that time; indeed, with quotes, although I doubt that the quotes were very accurate. In that way, the university's school of law was brought to the attention of the business and professional people of the area.

GALM: Do you recall whether the subject of the loyalty oath was brought up at the luncheon meetings?

VERRALL: Well, we talked about everything at our luncheon meetings. We had a luncheon meeting every day. At least four or five or sometimes six, sometimes all the faculty, and sometimes all except one, would go out to lunch every day, and we would discuss law school matters, yes. The loyalty oath was one of the things that we discussed among ourselves.

GALM: Was there any attempt to take a stand as the school as a whole, or the faculty as a whole?

VERRALL: No. No. No. Each individual had his own opinion on how far we should go, and there was not even an indication that it would be of any interest to anybody else how we thought.

GALM: When you first arrived and during those first years, did you attend many of the Academic Senate meetings?

VERRALL: Well, I think I attended practically all of them, yes. Indeed, I had very close friends in several departments — bacteriology, engineering, particularly — but most of the faculty in the other departments of the university at that time were more at arm's length. I knew them by name, like Dean, who went down and became chancellor at Santa Cruz.

GALM: McHenry?

VERRALL: Yes, Dean Dean McHenry [university-wide dean of Academic Planning, 1960–63]. He was a neighbor of mine too, living just off the campus, and after he got down to Santa Cruz I attempted to see him once or twice. Last tine I tried was a foggy day, and it was so darn foggy I couldn't even find the building he was in on campus, or I couldn't find a place to park even. So I never got to see him that time. He was very friendly. J. A. C. Grant [professor of Political Science] was friendly and invited us to his home many a time.

GALM: How was the attendance by other members of the law faculty?

VERRALL: I believe that Rollin Perkins would go with me every time I went. I don't recall whether Brainerd Currie went or not. I would think he did, but I can't say for sure. Dabagh, the librarian, I don't know about him. And Coffman, I don't know, I don't recall whether or not he attended. But I rather believe the answer was yes, that we went, the four of us at least.

GALM: A couple of issues: We'll come back to when the law school actually broke away from the Academic Senate, but one other issue was the accreditation of the law school.

VERRALL: I don't think we ever broke away from the Academic Senate. As long as I recall, we always had one or two members of the faculty on the —

GALM: I guess what I'm saying is that the Academic Senate committees didn't have control over certain aspects of administration of the law school.

VERRALL: Well, I thought that was true from the very beginning, but I don't know.

GALM: No, that was a real push.

VERRALL: We were tied with the Academic Senate, I do know, in the matter of appointments. We had to go through the procedure of the ad hoc committees, but in other matters I don't believe the committees of the university had much influence on the law school.

GALM: Well, in 1952 there was actually a resolution that went through the regents which took the law school out of the area of having their appointments go through committees in the Academic Senate, or for budget approval, and so on and so forth.

VERRALL: Well, I had no question about the — I knew nothing about the budget, but from the point of view of committee appointments, I do know that after the law school faculty recommended and the dean recommended an appointment it would go to an ad hoc committee formed in the Academic Senate. And I thought that continued throughout. I have no idea. Well, I know it did down to the time of the rebellion [against Dean Coffman], because at that time one member of the recalcitrant group went to a member of the ad hoc committee and said that although the faculty of the law school had approved [an appointment] — ostensibly that included him, and it did — he was unalterably opposed to an appointment. The appointment of a gentleman from Wisconsin, I believe it was at that time, or maybe from Iowa. I think it was Wisconsin.

GALM: Would that be [Clarence M.] Updegraff?

VERRALL: No. No. I don't want to mention names.

GALM: Well, it's my sense that this resolution was pushed through, and that it was pushed through by Regent Hansen to benefit the law school at UCLA, so that it would have autonomy away from the Academic Senate. In a sense, it also affected the professional schools that only offered graduate work. That would fit the description of the law school and not too many other schools.

VERRALL: I thought that was the way it was functioning up at Berkeley, with Boalt Hall. Of course I knew that Hastings was outside the Senate and had its separate board of regents.

GALM: And that [status] didn't change until President Clark Kerr came, and he pushed for the law school's return to full participation in the Senate.

VERRALL: That would be some of the functioning of the dean with the Academic Senate and the chancellor that I knew nothing about. Indeed, he never discussed matters of budget and matters of university control with me, and I never heard him discuss it with anybody else. It was never brought up at law school faculty meetings.

GALM: It seemed to be a really strong opinion of his, or attitude, that other university faculty didn't really have an understanding of the special problems of the law school and therefore shouldn't have control over it.

VERRALL: I believe that was his opinion. Indeed, he had stated that many times, particularly with respect to appointments. He said they didn't understand that the law school couldn't get the quality of teacher that they needed at, say, an instructor level, or even sometimes at an assistant professor level, and that the gradual rising on the academic ladder from a low position to a higher position common in the college just wouldn't function at all or wouldn't be adequate in the law school. Indeed, it was rather difficult sometimes to keep a good man more than three years if he wasn't put into a full professorship. He [Coffman] believed that the academic faculty didn't understand that. Now I don't know whether he believed that the academic faculty committees didn't understand other functions of the law school, but that's the only area in which I do know his opinion, and I knew my opinion. I thought the same.

GALM: What was the appointment procedure? Why were certain men brought in as visiting professors and then perhaps appointed, while others

were immediately brought in at, say, an assistant professor level, or associate professor level?

VERRALL: Well, the bringing in of visiting professors during the early years was in keeping with the policy that the law school had at that time that we should expose the students to people of great reputation in the legal profession as stimulants, and that the first-year students should always have the best possible teachers. So we got visiting professors at UCLA so that the first- and second-year students — first-year students particularly and the second-year students secondarily — would have the best possible teachers and contacts with leaders of the profession. That was why Wesley Sturges, dean at Yale, was brought here as a visiting professor; that was why Percy Bordwell of Iowa was brought here as a visiting professor; and Merton Ferson; and Dean Keeton of Texas — all because we wanted to keep our students in contact with leaders of the profession.

Now, there was no intention that these visiting professors should continue on as professors, although every effort was made to convince Dean Sturges that he should stay on out here. He seemed to like the Pacific Coast. And every time it was raised he would say, "You get the dollars. Then you get the teacher." [laughter] But I don't think that the dean or anybody on the faculty thought that there was a possibility that Dean Sturges would actually come here. Although the weather and the conditions were so good, and he liked them so well, that there was always a chance that he might just say, "Well, I will." But during the two years that the banter continued that I was party to, he never said yes.

Then, too, Dean Keeton of Texas was a man, I think a relatively young man, who had a real reputation and author of some books, and we did try to convince him to come to UCLA. But he was so widely known and so popular among the business and professional and political leaders of Texas that I didn't think we could ever induce him to leave that state, and that turned out to be true. Although he said he was really interested in the school and he would consider it, he always in the end said no. Now, the other visiting professors, besides Sturges and Keeton, were here only because they were recognized men in the field; and two, we couldn't get young men to teach the first year with the same degree of expertise that these visiting professors could give the first year.

GALM: What about summer school, or summer session?

VERRALL: In summer school, again it was the policy of the school to attempt to give the students contact with leaders of the profession and also to broaden their view concerning the scope of law, particularly some — let's say, Louis Sohn was brought in from Harvard, a leader in the area of international law and international relations, both because he was a good teacher and because he was teaching in an area that we didn't cover at all in our law school. It would give the students a broadening experience.

GALM: Was it ever used as a stepping-stone to appointment or as a recruitment device?

VERRALL: Not that I know of. No. Not that I know of. Of course, some of the men who taught in summer school were being considered. Some of the members of the faculty might not have met them and might not have known them beforehand, and they were brought to summer school perhaps for the third reason. But normally it was to give the students courses that they could not otherwise get; and two, to give the students courses that were broadening, give them a better understanding of the whole of the body of the law; and three, to give them contact with a different type of teacher.

GALM: Who determined the curriculum content and the teachers of summer session?

VERRALL: Those were matters that were considered months ahead of time at the luncheon meetings and at the faculty meetings.

GALM: Later on this seems to have been sort of a bone of contention, especially the regular faculty appointments to summer session.

VERRALL: The regular faculty would like to have an appointment to summer school. It kind of gave them a few extra dollars, and they were very interested in that. I know I was. But I don't know that there ever was a bone of contention. We certainly could not have a summer school taught only by our own faculty and have it accomplish the objectives that we thought a summer school should be directed towards.

GALM: I guess it was that later on there seemed to be more of a formal device, or formula, for rotating summer session teaching appointments.

VERRALL: I don't know what happened, but during the first ten years I don't believe that was true, although during the last two or three or maybe four years of those ten years there might have been a trend that way.

GALM: I think it was a move to allow more members of the faculty to have an opportunity to teach in summer session.

VERRALL: Well, I believe that when only one or two of our faculty could be teachers in the summer school that they passed that around.

GALM: The matter of accreditation by the Association of American Law Schools: From my readings it seems that Dean Coffman did not want to push for full accreditation until the matter of the relationship with the Academic Senate was settled. Do you have any knowledge of his wishes in that area?

VERRALL: I would assume that the question of accreditation was discussed with the leaders of the law schools association and what they considered to be important. Indeed, some of the things considered important were in writing: for instance, the question of library, and the question of number of faculty, and the question of faculty experience. I would assume that if he didn't push something, it was because in one or two of these areas of importance we were too close to the line, and it would be disastrous to ask for accreditation and have it turned down. I don't know anything about that, from the point of view of what was UCLA's experience: Why didn't they push it in 1950? Why didn't they push it in 1951? Whichever year they could have first pushed it. But I don't know.

GALM: Did you attend any of the early meetings of the association? What was the faculty participation?

VERRALL: I think I attended all of them, practically —

GALM: Was it common for all the faculty to try to attend?

VERRALL: Yes. Sometimes one member of the faculty couldn't make it. I believe when we were going to go to New York, to have the meeting in New York City, I believe maybe one or two members of the faculty couldn't make it. I don't know how many went that time; I think just three: Coffman, Perkins, and myself. I may be mistaken in that. Of course, I think Dean Pound would go to all meetings if he could make it, unless he had

some other appointments that he had to keep. I don't know about Brainerd Currie in those first three years, whether he attended the association meetings or not. I should remember but I don't. For years I had attended all of the meetings. While I was at Vanderbilt, except during the war years, I attended all of the meetings. And during the early years at UCLA, I think I attended all the meetings.

GALM: Do you recall whether there was much resistance upon the main library's part to let the law library be more independent from its administration?

VERRALL: No. I just assumed that the law library would have to be and was to be a separate library. It could not possibly function with the main library doing the purchasing and doing the cataloging and doing the shelving and things like that. That was so tied up with the other functions of the law school that I would have said it was impossible to have a law school unless the library was subject to law school control and was not subject to university control.

GALM: Do you know whether its book budget, the law library's book budget, was part of the total library budget, or was it a separate entry in the law school budget?

VERRALL: I think it was a separate entry as part of the law school budget, and during the early years I think the regents may have provided a special fund for law school library acquisitions.

GALM: To catch up or to expand?

VERRALL: Very necessary, because sometimes we would get a chance, for instance, to buy a complete library. A local library, such as Los Angeles County Bar Association's library — that one certainly was not available — some local library was available throughout the United States, and we would then buy the entire library. We were very interested in buying original law materials, the case reports from various states, down to the time that West Publishing Company started to publish the reporter system. Then of course we would try to have the local publication and the West publication, the same case in two books. But it was very difficult to get those original volumes, and if they came up, they were very expensive.

I believe that was the reason why there was a special fund raised to permit us to buy that sort of books.

It was a hassle to get a library that was an adequate library for student and faculty use during those first years. And Tom Dabagh did a wonderful job. He knew the used-lawbook dealers, and one or two of them went out of their way to accumulate the necessary books for us. One dealer would buy them in Europe, particularly in England, and all throughout the United States, and he would give us the first shot at buying them from him.

GALM: I'm going to change direction a bit. We talked about the [university] administration and the law school's relationship with various members. I think we talked about President Sproul and Provost Dykstra; but Provost Dykstra died in 1950 quite suddenly, and then there was the committee of deans, the three deans.

VERRALL: The triumvirate they called them.

GALM: How did that work out as far as the law school was concerned?

VERRALL: When Dykstra was here he was very intimate with the members of the faculty. He would come over — I would guess he was in my office in those first six or eight months that I was here maybe at least once a month. I'd see him in the law school, oh, practically every week. He was very interested in the development of the school. The triumvirate took over, and I don't know really how they did function. I didn't know whether there was any conflict between them and the law school or not. Indeed, I would have assumed that there was not, because it wasn't brought to my attention. If it was it wasn't serious.

GALM: What is your impression of Chancellor Allen?

VERRALL: Well, I'm going to have to answer I liked him personally, but I don't know anything at all about his acceptance as a chancellor of a university. Whether he was successful, very successful, or even better than that, I have no idea.

GALM: His relationship with the law school certainly must have changed from when he first arrived. He really oversaw it for a while — didn't he? — before the acting dean was brought in.

VERRALL: Well, he tried very hard to determine how to go about solving our problems and, I think, once in a while felt like he should wash

his hands of the whole deal. But he was unsuccessful in getting a dean, although once or twice we came close. For instance, Professor [Howard] Williams of Texas seemed very interested and seemed as though he would be our dean. Indeed, the whole faculty at that time assumed that it was settled and that there were only little details that had to be worked out between the chancellor and Williams. He, in the end, said no — greatly disappointing, I'm sure, the chancellor and, I'm sure, the faculty. They then said, "Well, maybe we can get an interim man here." And the chancellor asked me if I knew anybody who I thought could handle the job and would do it. I suggested Everett Fraser, dean emeritus of Minnesota. The chancellor approached him, and Fraser said, "Well, I fought legislators and university administrations and students for forty years at Minnesota, and I just am happy here at Hastings. I don't believe I want to leave this happiness and get into a mess down at UCLA." So he turned the chancellor down. Sometime later — I don't know through whom the contact was made, it wasn't through me — another dean from a Midwestern school, Dean [Albert J. Harno] of Illinois, was contacted and asked to take over as [acting] dean for a year or two to see if he couldn't aid the chancellor in ironing out the problems of the school.

GALM: Why don't we go back to how this all evolved. I think one way of approaching it would be [to speak about] the expansion of the faculty. You talked about the initial faculty that were here to take on the first-year class. I've checked over the various law school catalogs and the [faculty] minutes and have noted various members as they came on. It seems that two members that came on in 1950 were Professor Chadbourn, James Chadbourn, and Kenneth York.

VERRALL: The law school knew that it would not be able to continue to get full professors like the school started with, that we would have to bring in some younger men over the years, and after the first year or two, some very young men, just starting to teach, and let them work their way up. What was necessary of course was to get experienced teachers for the first year, because it was the school policy that the first-year courses should be taught by the best men of experience that were available. Indeed, that was why over the first few years we had three or four visiting professors. But for the second year the university would go along with at least one man

of some experience and one man of more experience for additions to the faculty. Chadbourn had had several years of teaching experience, was the author of a book used by students in the procedural area, and we had to have a Procedure man and an Evidence man, Procedure for the first year and Evidence for the second. He seemed to be the best available man for the job. York —

GALM: Do you remember who may have proposed his [Chadbourn's] name, or how it came to the attention of the faculty?

VERRALL: No. The deans of Harvard, Yale, and Columbia, particularly those three schools, would pick up the names of their graduates who wanted to be teaching, or their graduates who had been teaching and wanted to change or were interested in changing positions. In addition to that, the West Publishing Company representative, who visited all law schools throughout the United States, was somewhat a man who was somewhat a clearinghouse for people who were interested in teaching. Now, either from some dean or from the West Company's representative, the dean got a hold of Chadbourn's name. I don't know how. I think he was teaching at that time in Pennsylvania. He had taught in some other eastern schools, but I think he was teaching at Pennsylvania.

GALM: So then you were talking about Kenneth York.

VERRALL: Kenneth York didn't have as much experience, but according to the dean of the school where he was teaching, he had a great potential. He seemed to be sharp minded and a good teacher. I don't know, again, how his name was brought to the attention of our dean. But the dean did bring the two names, one or two other names, to the faculty's attention, and we discussed the matter of who would meet our needs. We needed of course a Procedure man and an Evidence man, because Dean Pound wasn't going to continue on for very long, maybe a year or two, it looked, at the most. You couldn't keep a visiting professor more than a year or two, and anyway he was getting old and he wanted to get back to his writing and finish his five-volume book.

Chadbourn was a good choice. He was as good a teacher as you could expect anybody to be. Indeed, he was an excellent teacher. A rather uncouth teacher in class and would even swear about or at students, you couldn't tell which: but they liked him even though he was very roughshod

in class. And he was a good teacher. Also he was teaching in the two areas we had to fill: Procedure and Evidence.

York was also a teacher in the areas we had to have a man, and was a man of real potential. Whether or not he was successful in the classroom, with other members of the faculty he was considered to be very sharp minded and an excellent man in the areas where he was going to teach.

GALM: Then in '51, Edgar Jones, or Ted Jones, came on faculty.

VERRALL: We got two men from the Mideast, Jones first and then [James D.] Sumner secondly. At that time it was known to the faculty that we would have to get in some of the younger men just beginning to teach, because the university would not tolerate us getting all full professors, or even assistant and associate professors, at a high salary scale. Of course you couldn't get a person such as Chadbourn at the lowest possible salary scale; he wouldn't be interested. But some of the younger men who had very little teaching experience, if any, would have to be brought in, and we would have to determine whether or not they had potential so as to be kept on. Jones was invited out; he came out and met all the members of the faculty in their offices and at two or three dinner engagements. The faculty thought that he would be a good choice to bring on as a new young member of the faculty, to start to build up youth on our faculty.

GALM: What area of law teaching?

VERRALL: I don't know at that time what his interest was, but at that time we knew that we would have to have somebody in the Torts area. The dean had been teaching Torts, but with the administration of the school and with sectioning probably shortly in the future, we would have to have a Torts man. I believe he was also interested in some other area of the law, but I can't recall what it was.

GALM: And so the other man that you said came from — what? — from the middle-east area was James Sumner.

VERRALL: James Sumner.

GALM: And what was his background? Do you recall?

VERRALL: He also was young and maybe had one or two years of teaching experience when brought here. I believe he was interested in the area of conflict of laws and some of the course areas that second-year and third-

year students would take. Like Jones, he was taken on with an idea that in a year or two we could determine whether or not he showed prospects and would be given a tenurial position.

GALM: In 1952–53 Ralph Rice came on faculty.

VERRALL: He was sold to the faculty by Berkeley, as I recall it. We had to have a person interested in income tax, and whether Berkeley said they had somebody who was interested and was available for transfer or — I don't know how the question was raised, how his contact with this school came about first. I have no idea. But I do know that it was Bill [William L.] Prosser, a classmate of mine at the University of Minnesota when I was a student, who said he was a man of good potential, and that rather convinced me.

GALM: Was he a young man at that time?

VERRALL: Yes, yes. He'd had some years of teaching, maybe two or three years of teaching, but he also was relatively young in teaching and I suppose would have to be brought in at an assistant or full professorship. I don't know how long he'd been up north.

GALM: During those early years someone that appears as lecturer was Judge [William C.] Mathes.

VERRALL: During the first years of the school, as part of the policy to keep our students in constant contact with leaders of the profession, one method was to bring in lecturers and part-time teachers. Judge Mathes was selected because he had the reputation of being actually the brains of the District Court of this area, of the federal District Court of this area. He was a brilliant lawyer, a good judge, had been very prominent in the legal profession as a judge, and was, I suppose, a politician in a sense, too.

GALM: As a lecturer did he have any influence on, or did he participate in, faculty decisions?

VERRALL: He would be invited to the faculty meetings, of course, [but] being a judge of the District Court, he could attend very few, if any, yes. But he was very interested in the law school throughout the existence of the law school in its first years and his existence as a lecturer at the school.

GALM: In what way?

VERRALL: If I had any problems, didn't really know how to go about solving them, I had no hesitancy in calling him. And he was the person who asked me to write up my opinion of what caused the rebellion, what it really was, how it was organized, and the dangers the law school faced as a result of it, saying that: "Give it to me in writing and I will see to it that it gets to the proper people."

GALM: Who would have been considered the "proper people" at that time?

VERRALL: That was up to him.

GALM: But would that be people outside of the university administration?

VERRALL: I would not think so; it would be university administration. I know he was very closely in contact with members of the university, leading members of the university. He was personally friendly with regents. I could name two or three of the regents, but I don't believe I should. I know three at least, but I don't think I should mention any names.

GALM: Would he be considered a supporter of Dean Coffman?

VERRALL: I would answer yes. At least I was a supporter of Coffman, and he [Mathes] was a real support as far as I was concerned. My feeling was that he would be one hundred percent in favor of the position Coffman had taken and that I had taken, and one hundred percent opposed to the position taken by the recalcitrant group, although I don't know how he would have solved the matter if he had been called upon to solve it.

GALM: But, again, I get back to the question, as lecturer did he have any real say as a faculty member, as compared to the other professors?

VERRALL: I would say if he voiced an opinion to the dean it would have more weight than if I voiced an opinion.

GALM: Because of his own personal stature?

VERRALL: Yes. Officially we didn't count votes. For instance on appointments, where we discussed a new appointment in a faculty meeting, if more than one person voiced concern and the concern was based upon fact and not upon assumptions that had no foundation, if there was any real concern that the man would not fit in the faculty and one member of the faculty, with some basis for voicing such a concern, voiced that concern, that would be the end of the matter, right then. There is no use to bring

somebody on the faculty who wouldn't fit, that would cause any feeling or any dissension. And if Judge Mathes had been asked to voice an opinion, if he knew anything about it, his opinion would have been given great weight I'm sure. But I don't think he would have voiced any opinion, basically speaking, because he wouldn't know these prospective faculty members. He would have no understanding of how they were situated in the law school field. And he wasn't a person to jump to conclusions: he was a judge.

GALM: Then, to sort of bring it up to 1955, in '53-54 Richard Maxwell was appointed.

VERRALL: Well, I know how Dick became a member of the faculty. We were in need of more men interested in the field of Property Law. It was getting too much for one person to teach all the first-year students and then to teach the other Property courses. That was particularly true because I was developing an interest at that time in Community Property Law and was working on the first edition of the book [*Cases and Materials on California Community Property*], which was completed shortly after that and has now gone through five editions. It has become the book that's used by all law schools in the state of California teaching Community Property Law. I cornered the market for some reason or another.

GALM: A good market to corner.

VERRALL: Which is very nice because it did result in a few dollars, but not very many. But we needed somebody to come into the Property field. The dean asked me if I knew anybody, and I said, "Well, personally I know of several people but I just don't believe we would want them in this school. Let me go to Dean Fraser, who knows far more about teachers than I do, and ask him if he knows of anybody who has real potential as a Property Law teacher and is available." So I went up to Hastings to see Dean Fraser, and Fraser said, "Well, I know of just one person, who is now teaching in Kansas" — I believe it was Kansas, might have been Oklahoma, I think it was Kansas — "and wants to get away from the prairie states, either to the East or to the West, that you might invite out and talk to him: Dick Maxwell."

When I reported that to the dean he immediately contacted Maxwell and sent me to the airport to get him. I didn't know what he looked like because he was at Minnesota several years, two or three years, after I was

there, and I didn't know him as a student. But in the airport there were hundreds of people getting off airplanes, but I saw only one cowboy hat. I said, "That's him!" and walked up to him, and that was Dick Maxwell. So I was responsible for Richard Maxwell coming to our faculty.

GALM: Now, he was involved in oil and gas.

VERRALL: Yes, very much so.

GALM: Did that [specialty] continue on at UCLA — immediately?

VERRALL: Oh yes, we needed somebody who was interested in Property Law and was also available to teach the advanced course, which we thought we had to teach, a course in Oil and Gas. It would be a course that would be taken as an elective course by third-year students primarily; a few second-year students might want to take it, but mostly it would be third-year students.

GALM: So you were really starting to build the third-year elective courses?

VERRALL: Oh yes. And broadening courses we were convinced that we would have to get into. We would have to have courses in International Law, courses in Comparative Law eventually, and courses in Jurisprudence particularly. In the end, of course, we did get somebody [Herbert Morris] from the philosophy department who was a lawyer also to teach a course in our law school in Jurisprudence.

GALM: How was the priority of future courses determined?

VERRALL: I don't suppose there was a priority of courses.

GALM: In other words, how did you determine that now is the time that we need somebody in a particular area to teach?

VERRALL: Sometimes it was when the man was available, and sometimes it was when the course was necessary and we had to go out and seek a man to teach it. Mostly we would determine the area where expansion was necessary, select the course, and then seek a man for the course.

GALM: But this was based on discussion by the faculty as a whole?

VERRALL: Oh yes. This was the type of thing that we discussed at our luncheons during those early years: Where should we go first? Of course, we knew [we] had to get second-year courses, and what was necessary

there was pretty well determined. And certain of the third-year courses were pretty well determined; we didn't have to make choices. We had to have those courses, such as Income Tax, such as the Corporations course for the second year, such as Evidence. Those courses had to be in there; we didn't have any choice. And that was basically true of all courses.

But every once in a while somebody would want to teach a specialized course, and in the main, when an established teacher, a man who had taught for three or four or more years, wanted to teach a specialized course that he got interested in, in the main the school would let him try it once to see how it would work out, to see if it was acceptable to the students, to see if it was acceptable to the other members of the faculty. So a man wasn't denied the privilege of expanding.

GALM: In those early years, was there much student initiative as far as asking for courses?

VERRALL: Not that I knew of. If they wanted a course that was not taught, or wanted to get into a course when we considered it to be too early for them to get into that course — they should have a better foundation before they took the course — the student would go to the dean, I suppose, with such a question as that. He did not discuss such a matter with individual members of the faculty as far as I know. He might have discussed it with individual members of the faculty, but he never discussed it with me. So I don't know whether he discussed it.

GALM: I guess later on when students actually participated on committees there would be more of an avenue for them to introduce student opinion or interest.

VERRALL: Yes, I assume that —

GALM: Also in 1953–54, Arvo Van Alstyne came on.

VERRALL: I don't know how he got in contact with the school or the school got in contact with him. He was a devout member of the Mormon church. He was a good teacher beyond question. He had certain ideas that were completely different from the ideas of any member of the faculty. Personally I liked him very much, but I had a completely different philosophy of life than he had. He was very interested in the underprivileged group and he could see the good in a man much quicker than he could see the

man's limitations. Now that was my assessment of him. I thought he was a good teacher and was very sorry when he decided to move on.

GALM: Allan McCoid was appointed as assistant professor that year.

VERRALL: Yes. Allan was a person of a very sharp mind, and it was my opinion, seeing him function as a law school teacher, that he was misplaced in the teaching profession.

GALM: In what way?

VERRALL: Well, I just didn't have the feeling that he was going to continue to be a good teacher and would get a reputation that would help the school. Now, why, I just don't know. Personally, I liked him and I thought he could do a good job, but for some reason or other he just didn't seem to fit into the operation of, at least, the University of California, L.A., School of Law.

GALM: From my review of the materials it seems that the majority of the faculty supported his continuation on the faculty. Is that an accurate reading of the times?

VERRALL: I don't recall the details of the matter or whether it was a majority of the faculty or not. I do recall that there was a difference of opinion among the members of the faculty concerning whether he would develop as a good law teacher. I don't know what position I took at the time, whether I would say he has possibilities and we should let him continue on, or whether the possibilities were relatively remote and it might be better to replace him. I don't know my position as of that time. But I do know that some of the members of the faculty believed that he would not develop into a great law teacher and that it might be risky for us to continue him on.

GALM: I guess what is difficult to determine from this [vantage] point, or from this point in time, is whether the faculty stand was more against the handling of the matter of the appointment, whether that was more [the issue of] the vote than the actual qualifications of the man. Whether it was—

VERRALL: I don't recall that there was any problem —

GALM: Whether it was more against Dean Coffman's way of handling the whole matter, and therefore they came out in support of him.

VERRALL: Well, I really don't know. I do know that there was a clash of personalities [between] the dean and certain members of the faculty. Whether they would seize upon a matter of this sort, blow it up because of that clash of personalities, I don't know, I don't know. It's entirely possible. I don't know how it was handled, whether there is any detail in the procedure that would lead to questioning the procedures. I have no idea that there were any problems. I didn't really know that there were any problems at that time. If there had been I probably would have — well, I might have remembered them, but I don't recall any problem concerning the procedures of that case.

GALM: What are your recollections as far as when the rift began and what form it took?

VERRALL: I suppose it began as early as 1951 and '52, because there was a clash of personalities beyond all question. The dean was aggressive, argumentative, and desired to be front and center all the time. And he would sometimes not recognize the contributions of members of the faculty. At least he would not mention them when he was talking about certain programs that had been successful in the law school. He'd talk about the programs; he might leave the impression that he was the person really responsible for the progress and would not recognize that a member of the faculty might have suggested the idea or made a major contribution to the success of the operation. That of course would be irritating to some members of the faculty who at least would like to be recognized as contributors.

Also, because he was aggressive and argumentative there was a basis for conflict there. Some members of the faculty perhaps were not able to adjust to his temperament and to his procedures, and would start to become irritated, would discuss the matter among themselves, and would become more and more remote from the dean and [from] the old habit of having daily luncheon meetings and practically living together as members of a faculty. There was a beginning of a division very early — I would say '52 or '53 — due to this clash of personalities. They could see the bad points but would not see, or at least would not recognize, the man's good points. He did have bad points, there's no question about it, but he had many good points. And he'd done a tremendous job in establishing the law school and starting it on its course.

GALM: Do you feel that with the growth of the faculty in numbers and breadth the luncheon meetings were an effective way of administrating the law school?

VERRALL: Well, I would answer no, and that was becoming an impossibility. It never was the official way of administering the law school. It was a basis upon which the dean could get an idea of faculty thinking very easily. But, as the faculty got larger, luncheon meetings became more difficult, and having all of the faculty at luncheon meetings was just an impossibility. No, the luncheon meetings ceased to have the importance that they had during the first three or four years. The faculty meetings became more regular and were the basis upon which the dean would get faculty input; [whereas] in the early two or three or four years, he got faculty input both at the faculty meetings and at these daily luncheon meetings. The luncheon meetings were never really part of the law school administration. They were just a basis on which the faculty and the dean, the administration and the teachers, could get to know each other.

GALM: It seems as though it did come down to two views of administration.

VERRALL: Yes. The dean was operating the law school in the old Harvard fashion. There were two schools of thought concerning operation of the law school. Most law schools as of 1950, and before, were operated according to the law school functioning of the Harvard Law School — really with the dean [as] the administrator and the faculty [as] the teachers.

There was of course give-and-take between the two. A few law schools had started to develop the idea that the faculty should be far more interested and far more involved in administration. They were referred to in the faculty circles as the "New Deal" schools, sometimes the "progressive" law schools, and the like. Principal schools at that time, I would assume, were Yale and, to a slightly lesser extent, Columbia. Some other law schools were branching off that way.

And many of the faculty in schools throughout the United States were developing the feeling that administration was so intimately tied in with their work that they should be consulted more frequently, and committee actions started to become common. Faculty committees were appointed to help the dean, and if the dean worked this out well, he could adjust his administration to the faculty's desire to have some input in administration. I

don't think that the dean at UCLA was capable of making that adjustment, and so in our faculty, a group developed. They wanted to be consulted in administration. They wanted to participate in administration. They were not getting recognition as similar groups were being recognized in other law schools in the United States. That was the change of the period.

GALM: So were the days of the autocratic dean numbered?

VERRALL: I think so. And the man who was able to adjust his control by bringing in the faculty and letting them participate [would] go on as dean, but if he couldn't make that adjustment, eventually he would have to be replaced.

GALM: Do you know of any other law school in the United States that had as public a struggle as UCLA did?

VERRALL: At that time, or as early as 1951, I did not know of any similar problem in any law school. I was told later on that there had been a similar problem in a law school in the East, and that a member of the UCLA law faculty was involved in that struggle and that it was conducted in the same way that the struggle was conducted here. But I didn't know at that time.

GALM: I don't understand. Was it someone who was there at that time and then came to UCLA?

VERRALL: Yes.

GALM: Of the [new] members of the faculty, the new appointments, had many of them had this type of administrative experience with committee action on the part of the faculty?

VERRALL: I really don't know, but I would say at least some of them knew about it, had discussed the matter with other members of the faculty, or other faculties, and were rather interested in a similar type of participation here. But I really don't know that any of them had had actual experience in that area. Of course, even at Vanderbilt, which was conducted in the old Harvard style, the dean [Coffman] did turn over to faculty committees certain matters. Now whether he did it because he just didn't want to do the work himself, or did it because it was good administration to recognize that the faculty wanted to have an input, I don't know. But I do know that there had been committee action on certain matters.

GALM: It seems that so much of the conflict centered around appointments and control of — or at least the faculty's input into appointments.

VERRALL: Well, I don't know really how that could have been, because under university policies no person could be appointed to the school until the faculty had voted an approval of the appointment. That would call for the matter to be brought before the faculty and would give the faculty an opportunity to voice opinions. Now, in addition to the faculty vote, which had to be shown on the papers before it could get to the chancellor and the president and to the regents, there had to be — the dean would have to bring the matter of the appointment to the attention of the faculty. It would be to the whole faculty; it would not be to a special committee appointed by the dean from faculty members to consider the matter and to report to the faculty. Now, some of the members of the faculty would like to have had it that latter way, but that was not done. Indeed, the matter was presented to the entire faculty, and the entire faculty then would discuss the matter and vote upon the matter. The university required that.

GALM: Dean Coffman of course was very conservative in his politics —

VERRALL: Oh, I would assume he was a — yes, I remember he was a close friend of Knott of Knott's Berry Farm —

GALM: Walter Knott.

VERRALL: — who was a dyed-in-the-wool conservative. He was asked to join a conservative group composed of, I think, a newspaper editor up around the Bay Area, or some business executive up there, Knott, and several other persons, some of them down in Orange County. Yes, the dean was very closely associated with people that I considered to be the conservative wing of our body politic.

GALM: Well, later on when it was brought to the chancellor's attention, it seems that one of the charges made was his resolve not to appoint any "left-wingers."

VERRALL: That I can't understand. I wouldn't say that it was true, because of the members who were selected to our faculty both — well, let's take just visiting professors, both sides were pretty well represented. You couldn't get a better representation than Dean Pound for the conservative and Wesley Sturges for the liberal. Then, from the point of view of

people who were selected to become members of the faculty, you would, I think, say that Brainerd Currie was [a liberal]. I know he was obviously considered so by me and by other members of the faculties of the schools that I knew about; he was a liberal, very pronouncedly. Chadbourn was considered to be one of the liberals in the teaching profession. And in a sense, although not quite as much so, Dick Maxwell. Now from the point of view of liberal/conservative, I wouldn't be able to rate Sumner or Jones. No, I don't believe that there's any truth to that rumor that he would see to it that no liberal was ever selected to our faculty.

GALM: No, I think the word used was "left-winger." Did left-winger have a farther-left connotation than liberal?

VERRALL: I wonder what a left-winger could be as far as law teaching is concerned. That I don't know, other than a liberal who would be interested in teaching courses that had never been taught before, combining courses that had never been combined before — that sort of liberality. I don't believe that experience shows that he would not tolerate that because he did. And he would tolerate teachers who really thought that was the way things should be. Now, from the point of view of left-winger, if you mean somebody who wouldn't take the anti-communist oath and call him a left-winger, I don't have the slightest idea whether he would have said, "He'll never be on my faculty," or not.

GALM: It seems that one professor who was suggested had had a connection with civil liberties, specifically the American Civil Liberties Union, and that seemed to be enough of an association to nix his chances for appointment.

VERRALL: I don't know who suggested him or who was suggested.

GALM: How would he have felt about the ACLU at that time? Do you have any idea?

VERRALL: I would have figured that he would have said membership would cast some doubt on the integrity and character of the person, as far as he was concerned. But I don't know whether he would go any further than that.

GALM: I know later —

VERRALL: If somebody would have recommended [somebody] that was not considered because of that I don't know about it. Because if somebody

recommended somebody to the dean, and it ended there, the members of the faculty wouldn't know anything about it. The dean wouldn't mention a matter like that.

GALM: I know later there was a suggested symposium, or something, that would have brought the law school and the American Civil Liberties Union together on the same program. I know that there was faculty — dissension perhaps is too strong a word, but there were two viewpoints on whether there should be any [participation].

VERRALL: Yes. I would have questioned whether a new law school should enter into such a program or not, and I would have opposed it if I had known about it. And if it had been mentioned I would have voiced my opposition just as freely as I've done here. I might not thereafter have recalled that it had been mentioned at that time, but I would have opposed it. I don't believe that such a combination of a new law school and a group that was a matter of contention throughout the United States would have been desirable. I would have doubted its desirability. Why should the law school get into somebody else's fight by just joining in a program?

GALM: I think the two sides seemed to be as you've presented them, but someone suggested that because the law school's image was ultra-right, perhaps it would show an openness.

VERRALL: That is the only other side to the question. I would not have wanted to take the risk personally, but I am a person who normally would give a person a chance. Indeed, my philosophy of life is everybody's entitled to his position until he proves to me that the position is untenable. I might have been able to be convinced that we should have taken a chance if the matter had come up and had been debated in front of me.

GALM: Well, let's get back to the divided faculty and how it came about and how it was resolved. It does seem that the fall of 1955 was when it reached a point of division that caused certain members of the faculty to go to the chancellor [Raymond B. Allen], or address a memo to the chancellor.

VERRALL: Well, if that had been the way it had been done I don't think we would have had the problem we had. The attack was more secret and underhanded than that. If that had been the way it had been done — there was a growing dissension, and the chancellor should try to determine its

extent and iron it out — that would have been the proper way, I think, to have solved the problem. But the matter of rumors and secret activity had already created a wide dissension that could not be solved that way.

My recollection was on one of the appointments the matter of appointment was discussed in the faculty meeting, everybody was asked to voice his opinion, the faculty vote was taken, and the man was to be appointed. The dean approved it and sent it to the chancellor, and the chancellor sent it to the ad hoc committee. I was surprised when you said that we didn't have any contact with the Academic Senate because at that time we certainly did. I thought it continued forever. But anyway, a member of the ad hoc committee reported to the dean that a member of our faculty had come to him saying he was unalterably opposed to the appointment and that two or three other members of the faculty likewise were opposed. Why, I don't know. The member of the ad hoc committee didn't say why. But the member of the committee thought that that was an underhand way to interfere with the administration of the law school.

Secondly, there was a spread of rumors from some of the members of the faculty to the students that there was racial bias and that the future of the law school was threatened, not immediately but over the years. This rumor became widespread among the student body. Indeed, a group of the students discussed the matter in the student lounge, not knowing that somebody at the next table drinking coffee wasn't a member of the student body and reported back that the conversation was, in essence, "We have the law school now. We better work our fannies off that we don't lose it."

GALM: I don't quite understand that.

VERRALL: Because of racial bias. So I do know that the attack on the dean wasn't a direct request to the chancellor to consider the question of faculty participation in law school matters, and the fact that the dean was losing contact with some of the members of the faculty, and something should be done about it. It was more secret and underhand and got to a point where I believe students went to the chancellor too. Then the chancellor had to take matters into his hands. Then it was too late to do anything. In other words, it was impossible at that late date, when the two or three members of the faculty, three or four maybe, went to the chancellor, it was too late for an adjustment to be made. The only hope I think the chancellor had at that time was

that the dean would resign and another dean would be appointed who could adjust to the need for faculty participation in the law school administration.

GALM: The chancellor did meet with members of the faculty.

VERRALL: Yes, indeed he attended some of the faculty meetings. Those meetings he attended were very calm and collected, and those meetings he didn't attend were riotous over that six months' period.

GALM: Eventually he did appoint a committee, a university-wide committee, to investigate the dean, so to speak, or the charges.

VERRALL: I don't know about that. I don't know about that.

GALM: Were you never called before that committee?

VERRALL: Nope, never even heard about it.

GALM: No? It was chaired by — I guess he would have been vice-chancellor at that time — Vice-Chancellor Knudsen. [Knudsen was then dean of the Graduate Division and was appointed to be the first UCLA vice-chancellor in the fall of 1956.]

VERRALL: No. I never heard about it.

GALM: From his [oral history] recollection, it seemed that the members of the law faculty were interviewed. You have no knowledge, no remembrance of that?

VERRALL: Nope. No, I was never interviewed.

GALM: Did you ever speak directly with Chancellor Allen about the situation, or did he seek your opinion?

VERRALL: He never asked me concerning the details of any conflict. He did ask me if I could carry on the normal functions of the school, other than certain details that were far beyond my handling, such as any matters of budget, salaries, and like that. I had nothing to do with that; he'd do that. But he asked if I could handle the other matters, such as admissions and the ordinary functioning of the day-to-day operation of the school. Never did ask for any of the details concerning the conflict. Never did ask for an opinion of what course could be taken to solve the matter. I would have said at the time that if my understanding of the facts was correct, the only possible solution that would have the least adverse effects on the

future of the school would be that certain members of the faculty should move on. I think he was hoping that the matter could be solved in some way where there would be no open revelation of the extent of the division, or how it took place. No details would be known. It would be solved, and the school would go on normally in the future.

I was convinced that we would have a great deal of difficulty in getting new faculty members with experience or administrators for the law school unless something was done. I mean, so long as people could undermine the operation of the law school and get away with it, plant rumors and get away with it, get rid of the dean that way and stay on the faculty, then we would have a great deal of difficulty in the future.

Well, he thought perhaps differently at the time. So he attempted to get a dean, and he asked for names and he got names from the recalcitrant group and others. Every one of his attempts, although momentarily successful, turned out, no, we don't want the job.

Then he took the second step, and he said, we'll put somebody in as an interim dean. Well, he'd already asked me if I thought I could handle the school. And I said yes, but I knew at the time there was no hope, because I'd been associated with Dean Coffman, and a member of the faculty had come to me and said, "If you want anything done don't you suggest it be done, because if you do the answer's going to be no."

So I knew that I could never get along with at least three or four members of our faculty, and so the chancellor would have no interest whatsoever in my taking over. Anyway, I really didn't want it.

GALM: There are still some questions I would like to ask about that final period of Dean Coffman's deanship. I guess one of the questions is, do you feel that he made any attempt to reach compromise with the dissenting faculty?

VERRALL: I don't know as a matter of fact. My impression of the man leads me to say the answer should be, no, he did not make any attempt to adjust to their demands. Indeed, if their demands were voiced and got to the chancellor, it would be after the rumors had been circulated and the secret attempt to undermine law school procedures had been revealed to him. Under the circumstances I don't think he would have ever compromised with the one or two or three members of the faculty that were really involved, that really led the rebellion and created the dissension.

GALM: Would you be willing to identify who those people might have been on the faculty?

VERRALL: I would prefer not to. I think the school has recovered from the trauma of the day. The men have proved good law teachers, and it wouldn't help the school and it wouldn't help the men one bit just to name them. No, I would prefer not to name them.

GALM: OK. During this period did Dean Coffman discuss the situation a great deal with you?

VERRALL: No. I should say further on the last point though: I don't know that two or three of the members of the faculty who went along in the rebellion, I do not know whether they knew about the rumors. I do not know that they knew about the underhand way of interfering with the appointment process, for instance. They may have known it, they may not have known it. I do not know. And it would be too bad to tar them with a brush that was not meant for them. No, I would prefer not to mention their names because they've done a good job since. Now, with respect to the dean, your last question —

GALM: Whether he took you into his confidence much during this period?

VERRALL: No, he did not. Indeed, I believe the only statement he ever made to me concerning it was that the rumors and the activity of some members of the faculty had made his administration of the law school impossible and that he had the promise of an appointment to a national committee [United States Commission on Government Security] to sit in Washington that would require him to be absent for a couple of years, at least one full year and maybe two full years, and when he came back he would not be dean. That was the only mention he ever made to me of the dispute.

GALM: Do you recall how the word was given to the faculty about the resolution of the matter?

VERRALL: As far as I know it was never given to the faculty, just how it was to be resolved. We were told that the dean was going to go to Washington and serve on this committee for a year or two, and that they were looking for a new dean. That's as far as I know the faculty were advised concerning the matter. What was to be the future of the members of the faculty who were the dissidents, or what was to be the future of the faculty

who were not, was never mentioned. We just assumed that the dispute and the solution of the dispute would have no effect whatsoever upon the faculty. It was that that led me to doubt that the solution was to the advantage of the law school. I thought it would be dangerous if they didn't do more than that, but the chancellor knew more about administration than I did, and so I didn't bother myself.

GALM: Did you submit your resignation as assistant dean, or did you continue on?

VERRALL: I think that my being assistant dean was more or less just a matter of a local name rather than any official appointment. I was just to take charge of certain matters of law school administration, such as admission of students and handling of some student complaints and the like. That was all I had to do. I wasn't assistant dean in any sense that I would act for the dean in his absence. No.

GALM: So in a sense it was tied to the tenure of the dean himself.

VERRALL: Yes. Yes. Nobody ever asked me about it. I never even considered the matter. It just worked itself out without any help on my part or anybody else's part. I just ceased to function in those minor ways that I'd been functioning when the dean asked me to.

GALM: Did you ever hear, after the matter was settled, how Chancellor Allen was judged on his handling of the affair?

VERRALL: No, I did not hear. Indeed, what his recommended solution was and how it was to be carried into effect was never revealed to the faculty as a faculty, the faculty of the law school as a faculty. We just saw the developments and had to assume that this was part and parcel of his solution of the entire case.

GALM: Do you feel that he ever openly listened to the dissenters?

VERRALL: I have no idea. Indeed, I didn't even know as a matter of fact that any members of the faculty actually contacted him. I assumed they did, but I did not know that as a matter of fact. He was not apt to talk to individual members of the faculty, advise them concerning such matters.

GALM: At this time it seems that he requested from individual faculty members their suggestions on the future educational policy of the law

school. Do you recall that? I know you wrote a proposal. Was he sounding out the faculty?

VERRALL: No, I don't think so. If he did make such a request I did not know about it. The only request that ever was made to me concerning how the matter could be solved, or should be solved, the dangers of various types of solutions of the problem, the only request I ever got was from Judge Mathes, to put it in writing and he'd see to it that it got to the right people.

GALM: What were the major points of how you perceived what was happening?

VERRALL: Well, until it all burst all I knew was that some members of the faculty could not tolerate the dean as a person. There was a clash of personalities, I put it that way, and that I didn't think there was any hope that the differences could be ironed over; that eventually it would come to a head, and either they would have to leave the faculty or the dean would have to leave the faculty, one or the other. It had gone too far to be ironed over and have a compromise solution. Well, I'm sure that Chancellor Allen thought that a compromise solution was possible, and apparently he attempted to take that course. I was doubtful that it was possible and voiced my opinion to that effect. But I don't know enough about administration to know whether a compromise was possible. I just think that Chancellor Allen probably did the right thing.

GALM: I know one of the things that the dissident faculty wanted to accomplish was the reappointment, or continuation, of Allan McCoid. And it seems as though the chancellor did side with Dean Coffman in this situation. That it was in his hands — the ultimate choice.

VERRALL: That I don't know about. The members of the faculty who approached the chancellor in that matter, if they did, are unknown to me. And the fact that they approached him [is] unknown to me. Indeed, this is the first indication that I have had that any such group existed or any such group took any action whatsoever.

GALM: How did Dean Coffman adjust to becoming a professor of law?

VERRALL: Well, when he came back he didn't mention the old days. He didn't seem to be ill at ease. He rather seemed to be relieved. I never heard

him say anything against any member of the faculty because of the years of rebellion.

GALM: Any bitterness?

VERRALL: As far as revealing it to me, no. Whether or not he felt bitterness is another matter. That I don't know, but he never revealed any bitterness to me. Of course I would assume that he might have been very distant from certain members of the faculty. That they would notice and I wouldn't notice.

GALM: Did it ever surface in faculty meeting discussions?

VERRALL: No. No. I don't think I ever heard him voice any opinion concerning administration, in faculty meetings or outside of faculty meetings, that he would have conducted things differently, for instance. No. I think he just accepted it.

GALM: One of the things that seems to have been pushed through during that period was the faculty bylaws. It really defined the faculty's role as far as the administration and functioning of the law school.

VERRALL: Well, that of course was to be expected, because many members of the faculty were of the position that a law school faculty should be active participants in the administration of the law school; in many ways that, in the past, had not been true. At that time they wanted to establish a new procedure for the handling of law school matters. I don't know the extent to which those bylaws went. My forgetter is getting better every day, and I don't recall how far they did go. I do know that prior to that, matters of budget and matters of salary were not even known to the faculty and were not discussed when appointments were made. Those matters were handled between the dean and the chancellor, as far as I know. Afterwards, I don't know. At faculty meetings such matters did not come to the attention of the faculty, and whether or not committees had been appointed to work with the dean, the acting dean and then the final dean, I have no idea. I know I was never consulted or named to any of those faculty committees, if there were any.

GALM: What was your personal attitude towards the idea of faculty bylaws?

VERRALL: Well, I think every faculty should have bylaws upon which to act. And there should be an understanding of who is responsible for law

school operations: the dean or the faculty, or the dean or faculty committee. I think that was and is a necessity, yes. If you're going to have a happy faculty they have to know where the responsibility is.

GALM: It seemed that one key issue was the faculty's ability to call a faculty meeting if they felt that an issue required it.

VERRALL: I can imagine that would be true, and as a matter of practice I would think that would be a good idea. If the faculty or a certain number of the members of the faculty could petition for a meeting at any time, I would have approved such a course.

GALM: An acting dean was appointed, and that was Albert Harno?

VERRALL: First of all, the chancellor asked me if I could locate or if I knew of anybody who I thought could handle the law school during this period of trial and tribulation. I did suggest Everett Fraser, who the chancellor contacted; but Everett Fraser, ex-dean of Minnesota, told the chancellor that he just didn't believe in his old age he should tackle another problem. He'd been a dean for forty, fifty years and he didn't want to do anything more like that.

Then Harno was secured. I don't know, I didn't suggest Harno's name because I didn't know he was available. If I had I would have suggested his name, too, because he was a Big Ten dean of experience. When you have to deal with the legislators and the politicians of a whole state to administer your law school you have to be good, and so I would have suggested him, just like I suggested Fraser. But anyway, he came and, again, never commented at all, in my hearing, about a divided faculty. He merely took over and did the job. He never asked about individual members of the faculty, never asked me at least. So whatever information he got concerning the dispute and how it was to be handled he must have secured from the chancellor or other members of the faculty, because he didn't get any information from me.

My fear at that time, of course, was that the rebellion would have put us in a position that we would find it very difficult to secure experienced personnel, either as faculty or as administrators. And before Harno was appointed, the chancellor attempted to get a permanent dean; that was when [Howard] Williams came out here, and we thought we had a dean. But within a few days after he got back to Texas he notified the chancellor that he

wasn't interested, and that was when the chancellor tried to get an acting dean for a short period of time while a permanent dean could be secured.

GALM: What do you see as the contribution or accomplishment of Dean Harno?

VERRALL: Well, during the period he was here there was no further confrontation among members of the faculty. I'm sure if any confrontation was revealed to him he would have stopped it with an iron hand. So his mere presence or his actions — I don't know which, maybe both — resulted in a faculty which operated rather smoothly with no confrontation as far as I could see.

GALM: Did the faculty meetings quiet down?

VERRALL: Oh yes. Oh yes. They were quiet, objective, just as the meetings were when the chancellor was chairing the committees, yes. I don't know that you knew Harno, but he was little. He didn't do much talking, but he was on the job mentally and physically. If anything like an improper statement would be made he wouldn't tolerate it, no. He was a good person for the interim deanship.

GALM: So it sounds like he would have the respect of both parties, or both groups?

VERRALL: I would say beyond all question. If there were any others who opposed the transition — I opposed it, not opposing the transition as such, I opposed it because of the way it was done, with rumors and the like. That would be the area in which the school would be damaged. The fact that some of the faculty didn't like the dean because of a personality complex, or something like that, that wouldn't affect the school at all; that's everyday. But when there's reportedly an underground method to challenge the dean and get rid of him, that hurts the school, and over the years it hurts the school. It normally would take a [law] school ten or fifteen years to get over such a blow as that. And we were having difficulty getting a dean, and so I was really much afraid of our future when Harno came. I was less afraid of our future as a result of Harno's being there. Because he was good — there's no question about that.

GALM: I asked you earlier, off tape, what the substance of the rumors were.

VERRALL: There may have been more than one rumor, but as far as I know from the three sources available to me: a statement, or a question from a student, was the dean anti-Semitic? Two, a conversation overheard in the student lounge between four or five Jewish students intimating that the dean was anti-Semitic, which came to me through two other people. And three, a statement by one member of the faculty prior to the leave of absence of the dean that unless we actively recruited Jewish teachers, our school would never go very far, wouldn't progress very far. When I put the three ideas together I reached the conclusion that the rumors that had been circulated were that the dean was anti-Semitic.

GALM: Did you ever have a sense how widespread this rumor was, whether it reached national, whether it was known among —

VERRALL: Other schools?

GALM: — other schools, other faculty?

VERRALL: I would assume it was known. How it became known, I don't know. All I do know was some members of other faculties at association meetings had asked me questions concerning that period. Which would indicate to me that they knew that there had been a rebellion here.

GALM: During Harno's tenure, and it was a very brief tenure, there were two faculty appointments, Murray Schwartz and Addison Mueller, and these men of course stayed on the faculty.

VERRALL: Addison Mueller had been one of the (as I call them) activist–liberal teachers at Yale, and was reputedly an excellent teacher when he was at Yale. He'd been working on a new way to handle the Contracts courses in law schools, which was typical of that liberal faculty idea that was spreading out of Yale and Columbia. And some of the members of our faculty were inclined to like to experiment that way too. I was too. I like to experiment, but in a more limited way I would believe. When it became known that he was available — how it became known I don't know — I think every member of the faculty was delighted that we had at least a chance to get him. I would assume that the members of the so-called rebellion who wanted more faculty participation in law school matters would have been delighted to have him. I would expect that Addison would be

such a person himself. He would like to participate, I think. I liked him very much, and he was a good teacher.

GALM: It's my understanding that he had been approached during the Coffman period.

VERRALL: That I don't know, I don't know. Because he was at Yale —

GALM: At least to the point of a visit out here.

VERRALL: He was at Yale, and while he was at Yale of course he wasn't available. I think he left Yale when his father died and he had to wind up some of his father's extensive businesses. To my understanding, he wasn't available until after that. So I have no idea whether his name was suggested before or not. Or who knew him even, I didn't know. I didn't know him before.

GALM: Then Murray Schwartz came on.

VERRALL: I didn't know anything about Murray Schwartz until he got on the faculty. He was a member of the faculty. I considered him to have a great future. Later on, in an administrative way, he was an excellent administrator too. (Indeed, when I came out here for these lectures [the oral history interview], the person I thought of going and saying hello to was Murray.) He was a good teacher, a delightful man. I don't think there was any opposition to the appointment of either one of them.

GALM: Then Richard Maxwell was chosen as acting dean.

VERRALL: They didn't tell us that he was chosen as an acting dean when he started to take over the administration. I assumed that he was appointed as a permanent dean at that time. We'd had a little difficulty in getting people from other universities who had no part in the revolt here, or weren't even on the faculty when the revolt occurred, and I just assumed they picked Dick because he could get along with both sides of the faculty if both sides continued to exist. You had to have somebody to do that. If there still was any contention, you had to have somebody to handle it, and he would be capable of doing that.

GALM: What were his positive qualities?

VERRALL: Well — [pause]

GALM: I guess being a diplomat or being able to bring —

VERRALL: Well, he was willing to listen — I think that's positive — and not to jump to conclusions, not to assume things. No, I would say that he is typical of a person who could be a dean. You have to be able to listen. You have to be patient. You can't assume things. You have to be able to see, and to hear, and to listen. I mean really hear things.

GALM: What type of personality did he have, or does he have?

VERRALL: Basically, my first impression would be he's slightly on the retiring side. The exact opposite of Coffman, who always wanted to be front and center, and pushing himself no matter who was involved so that he would be front and center, even though that resulted in contention. No, Dick was more easygoing, attentive, a little on the retiring side if either way. Not aggressive but on the retiring side, I would say. However, he was capable of taking a position and doing it with an iron hand if necessary. I always thought very highly of Maxwell. Indeed, he is on our faculty because of me. I secured his name, of course, from Fraser — I didn't know him before that — and suggested the name to the faculty, and the faculty approved it, and he came out. He was a good addition.

GALM: Do you recall what he may have done specifically to rebuild the reputation of the school or to improve the morale of the faculty?

VERRALL: No. That is something that you don't get details of. It's a continuous process. Both with respect to the student body and with respect to the members of the faculty, it's a continuing process. It's slow. You have to be patient. You can't push it.

GALM: So there was nothing dramatic?

VERRALL: No. No. I don't think it could be, personally. Too many different personalities involved. It can't be pushed. He was the type of person who I think had the patience and the stick-to-it-iveness to do it.

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Introduction to the Oral History of RICHARD C. MAXWELL

MURRAY L. SCHWARTZ*

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

* Excerpted from a "Dedication" in 28 UCLA L. Rev. 2 (December 1980) for the original typescript of Maxwell's oral history, 1983.

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.

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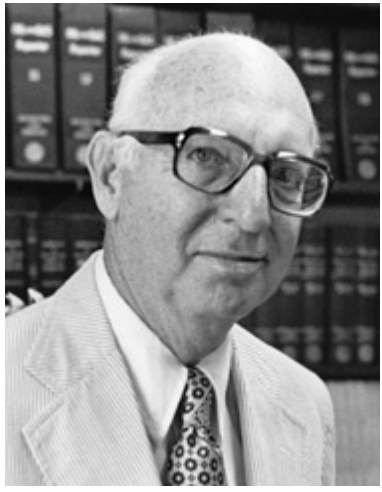
From the Oral History of

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.] Rölvaag.

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, [Rublee, 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; bμt 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, dissemble, 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 dissembling, 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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From the Oral History of

FRANCES McGANN McQUADE

Frances McGann McQuade (1916–2007) commenced work at the new UCLA School of Law in 1949 as secretary to the dean and retired in 1982 as assistant dean for administration.[1]

Frances McGann McQuade

* * *

BERNARD GALM (UCLA ORAL HISTORY INTERVIEWER): Mrs. McQuade, before we start getting into the history of the law school, I'd like to ask you something about your personal background. Where were you born?

McQUADE: I was born in Chicago, but I grew up mainly in New York City, and I graduated from Manhattanville College in New York and from the Katharine Gibbs School, which is really a school for people who have

[1] For further information, see the Editor-in-Chief's introduction on page 1 of this volume: 11 Cal. Legal Hist. 1 (2016).

graduated from college to learn how to be executive secretaries. I married [John J. McQuade], and my husband's business brought him to California.

Shortly after we got to California, I decided I needed to look for a job, came to the university — we were living on the Westside — so I came to the university and came to work for Robert Vosper, who at that time was the associate librarian. And while I was in the library building [later Powell Library], part of that space was allocated to the new dean of the law school for temporary offices. And when he came, who was L. Dale Coffman, he was looking for a secretary, and because I was in the building, I heard about the job and applied for it and was accepted by Dean Coffman. The law school at that time consisted of one large room and one smaller room, and we began interviewing applicants for the law school and trying to set up a law school. He had anticipated that he was going to bring with him from Vanderbilt the woman who had been his administrative assistant, I guess. So he really hadn't too much information about how to set up records, and so on, and I had absolutely none; so it took us a while to get the law school organized, I must say.

GALM: Before we get into that aspect of it, let me just ask you a few questions about things that you may not know firsthand, but perhaps that you know secondhand, or thirdhand. And that has to do with the establishment of the law school itself at UCLA. What is your sense of how it [the allocation bill] got through the [California State] Legislature?

MCQUADE: Well, I know very little about that; not having lived in California, of course, I had no knowledge of the legislative procedures. I believe that present Judge [William] Rosenthal was the one who was instrumental in getting the funds allocated by the Legislature. I really have no idea about the determination of the need for a law school on this campus, or anything of that sort. Clearly by the time that Dean Coffman had come, information had been put out about the opening of the school because candidates were coming to apply, and the [law] library had already started. When the building, a small building, was given to the library, they already had a sizable collection to move in there. And I really have no idea how that all began.

GALM: You had mentioned the library. Do you know whether Dean Coffman appointed the librarian, or was that appointment made before he came?

McQUADE: There was someone in charge of gathering the collection before he came, but when he came he appointed Thomas Dabagh as the director of the law library. He stayed on for about a year or so, and then he went on to Berkeley to become assistant to the president, I think. Then a man by the name of Louis Piacenza, who Mr. Dabagh had brought in as an assistant, was made law librarian. But Dean Coffman made those appointments.

GALM: Did the law librarian also act as an assistant to Dean Coffman? Was that part of his title or job description?

McQUADE: I have the feeling that that was the intent when Mr. Dabagh was appointed, but I don't think it actually worked out that way. I think that they were not compatible for that purpose.

GALM: Was there an actual focus of incompatibility?

McQUADE: Well, I think they just — it was a mutual decision that they just simply weren't getting along.

GALM: Let's get back to the actual physical setting of the [temporary law school quarters] — could you describe just what you had and where it was at?

McQUADE: It was in what is now Powell Library, and I think it was in the area at that time called Special Collections. It was one room, oh, I don't know, I suppose fifteen by fifteen [feet], let me just say, and then another smaller room adjacent to it, which I used as a kind of a secretarial/reception and general room, and the other room was Dean Coffman's office. I think I went to work for him about in February of 1949, and we were there until June, when a building that was a Quonset hut kind — no, they weren't, they were barracks buildings, they weren't Quonset huts. We were given one of those for a classroom, one of them for the library, and then a half of one that was for the office space. We had faculty offices there, the dean's office, and then a general office, which I occupied. The other half of it was allocated to the personnel office of the campus. And those were all, in very general terms, in the back of Royce Hall, kind of where the humanities building [Rolfe Hall] is now. Subsequently, about two or three years after that, when the faculty got larger, we got another building, some distance away, probably two or three buildings on, for additional faculty offices, until we moved into the permanent building in 1951, I think it was.

GALM: I know you had a bit of trouble with your neighbors there. Can you sort of describe just what that problem was?

McQUADE: It turned out that the building that was adjacent to the classroom building was the building in which the UCLA Band practiced; and as you may or may not know, law classes consist in large part of discussion between the faculty member teaching the course and the students, and the students with each other, and it's essential that they hear. Well, the band had very little regard for the law school activity, and we had a constant argument with the band people trying to get them to arrange their schedule to suit our time when we weren't having classes. We had many faculty members who would simply walk out of the class and say, "I can't teach." And blow into the dean's office, who would then blow into the — at that time it was a provost and not a chancellor, to his office. So I suppose that blowup took place once a week, and everyone was glad when the football season was over.

GALM: Theater arts was your neighbor, too.

McQUADE: Yes, they were, and we often saw them out building their sets and wearing their costumes, or lack there of, and that was of great interest to the law students and, I guess, the faculty, too. They were never bored, with one thing or another.

GALM: So actually then, how many classes of students did you have in the barracks?

McQUADE: Well, in '49 we accepted a first-year class, and their classes were — I think there were about fifty students, and so they all met in one section. It was scheduled so they would have an hour of class, and then an hour off, and then an hour of class. They carried approximately fifteen hours of class; so they met, say, three hours in the morning and two hours in the afternoon and five days a week, in general terms.

Then in the second year we accepted another class, so that in 1950 we had a first year and a second year. They met in the alternate hours, so that we were able to manage with one classroom for those two classes. Then when we had a third class, we were in the main building and, of course, then able to have a better schedule.

GALM: How many applicants, do you recall, did you get for the first year?

McQUADE: We had three or four hundred at least, maybe five hundred, because — well, it seemed that everyone who had just gotten out of the Army wanted to go to law school — or out of the service, I shouldn't limit it to the Army. So we had a tremendous [response] and we had a lot of calls. I think we had a lot of inquiries. How many actual applications we had, I suppose were somewhere between three and five hundred, I guess.

GALM: Did that come as a surprise to Dean Coffman or other faculty involved?

McQUADE: Well, I think it probably was a surprise, in that I gather that prior to the war there were not that number of people applying to law schools, so that their experience really had been limited to prewar or during the war when, of course, there were few applicants who were able to go to law school. So I think that the whole explosion of interest in law schools was a surprise, and I don't think they were quite prepared for the number of applicants.

GALM: How involved were you with Dean Coffman in the actual plans for the building of the law school, the new building?

McQUADE: Not terribly. He was fond of saying that he had taken a brown piece of paper and had planned the building on the living room floor of his apartment in California. I think that he worked with the architects, and he and the members of the faculty, from 1949 on, every day used to go to lunch together, and then they would walk over to the construction site, and I once in a while would accompany them, but very rarely. So I really had very little involvement in that; for one good reason: I didn't know anything about it. I wouldn't have been able to offer any opinions at all. But he primarily worked with the architects, and as I say, that was his favorite story about how the building was designed.

GALM: What about the site? Did you ever hear Dean Coffman comment on the actual site of the law school?

McQUADE: Well, I think the reason that this site was selected was that in the planning of the university, there was an attempt, as I understand it, to keep the sciences together and the humanities together, to make it easy for students to take classes that would be in similar disciplines so that they could easily go from one building to the other, and not have to go from

one end of the campus to the other. Now, the law school, since it was a total entity and didn't have students taking classes in other parts of the campus or in other disciplines, it was put on the periphery for that reason. That was my understanding.

GALM: There were thoughts of a downtown law school, too.

MCQUADE: Yes, but that I think goes to the philosophy of the law school. I think that Dean Coffman and, I suppose, other people who were advising the university on the site determined that they did not want a downtown law school. They wanted a law school that was a part of the university and had the atmosphere of a university and would encourage a scholarly feeling about the school, and not one where you had the faculty coming in to teach a course and then going back to the practice. They wanted to have a really academic kind of law school, and they're really two different animals: a law school that's located on a university campus, and a law school that's in a downtown location.

GALM: Was there a thought given to providing residence for students, law students?

MCQUADE: Yes, that was one of Dean Coffman's dreams. He wanted to have — well, one of the things he really wanted was to have a building built north of the law school building which would be a residence for law students, and then there would be an adjacent arrangement where they could eat together and they could go to the library and really would live in a total legal and academic atmosphere. But that never came to pass. I'm sure he presented it on every occasion to the university authorities, but I don't know whether they weren't interested or whether they didn't have the money, or all of those things. But he was very eager to create that kind of a situation where law students would just eat and sleep law.

GALM: But from the very beginning it seems as though there was a feeling of isolating the law school from the campus in general.

MCQUADE: That was his intent. He felt that that would be the most desirable atmosphere, for law students to be totally immersed in the law. He really had no desire for the students to participate in university activities, or for any students from other disciplines to come into the law school.

GALM: Do you know whether this was the situation that he created at Vanderbilt? What experience do you think he was harking back to?

McQUADE: Well, he talked a lot about his own experience as a student at Harvard. I'm not too sure whether he was able to create that at Vanderbilt or not. Of course, that was a different situation; it was a private school, and, you know, that whole atmosphere would be different. And he wanted things, like the students, oh, I guess in some school — I'm not sure whether it was Harvard or where — law students carried a cane, just because it was a kind of a mark that they were a law student and, I don't know, wore hats or something. And he was trying to encourage the students to do that sort of thing. He also inaugurated a —

GALM: The cap and gown?

McQUADE: No, no, no. Just some kind of a straw hat or something, just an identifying hat of some sort. Apparently at Harvard the law students carried their books in a green canvas bag, I guess it was, and he had the student store stock those and try to encourage the students to use them. But none of those things were really enthusiastically received by the California students. They just were not interested in that sort of a thing. And I think that he was kind of appalled at some of the outfits the students would appear in. Of course, now they would look well dressed. But in those days, the fact that they weren't wearing suits and neckties was hard for him to deal with.

GALM: Did he attempt to enforce a dress code?

McQUADE: Well, not actually enforce it, but he certainly made his desires known. But again, they were not accepted by the law students. I think they just disregarded them; I mean there was no confrontation. They just simply disregarded them, and I think he finally decided that he couldn't fight on every front.

GALM: Those first few classes, did you have any students from out of state?

McQUADE: Yes, we did have some from out of state. I think probably the out-of-state students we had were men who had been in California while they were in the service and had fallen in love with it and had decided that they were going to live here and, since they had decided to become lawyers, come to this law school. Many of them would come as nonresidents for the

first year and establish their residency, and then stay on. So it was kind of hard to determine if they were really here to stay or to go back. And most of them were here to stay. We had a few women in that class too, you know; but of course in those days women were in the minority.

GALM: Women that did graduate out of that class?

McQUADE: Oh, yes, I think the number one in that class was a woman, number one and number three in that class were women, and the second person was a man. So that was quite a coup for those ladies.

GALM: I think Dorothy [Wright] Nelson was an early graduate of our law school.

McQUADE: Yes, she was. I've forgotten what class she was in, but one of the early classes. That's right.

GALM: Did you ever hear who else might have been up for dean, the founding dean?

McQUADE: No, I really didn't. I think that Professor J. A. C. Grant of the political science department headed the search committee for the dean. At one time I saw a lot of correspondence from the search committee to various people, but because I was so unknowledgeable of legal circles, none of those names meant anything to me. I'm sure if I had read them later I would have recognized names, but at that time it meant nothing to me. I don't think Dale Coffman was the first choice, but I have no idea.

GALM: Do you know how much input the regents might have had in the selection?

McQUADE: I think that — I really don't know. I shouldn't — I would only be guessing. I suppose that the lawyers — Judge [Victor R.] Hansen, who was a regent at that time, I know was friendly with Dean Coffman, subsequently — I suppose that the lawyers on the board had a great deal of interest and possibly some input, but, of my own knowledge, I know nothing about that.

GALM: I know later on, and we'll talk about it later on, when the law school broke away from the Academic Senate that Dean Coffman seemed to have strong support from Regent Hansen. Was that an early friendship?

McQUADE: I don't know. My guess is that when Dean Coffman came to the campus to begin the school, my guess is that either he sought out the regents or they sought him out — the ones who were lawyers on the Board of Regents. My guess is that he knew nobody in California, so probably it was a normal kind of a friendship to start up after he had assumed his position. But I really have no idea when he met them. When he came in February to begin the school, he had been to California before for an interview, I know. How long he had been here, or what transpired during that period, I don't know. And so probably at that period would be the time, I guess, he would have met Judge Hansen.

GALM: Do you recall whether Regent Edward Dickson played an active role in the founding of the law school?

McQUADE: I don't really know whether he played a role in the founding, but he certainly was one of the strong supporters of Dean Coffman during his activity as a regent. But I really don't know. I suppose he might have, and I guess, as I think back, there was some feeling that he was a strong supporter of the school being founded here. But again, I really know very little about that.

GALM: Was he a frequent visitor to the law school?

McQUADE: He only — No, no. Neither he nor Judge Hansen came very often. I can really only remember very concretely one incident where we, as I indicated earlier, were having terrible problems with the heat in the rooms, and the library heat, down in the stacks, was almost unbearable. So Dean Coffman invited Regent Dickson to come for lunch one day, and then he took him on a tour of the library and of the classrooms. He had fortunately selected a nice warm day and took Regent Dickson through as slowly as possible. And I think we got a little action out of that.

GALM: What was your first impression of Dean Coffman? He was your first boss.

McQUADE: Well, he was very pleasant and very agreeable to deal with. I was — it sounded like a very interesting job to me. Of course I didn't anticipate that I was going to be there forever. But at the time I enjoyed the academic atmosphere, and as I say, he was a very charming man and very pleasant to work for, and seemed to be willing to give me an opportunity

to do something on my own, and not stand over me all the time, and so on. So I was very pleased. He was a man who was a very delightful companion, in the sense if you met him at a dinner party, or whatever, you'd enjoy his company. A very pleasant man.

GALM: Did you have any assistants?

MCQUADE: When we moved into the barracks building in June or July, then we hired. We hired another woman by the name of Kathryne [B.] Lewis. And then shortly after that we began to hire some secretarial staff because the faculty began to arrive then in, I don't know, end of August, first of September, something like that. I really can't remember. But, in any event, we needed some secretarial assistance for the faculty when they came. During that summer of 1949, before the first class, we divided up the activities then, and Mrs. Lewis took care of the applications and the admissions. Then I began to supervise the staff and concern myself with the budgetary activities and the planning, budget planning, and the financial side of the law school and the staffing and the general overseeing of the activities of the various staff members.

GALM: Did you have a lot of contact with students?

MCQUADE: Yes, I did. I had a lot of contact with students because, while Mrs. Lewis was, as I say, in charge of the applications and so on, during that summer we had to devise a permanent record card for the students, and we had to begin to prepare to work with the university administration, because Dean Coffman found that it was going to be necessary, in spite of all that he wanted, for the students to register in the university as well as enroll in the law school. So we had to devise ways that we could interface with them. The students were in and out all the time. It was just a common occurrence for them to come in. I saw many students on a whole variety of problems, not essential problems, but a variety of things. And we, Mrs. Lewis and I, personally checked over every permanent record card and grade and application, and so on, because we were very concerned with accuracy. So we knew all the students by name very quickly, and by the time they came we knew more about them than they would have cared for us to know, I'm sure. But we'd been over those applications so many times, so that very quickly we began to know them.

Also we had to take attendance in the classes. The way Mr. Coffman wanted that done, was someone — one of the members of the office staff — went into each class and took attendance. Students had assigned seats, and if there was a vacant seat, it was presumed that the student was absent. Then a record of the absences was kept, and if the absences began to be excessive, the student was notified that he was liable to be dismissed from that course or whatever. Some kind of action was to be taken.

GALM: How long did attendance-taking continue in the law school? Or how long were you responsible for it?

McQUADE: Well, all the time that it was being taken I was responsible for it. I would say that it probably [continued] maybe less than ten years, but for quite a long period of time. I know that we had attendance taken when we were in the new building. I can't remember; it was for four or five years after we were in the new building. So it was something under ten years, but it was a long period.

GALM: Was it beyond Dean Coffman's deanship?

McQUADE: Probably not. Yes, that's probably the time when it stopped is when he ceased being dean.

GALM: Was that something also that was a standard part of Harvard Law School?

McQUADE: To take attendance? I'm assuming it was, I'm assuming so. At that time, too, students were a lot more regimented than they are now. It seems outrageous now to think about taking attendance, but at that time it wasn't considered — I mean, students didn't like it, of course — but I don't think it was considered to be such a terrible thing to do. You know, there were rules regarding absences and the number of absences, and so on, and I think that it was just sort of an accepted thing.

GALM: Why don't we talk a bit about the faculty, the first faculty. Who were the members?

McQUADE: Dean Coffman brought from Vanderbilt a man by the name of Harold Verrall; he had been a lifelong friend of his from Iowa, and he taught Property. Then he brought another man —

GALM: How old was he at that time — Verrall?

McQUADE: Verrall? Well, I suppose he was in his forties maybe, late forties, middle forties. Somewhere in there.

Then he brought Rollin Perkins, who I think had been his teacher at Iowa. Dean Coffman had gone to the University of Iowa law school and then to Harvard for graduate law work. He got his doctorate in law at Harvard. But I think Rollin Perkins had taught him at Iowa. He taught Criminal Law.

Then we had Brainerd Currie who taught Contracts. Then James Chadbourn taught Procedure, and those —

GALM: Chadbourn would have been later, though, wouldn't he have been?

McQUADE: I'm really trying to recall that. I guess maybe he did come later. Then we had — let's see, we had Verrall and Perkins, and Edgar Jones was in the early faculty — and he was really just almost out of law school — and Dean [Roscoe] Pound. I'm trying to think if I missed anybody.

GALM: I don't think so, not among the initial five or six.

McQUADE: Yes, that's right. Dean Pound of course was the world-famous scholar who had been at Harvard. He had retired from Harvard, and then he had been in China as an adviser to Chiang Kai-shek, and that post was just finishing up when Dean Coffman was looking for faculty. It occurred to him that Pound might be interested to come here for a year on his way back from China, and he was in fact interested in doing that. He stayed a couple of years.

But he was, of course, an absolute legend. An incredible man. He was in his eighties, I guess, when he came to teach here, and his mind was very sharp. He had a few personal idiosyncrasies. I remember the students telling us that when he came to teach one course, he said, "When I first started teaching this course, the automobile had not yet been invented." Which gave them quite a sense of time. But again, I think Dean Pound was always amazed at the California students, too, because they were a far cry from the students that he was used to. I think they enjoyed being around him, and he gave them a sense of continuity in the law. They had difficulty following him in class, however, and his course was popularly known as "The Mystery Hour."

He was very interested in people. He lived downtown in the Chapman Park Hotel, I think. He used to take the bus everyday. He knew everyone on

the bus, their life history, they knew him, and he was very gregarious. Then we used to get students to drive him back and forth to his hotel at times, and they always enjoyed that because he gave them a tremendous fund of stories about his various activities in life. It was a kind of a fun thing.

GALM: So he was very intellectually active at that point?

McQUADE: Oh, yes indeed; he was still writing articles, I presume as actively as he ever had. I don't know that he wrote any books while he was here, but he certainly wrote several articles. You know, he would sit in his office working all day, at the times that he wasn't teaching.

GALM: What influence might he have had on Dean Coffman?

McQUADE: Well, I'm sure that — I don't think he exercised any overt influence, but I'm sure that he subtly influenced him. Because I think that Dean Coffman somewhat used him as a role model and probably tried to model the school after a kind of a school that Dean Pound perhaps would think was a good — would be proud of. But I think rarely did Dean Pound — I really shouldn't say that, I don't know. I wasn't present at faculty meetings in those days. I guess he did influence the resolutions that the faculty made, because I think he spoke out his mind, which would probably be somewhat in opposition to some of the other faculty. So I suppose he probably did have a fair influence.

Faculty meetings in the first few years used to take place at lunch in a restaurant, because there was no Faculty Center at that time. They frequently used to go to a restaurant called Farmer John's, which was over on Sepulveda north of Sunset. I think it's called the Fine Affair now, or it's a similar kind of restaurant, anyway.

At other times they went to the Westwood House in Westwood Village. The faculty would be asked to go to lunch every — I don't know if it was every Friday or once a month. I can't really recall now. But, in any event, that was the way faculty meetings were held. Once in a great while I went, but not very often. It was mainly if they wanted some information that I might have.

But that was a great source of irritation among the faculty as it grew. Maybe the first year they didn't mind so much because most of them were friends, but shortly after that, maybe by the second year or so, many of the faculty members began to feel that it was an improper way to conduct a

faculty meeting. They felt that it should be in the building, it should be at a set time when people could attend, with access to records if they wanted them — just a totally different kind of atmosphere — rather than having it at a lunch table in a public room.

GALM: So when did the faculty meetings begin to be held at the law school?

McQUADE: Probably, I suppose, a year or two after we were in the big building. That would be the third or fourth year of the law school. I really don't remember precisely, but I'd say somewhere in there. There were then enough faculty, because of course we kept hiring more faculty, and by the time that the full three-year curriculum was being offered, I suppose we had fifteen faculty members or so. I'm only really guessing, because I haven't tried to refresh my mind on this. By then there was a sufficient number making their desires known, and to be really persuasive to Dean Coffman.

GALM: At what point did you start attending on a regular basis as secretary?

McQUADE: When Richard Maxwell became dean.

GALM: I see, so up until that point you were only an infrequent visitor.

McQUADE: That's right, that's right.

GALM: Erle Stanley Gardner seems to have played quite a role in the early law school. How did that friendship or association come about?

McQUADE: Well, Dean Coffman met him at some social event, I guess, and enjoyed meeting him. Then he invited him to participate in the law school in the sense of talking — I think he addressed the students a few times and was an invited guest by Dean Coffman to various activities that we had. I must say that a number of members of the faculty took a very dim view of that whole relationship. I don't think they objected strenuously enough so that they wouldn't welcome him, but I think they really thought that he was not an appropriate scholar-type for us to be having the students take the time to go and listen to him, under our auspices. But the students enjoyed him, and he was a great showman, as well as being a good mystery writer.

He's the one who ultimately gave us those scales of justice that used to be in the hall (I don't know whether they're still there now; I haven't looked in a long time). But apparently he gave Mrs. [Helen] Coffman, or told her

that he would like to make a gift to the law school, and I guess either gave her the money or told her to buy something. So she happened to be in some antique shop and saw these old scales. They are old French scales, and I guess quite valuable, because they had the markings on them and so on. So she happened — no, I think this is what actually happened: She saw them, and she happened to mention to him at some dinner party or something they were at that she'd seen these scales, and wouldn't they be nice for the law school? I think then Erle Stanley Gardner said, "I think they would let me buy them for you and give them as a gift." That's I think the sequence.

So then they were put down in the hall. I've forgotten how they were displayed originally, but then subsequently that case was made for them. When they first came they occupied a very prominent position, but as time went on they kept being moved further and further into the background. I think that was kind of the way Erle Stanley Gardner was regarded. He gave, I think, a whole collection of his books to the library. But Dean Coffman thought very highly of him. And he did come, as I say, as a speaker. He talked to the students about investigation, which was of interest to them, and he had done a lot of that, as I understand it. So he did have something of substance to talk to them about. Anyway they got a big kick out of having him come.

GALM: He never taught summer school, though, did he?

McQUADE: Oh, no, he never taught anything that had any academic credit.

McQUADE: But I think he was promoting a person to teach summer school, a Marshall — is it Houts?

McQUADE: Marshall Houts, yes, because they had an organization — the name of which escapes me for the moment — the Court of Last Resort, that was it. Marshall Houts was a very interesting man. He had had an interesting career; he'd been an explorer and a lawyer and I don't know — all sorts of interesting things. He and Erle Stanley Gardner had this Court of Last Resort, in which they agreed to take the causes of people who had exhausted the possibilities of the court system and yet felt that they were being unjustly accused or jailed, or whatever, for something that they did not commit, but they had either no funds or no way to get evidence to prove their innocence. Erle Stanley Gardner and Marshall Houts would take these cases, and Houts would do most of the investigation, although

Gardner did some too, I guess. They had a magazine that they put out, and they'd write up these cases, and that's how they earned some funds in order to continue this program. I guess they helped a number of people in that way. Marshall Houts of course was — I mean, he was a lawyer and had the academic credentials. And he did teach a course or two in the summer.

GALM: Was there any faculty resistance to his teaching?

MCQUADE: Oh, no. No. It was quite different.

GALM: He was recognized.

MCQUADE: He was recognized and respected by the faculty. He was a good friend of Richard Maxwell, too. He was an excellent teacher, very interesting because of all his experiences and so on.

GALM: Did the dean's wife play an important social role in those days?

MCQUADE: Yes, she did. At least Mrs. Coffman did. I don't know whether it was the custom in other schools or not, but she felt that she was a vital part of the dean's position. She took a great deal of interest in new faculty, in helping them find housing, in welcoming them, in trying to help them find schools for their children. She was a very active person. When we were getting ready for the dedication, as I recall, she and one or two other wives prepared the invitations, and I think probably she had much to do with the menu and the location and that sort of thing. Yes, she was very active in the school.

One thing — apparently, I guess this must have been a tradition — at the time when the school had a chapter of the Order of the Coif, which is an honorary society, and a school has to qualify in order to be eligible to have a chapter. And then after it qualifies, the top 10 percent of its graduates are eligible to be elected to Coif each year. At graduation in those days, for people who were in Coif, in the button that holds the tassel to the mortarboard, around that a little white ruffle was placed to indicate Coif. And Mrs. Coffman maintained that it was the prerogative and the responsibility of the dean's wife to provide those little white ruffles for the Coif members. And she did so for several years. I've not seen the white ruffle in recent years, so I guess that practice must have just disappeared.

GALM: When did the Order of the Coif begin, and was there any story behind that?

McQUADE: No, no. As soon as we were eligible to apply to have a chapter established, which I would presume would be probably after the school had been in operation maybe five years, when we had a couple of graduating classes and all the accreditations had been accomplished, Coif sent someone to inspect us. They would have looked at our curriculum and interviewed the faculty to determine if they were engaged in academic pursuits. If a large percentage of the faculty were practicing and were not really academicians, then they might not have granted the chapter. But we met all of the requirements, in that our curriculum was substantial, and, I would say, nearly 100 percent of the faculty were full-time academics, and all the other requirements were met. So we had a chapter established with really no difficulty.

GALM: So how was the curriculum formed in those first years?

McQUADE: Well, it was pretty standard I think. Everybody took certain courses. Everybody took Property and Procedure and Contracts and Torts, and I guess they took one other course, which I guess must have been — Agency, I think it was. Throughout all law schools the students took a fairly standard curriculum in the first and second year. There was really no great attention paid to the California bar examination in determining the curriculum. Because there was a feeling that if the student had a good legal education, he should be able to deal with the California bar exam. I think the California bar exam also was based upon the curriculum in a good law school, so I don't think there was any particular problem there.

In the first and second year, the courses were set out, and as I say, they were required. I think in the second year there might have been a choice of one or two courses. I can't really remember now, because as the years developed, choices became available to the students. It was a kind of a slow process. Of course the third year was always elective, but the electives were pretty limited. I think that there were probably three courses that everybody took, and maybe they had a choice in the two others — something like that. While students were interested in particular areas of the law, they were also interested in passing the bar exam, and so some courses were pretty standard for that kind of study. We hadn't developed any great specialties. So I think that the curriculum was very similar to standard law school curriculum.

GALM: You had mentioned earlier that after a few years the faculty had expanded to — what? — fifteen, approximately?

MCQUADE: I think so, I can't really remember how it went, but it kept expanding each year.

GALM: Was there any sense that it wasn't expanding fast enough to take care of the number of students that were being enrolled?

MCQUADE: Well, I didn't really think so. Of course, we also began to run into budgetary problems then, too, because the way the budget of the University of California is set up with respect to academics, it has two components: you have a dollar amount and you have a person amount, or as they call it, an FTE, or a full-time equivalent. So you would be limited to, let us just say, fifteen people no matter whether the dollar amount coincided with the amount of money you were paying those people. Therefore, there were constraints on the growth of the faculty. Also I think it was recognized by the administration that the law school was growing, and they were trying to be cooperative in approving appointments to the law school.

But I don't think that there was — well, I don't know; I suppose I shouldn't be trying to second-guess some of the faculty, whom I really didn't know terribly well, and I wasn't privy to their discussions. I think probably some of the newer faculty who came in would like to have seen the law school move more rapidly and maybe in a different direction than it did. In the first few years we had a lot of visiting faculty because agreement, I guess, couldn't be reached on offering permanent appointments to a number of people. As I look back on it, with the knowledge that I have now, I suppose it was because the faculty just didn't agree with the choices that were presented by Dean Coffman, and he didn't want the people that they were suggesting. I'm assuming that, but I don't know, because I was not part of those discussions.

GALM: Later on in your career, did you become more privy to —

MCQUADE: Oh, yes.

GALM: Of course when you started also attending meetings that would —

MCQUADE: When Richard Maxwell became dean, then I really became his assistant, and I attended all committee meetings that he went to, and faculty meetings, and so on. I then became very knowledgeable about how

appointments were made, and I, after a period of time, would also interview the candidates to try to give them some information on the fringe benefits available and, oh, just various kinds of nuts-and-bolts things about the school that they might be interested in. I often went out with them when they were trying to find out about houses, how much housing would cost, and so on. So after he became dean, I was very much involved with the administration.

GALM: What about the salary scale for law teachers, law professors? What problems did that create? Trying to perhaps bring them in at a higher level than other professors?

McQUADE: It was a constant battle.

GALM: From the very beginning?

McQUADE: From the very beginning. It was a constant battle to try to get the university administration to realize that they, I guess, enjoyed a higher scale at other schools. They also had endless opportunities in the practice where they would earn a lot more money, so it was just a constant battle. Dean Coffman used to spend lots of time trying to figure out ways around the university system to try to get a sufficient salary for the faculty he wanted to invite. He tried to make eleven-month appointments, but that didn't work because — he was just frustrated constantly by the system. At Vanderbilt I suppose he didn't have those kinds of restrictions in a private institution. I'm assuming that salaries could be set in a much more liberal manner than they were in this institution. Never having worked in another one, I have nothing else to base it on other than what I hear. But the university here is very rigid on its determinations on salary scale, and if one is going to deviate from those scales, you've got to really make a very strong case, and it takes a lot of doing, and he found that very difficult to deal with at first.

GALM: Has that situation changed at all over the years?

McQUADE: I don't think basically it has; philosophically it hasn't. There has been recognition that it's necessary to have a separate salary scale for the law school, and of course I think having Hal [Harold] Horowitz as a vice-chancellor, who was a member of this faculty for many years, has been very helpful, since he knows the problems. But it's constant.

GALM: So, almost from the very beginning Dean Coffman was seeking autonomy for the law school.

MCQUADE: Yes, he was. Yes. He found that the requirements of the university were very restrictive and he did not wish to conform at all. The first year, and possibly the second year, there was a man called Dykstra; I think his first name was Clarence, but I'm not sure.

GALM: Clarence Dykstra, the provost.

MCQUADE: The provost, that's right. Dean Coffman spent a lot of time with him trying to find ways to get the law school a higher salary scale. I think that Dean Coffman wasn't so interested in the salary scale, he was interested in individual appointments, and I think he felt that each one had its own merits. He wanted to be able to appoint the person at what he thought was the right salary level. Of course, I guess Provost Dykstra felt that it had to be in conformity with the Academic Senate rules and certain requirements — you know, the appointee had to publish so much, or be out of school so long, or various things. They were always battling about it.

GALM: How did he get on with Dykstra personally?

MCQUADE: I think they got along well; to the best of my knowledge they got along well. And I think that Dean Coffman probably got along well with President [Robert Gordon] Sproul as well. I certainly never thought that they weren't supportive of him, in general.

GALM: When did the push then, really, come to shove, I guess, for getting out of the Academic Senate?

MCQUADE: I think probably after Dean Coffman had encountered a number of difficulties with the university administration on getting things that he wanted with respect to academic appointments, really. He began to feel that if we weren't members of the Academic Senate, then he would have a freer rein. I really don't know when this idea formed in his mind, but it became apparent that he was trying to get us out of the Academic Senate. And I think that he felt a way to approach it would be to discuss the matter with the Association of American Law Schools, which was then in the process of accrediting the law school. I think he and — I think the man's name was [John] Hervey who was in charge of the — oh, as a general secretary, or whatever you would call him; the executive director, I guess,

maybe is the better term — of the Association of American Law Schools' accreditation arm. I think they determined then that the interference of the Academic Senate into the law school administration was inappropriate for a school that was going to be accredited. I gather the association was very concerned about the autonomy of law schools.

Because, as I understand it, one of the constant problems is that some law schools within other institutions are really set up so that they'll make a lot of money in the law school, and then that tends to be used for the rest of the institutions. So I think that's why they are very concerned how the administration of the law school is determined, if it has to meet other requirements, non-legal, in its own institution. So, anyway, that was the basis of the desire to withdraw from the Academic Senate as it was presented to the administration. Ultimately the administration agreed to let the law school withdraw from the Academic Senate so that it could be accredited by the Association of American Law Schools.

GALM: How much contact did the young law school have with Berkeley law school?

McQUADE: Well, you know, surprisingly, I don't think we had an awful lot. I think it was because for many years — it wasn't just in the very beginning, but for many years — the feeling was that the Berkeley law school got all the plums that were being passed out to the law schools in the university system, and that we got what was left. And that we were really the little brother indeed.

GALM: Stepchild. [laughter]

McQUADE: And stepchild and all of the above. So that I think there was no — and I guess that the people at this law school didn't feel as though they were being warmly welcomed by Berkeley to come aboard. Oh, I'm sure there was a certain amount of exchange between the two, but certainly there was not a lot.

Then, for a period of time, I don't know, I suppose it would be in the middle and late fifties, sixties, there was a time when the faculties of the two schools did get together. I think it was once a year, and I think they probably met at, oh, maybe at Arrowhead [Lake Arrowhead Conference Center] or at some neutral ground. But that then kind of petered out. Of course then as the faculty got larger, there were individual friendships and

so on, and it was a little different. I think there's been cooperation between the deans subsequently, but at first I don't think there was a lot of cooperation between the two schools.

GALM: So as far as you know, there wasn't a lot of contact or communication between Dean [William A.] Prosser and Dean Coffman?

MCQUADE: Of course they talked but not too frequently. And Dean Prosser came down; when he was in the city he would come. And I remember I went up one time to see how they were running the school, and to try to get some ideas. There wasn't animosity, except, as I say, our underlying feeling that we were, oh, the stepchildren.

GALM: Do you know, on this particular issue, whether they really combined forces?

MCQUADE: No, I don't think they did. I think that Berkeley was happy the way it was, and I don't think it wanted to get out of the Academic Senate. I mean, as far as I know, Berkeley was pleased with its arrangements, and so I think they just were letting what happened down here happen without involving them. Of course the problem always came up: well, how was Berkeley accredited? I don't really know how Dean Coffman got around that, or how he answered that.

GALM: What was the subsequent result, then, of the regents' action? Did the Berkeley law school go out of the Academic Senate?

MCQUADE: I don't think so; I think they remained in the Senate. I think they opted to remain in the Senate, so far as I know.

GALM: So they were still able to exercise that option.

MCQUADE: I guess so; yes, that's right, as far as I know. Because they had a slightly different operation. They were also members of the Graduate Division at Berkeley, so that a student applying in Berkeley had to apply to the Graduate Division for admission as well as the law school for admission. Now when we began the school here, the university administration expected that same thing to take place here, that the law school would be part of the Graduate Division. But Dean Coffman fought that one tooth and nail, and we never have been a part of the Graduate Division. He felt that admission to the law school — that the law school should be equal to the Graduate Division, not a part of it. And he won that, and as I say, we've

never been a part of the Graduate Division since. So the students here applied only to the law school, not for admission to the Graduate Division.

GALM: It certainly must have simplified the application process.

McQUADE: Oh, absolutely, absolutely. The only difficulty it ever created was in students' applying for scholarships and loans, because we had a different grading system, really a wholly different system of academic credential, if you will. It was very hard for the people in the Graduate Division to try to equate the law students with the students in the other graduate disciplines to try to determine eligibility for loans, especially if the money was short and they were trying to decide between those students.

GALM: Let's get back to the Academic Senate. How did the law school faculty stand on the issue? Were they united, or what individuals might have been against [withdrawal], if there were?

McQUADE: Well, I suppose James Chadbourn probably could have been against it, because I think he was not enthusiastic about Dean Coffman's administration. I think he found many things that he disagreed with. The way it would look to me, and this may not have been the way it was, but I think that the faculty really were ambivalent about whether the law school was a member of the Academic Senate or not, because most of them felt it didn't have anything particularly to do with them. But I think that they were beginning to feel that Dean Coffman was being too autocratic in his way of handling the law school, and this was probably an indication that he would be the sole authority in the law school. So probably they were not enthusiastic about this activity, on that basis, would be my guess.

GALM: But it was accomplished?

McQUADE: Yes, it was, indeed; we were out of it for ten years, or whatever.

GALM: What were the immediate results of that?

McQUADE: Well, the immediate results were that appointments of faculty, for example, did not have to be reviewed by the Academic Senate committees. They could go directly to the provost or chancellor (or whoever at that time), and when a promotion or a salary merit increase was recommended, all of those things could go directly to the university administration without going through the Academic Senate. Then, our budget came to us probably in a more direct manner too — well, maybe not. I mean, maybe

the budget would have come the same way anyway. It was really the administration that the Academic Senate was interested in. So that primarily was its benefit.

I suppose the other side of the coin was that the law school faculty couldn't participate in any of the Academic Senate committees. And I presume, as time went on, they probably would have liked to have done some of that work. I don't really know, because that would have depended on the individual person. But there were also things that perhaps would have been helpful if we'd been part of the Academic Senate. I just can't recall individual specific things now, where because we weren't members we didn't know this was going on or that was going on. We didn't have any extramural funds at that time; perhaps we would have gotten some if we had been Senate members. Our faculty didn't go to Academic Senate meetings, and I suppose they were somewhat excluded from the general faculty activities on the campus.

GALM: But faculty appointments didn't suddenly surge as a result?

MCQUADE: No, no. I don't recall that they did. Because I think it was going hand in hand with the faculty trying to exert more authority over the appointments. I think that Dean Coffman didn't bring the faculty into the appointment process to the extent that they would like to have been, which I guess was becoming common in other law schools. And he still had the salary level problems.

GALM: Did you sense any change in Dean Coffman over the years? Did he change in character or change in [style of] administration?

MCQUADE: Well, I think maybe he stayed the same, but the world changed. I have the feeling that that was it, that he continued to be an authority figure, which I think was his model of what a law school dean should be. He would make his choices and he made them in his view for the best interests of the school and the university and so on. But I think as time went on, it was becoming more common in law schools for a collegial discussion of the administration of the law school. There were committees, I gather, and there were submissions to the entire faculty of the names of those people who were being considered for appointment, and an opportunity for the faculty to meet and to discuss the qualifications of the potential candidates for the faculty. Whereas I think Dean Coffman felt that he would make

those investigations and present it to the faculty as: "Here is the name of X, I think he would be a suitable appointment to this faculty, don't you agree?" So I think, as I view the situation looking back on it, that was the way — I mean, I don't think Dean Coffman was ever malevolent or had any ill intentions. It was simply he didn't change with the times. And the times changed in that period tremendously.

GALM: He was very conservative, though, in his philosophy and his politics.

McQUADE: Yes, he was; yes, he was indeed.

GALM: Did he try to control appointments in that way, to have people who would reflect his philosophies?

McQUADE: In one sense, you could say, yes, he did, but then in the other sense, if he did, why did he have people who disagreed with him? So, I suppose — I really don't think he tried to get people that were totally in accord with his philosophy, but I don't think he expected them to disagree with him as violently as they ultimately did. And he did try — I mean, there's certainly no question he did try to control the appointments to people that he thought were suitable.

GALM: How would you describe his political philosophy?

McQUADE: Oh, I think he was a very conservative person. I think his family had originally been from the South and had moved to Iowa, and he viewed himself as a southern gentleman, and with all that connotes.

GALM: Some of the negative elements, too?

McQUADE: Yes, yes, that's right, I think so. That was how he prided himself. And he was a man who, that's the way he thought he wanted to be; and I think Mrs. Coffman was, is, a very charming lady, but also viewed herself as the wife of a southern gentleman, shall we say.

GALM: This was also the time of the McCarthy era.

McQUADE: Yes, and he was, I think, a strong supporter of [Senator Joseph] McCarthy.

GALM: Were there any incidents that you can recall where, you know, he felt that there were either communist or socialist influences taking place?

McQUADE: At one time this campus was considered the "Little Red Schoolhouse," and I think that he thought that it was aptly named. He felt that there were influences, liberal and communist and so on, that —

GALM: UCLA and the University of California had quite a controversy on the loyalty oath. What stand did Dean Coffman take, and perhaps some other members of the faculty, as you recall?

McQUADE: Well, I'm mostly familiar, of course, with the stand that Dean Coffman took, and he was a strong advocate that everyone should be prepared to take the loyalty oath. I don't think that there was a great deal of public controversy on the part of the other faculty members. At least I don't recall any of the others taking any kind of a stand, although I'm sure they did, but it didn't become a matter of discussion in my presence. But he was very clear in his feelings and, I think, made those known to the other faculty members, to his class, to the students, and so on.

GALM: One of the things that I noticed in reading the early faculty [meeting] minutes is that one student's name was brought up because of his membership in an organization that was considered subversive, the American Youth for Democracy. Was this a common thing as far as the application process was concerned? Were they looking for left-wing tendencies or communist tendencies among the students?

McQUADE: Well, I suppose they might have been, although I guess at that time I was naive enough not to really think about it. As I recall now, the way the application process went was that in the office we separated them according to those that appeared to be good applicants with respect to their test scores and their general university standing. Then I think they were all reviewed, probably before the letters of acceptance went out, by Dean Coffman, I guess; and possibly, although I can't remember any incidents right now, he may have determined that some people who made public on their application forms that they were in what you might call liberal (or whatever) kinds of organizations, he may have found that a reason for not admitting them. Although I don't recall any instance where a person wasn't admitted simply for that reason, it may have been the basic reason and some other reason may have been used.

GALM: Well, I think in this particular case the information perhaps didn't come from the application, but actually came from an FBI agent.

McQUADE: Well, we used to have — in those days we had a lot of FBI agents coming through the law school, and they were checking on people. You know, just generally, and it was a very common occurrence that they would come in and ask to see the files of the students. Now, at the time I think we had very little feeling that there was any reason to keep those files from the FBI — certainly Dean Coffman would not have countenanced that — and so we handed the files over to them. And I guess they were checking to find out the backgrounds of some of the candidates or students, you know, either way. But in that time it didn't seem such a gross thing as it does now.

GALM: Did that continue into later periods?

McQUADE: It continued, and then after a while, and I really can't remember exactly when, we no longer handed the file over to the FBI person. We then would confirm that he or she was or was not a student, or whatever — that activity was appropriate — and answer the questions that they asked us based upon the file. Now, sometimes they might like to ask to look at the picture. At that time, and I don't know if they still do, we used to require pictures to be attached to the applications. Sometimes they'd like to look at the picture. We permitted that, but we did not hand over the files.

Really, mostly what was in those files at that time were letters of recommendation; we used to require that every student provide three letters of recommendation. I think those were generally what the FBI was looking for: to some extent to find out who the person's friends, and so on, were. But also, the application forms weren't terribly revealing at that time. They simply asked education; I think they did have to account in very general terms for the time spent since graduation from college, if there was a period of time. I suppose maybe the trained eye would see more to it than we did.

GALM: Do you recall who might have made the decision to withhold the applications from the FBI?

McQUADE: I think that was a pretty general university decision, that all of the records of the students were confidential, because that became an

increasing concern of students, and there's a very considerable bit of policy, now, relative to what information can be given out on students. That grew gradually, so we adhered to that as the university developed its policy.

GALM: Let's now discuss the growth of the faculty, because later on the faculty and its members really played such an important role in the confrontation that did result. In addition to those original five or six, I might ask you to comment on some of the names and perhaps what you know of their background, and something perhaps of their personality if you have strong recollections. James Chadbourn was an early addition after —

MCQUADE: Yes, indeed, the law school was absolutely delighted to have him come and join them. He was a man who had a great reputation in the legal — he was considered an outstanding legal scholar and a great teacher, and he certainly lived up to that reputation when he was here. He was a wonderful teacher and a man who perhaps was the first man, after he came and had settled into the faculty, who began to feel a need for some independence from what the dean viewed as his organization, shall we say.

GALM: Who brought him here?

MCQUADE: Oh, Dean Coffman recruited him.

GALM: What political camp did he see him being in at the time that he brought him? Or was he aware?

MCQUADE: If he had any ideas about Jim Chadbourn's political situation I never heard him express them. I don't know anything about that.

GALM: Another early person who came as a visiting professor was Kenneth York.

MCQUADE: Yes, he came and, of course, stayed on the faculty for many, many years. Ken York is a very quiet man, and I suppose it's because he is so quiet, it's difficult — he has a marvelous wry sense of humor and was for many years the editor of the — I think it's Phi Alpha Delta, which is a legal fraternity, that publishes a little magazine [*The Reporter*], I guess you could call it, although that's not an elegant enough term for it. Anyway, Ken edited it and always had some marvelous wry comments in there. He has just retired from the faculty, oh, just a few years ago.

GALM: Was the usual procedure then to invite the faculty member in a visiting slot or position and then view him as a permanent —

McQUADE: It kind of varied depending upon the individual and his reputation, and so on. I think that Ken, as I recall, was teaching at 'SC [University of Southern California], and for many years there has been an arrangement between the two schools not to raid each other. So I think that when Ken was interested in coming to teach a year, coming to teach possibly at UCLA, I think that the most diplomatic way was to bring him as a visiting professor to fill a need. Of course, you see, at that time, with the law school expanding — it started out in 1949 with just the first year, and then 1950 it had the first and second year, and 1951 all three years — it had absolute needs for teachers, because they simply had to staff the classes that needed to be offered to these other two years as they came along. So when they needed somebody to teach whatever he was teaching at that time, it was very reasonable to invite him to come as a visiting professor. Then during that year he could decide, and they could decide and approach each other, and so on, in a more diplomatic way.

But with somebody like James Chadbourn who was in the East, he may have been approached with the idea of coming as a visiting professor, and it may not have worked for him. I mean, perhaps his school wouldn't let him go, or he didn't want to disrupt his family for a year and then maybe go back. So he might have only considered it as a permanent appointment. So each one of these instances varied.

GALM: Then in 1952–53 Ralph Rice joined the faculty.

McQUADE: Yes, he came as a Tax teacher, and he had had both practice experience and had been teaching, and taught Tax here for many, many years, and wrote his own tax books. He was a very lively man and, I think, perhaps made Tax courses as exciting as they could be.

GALM: James Sumner came that year too, again as a visiting professor.

McQUADE: Yes, yes. He was a younger man than, say, Chadbourn, and I think probably the idea was — I really don't know why he came as a visiting professor. One of the problems was money. You see, the university at that time didn't have a separate pay scale for law school people. So, in order to entice them to come at all, we had to pay more than they would

be paid if they were to come in at what at that time [was] the beginning assistant professor level of the university. They wouldn't consider coming at that rate. After they were here and had been proven, it was easier for the law school administration to get a better beginning salary for them on a tenured position situation.

GALM: I think [Edgar] Jones we had mentioned earlier, but he came at around that same time.

McQUADE: Yes, he was one of the first faculty members. He had really been just out of law school a year or so, and so he was a beginning teacher, really. And I think he came, I've forgotten, probably at the assistant professor level. But that was a different situation, where he had really no experience and no scholarship other than what he had done in law school to offer. So each one had to be considered separately as to the rank at which they started and how permanent they were, and so on, in their appointment.

GALM: Then, in the following year, in '53–54, Richard Maxwell came to —

McQUADE: Yes, of course as the school continued and grew, various faculty members who knew other faculty members at different schools would put their names forward and try to interest them into coming to the law school. Some people of course were attracted by California, by the fact that this was a new school in a university system and had been accredited and had a lot of potential. I think that there were many people considered along those years, and I think Mr. Coffman was a strong factor in determining which ones were going to get serious faculty consideration. But Richard Maxwell had been teaching — had been a member of the faculty at the University of Texas and then he had gone to the Williston Basin to do some work for Amerada oil corporation. He was I think at the point of returning to Texas and he became interested and was approached and came here.

GALM: And is it Arvo —

McQUADE: Arvo Van Alstyne. Yes. I've sort of forgotten where he was before he came. But anyway he also joined the faculty. He taught Constitutional Law and was a very successful teacher.

GALM: Allan McCoid.

McQUADE: Allan McCoid, yes. He had come from Minnesota, and I think he came — I can't recall whether he came at the time when I think we instituted a program to — No, he didn't. I guess he came as a regular faculty member. Anyway, he was very instrumental in the establishment of the *[UCLA] Law Review.* The law review I think was started before he came, but at that time they appointed a person on the faculty to be a moderator, or whatever you want to call it, of the law review. He was very much involved with the law review and in trying to get it the appropriate autonomy that it should have.

GALM: Now, there was initially a law review called the *Intramural Law Review*, wasn't there?

McQUADE: I think probably when it first started, but that was a very brief period. It almost immediately, or as quickly as possible, became a regular law review.

GALM: One of the things that I came across was that there seemed to be faculty criticism for jumping into [publishing] a law review so soon.

McQUADE: Well, I think there was, but Mr. Coffman was determined that there would be a law review. He felt that any good law school had to have a law review, and the sooner it got started, the better. Even though with the small student body we had and the small faculty and the relatively small budget, and so on, it was difficult to establish it. But that was one thing that he was very eager to get started, and I think he pushed it, even though as you suggest a lot of the faculty, or some of the faculty, felt that it was a little premature. But when Allan McCoid came, he really took it over and, I think, really got it on its feet.

GALM: With enthusiasm then?

McQUADE: Oh, with a lot of enthusiasm, yes. He really pushed it. He had been editor at, I don't know, Harvard, or wherever he went to law school. He was a young man when he came here, and I think maybe he had a year or so of teaching experience; so he was still fresh from having been on the review himself. So he was very enthusiastic about it.

GALM: Then, to sort of round out those [who] were in the early fifties, Harold Marsh came as a visiting professor.

MCQUADE: Oh, yes, he was a great scholar. Harold Marsh has one of the most difficult personalities in the whole world. Everyone, including Harold Marsh, will agree to that. But, a fine teacher. He put the students through quite a difficult time in the classroom, but if they survived, they respected him and acknowledged, subsequently, that he was a great teacher. And no one ever said that he wasn't fair. I mean, he was very fair, he just was very difficult for everyone.

GALM: What did he teach?

MCQUADE: He taught in the business area. I've sort of forgotten the [course] titles at that time; but, anyway, corporations and business transactions and that kind of thing were his fields.

Another person we should mention is Brainerd Currie, who came in as one of the first faculty. He taught Contracts, and he was an outstanding scholar. I think he was relatively new when he came, relatively young in teaching, but was an outstanding scholar in the contracts law area.

GALM: Now, he was one of the people that left quite shortly after coming.

MCQUADE: Yes, he left because he didn't like the atmosphere in the faculty, I think.

GALM: And he went on to, was it the University of Pittsburgh deanship?

MCQUADE: Yes, I think that's where he went, yes. Of course, in those days, and I suppose it's certainly true now, but if people became dissatisfied on the faculty and simply made it known, offers would immediately come forward if they were people of standing in the legal academic community, and he certainly was. So I think as soon as it became known that he was approachable, he received an offer.

GALM: By this time then, by 1955, you really had accumulated a fair-sized faculty. What happened?

MCQUADE: Well, I think what happened was that there was a large enough faculty now for a number of viewpoints to be represented. Mr. Coffman, however, felt that he knew what the school needed and who the people should be who would come to teach, and so on. And I think there was one appointment, Mr. Hawkland, whose appointment really triggered the difficulties. Mr. Coffman, I think, unilaterally decided, or perhaps with the

agreement of a small number of the faculty, that William Hawkland should be offered a post on the faculty. And I think that while there wasn't, as I understand it, a great deal of opposition to Hawkland himself, it was simply the way it was done. The faculty simply determined that they were not going to accede to an appointment of a man whom they hadn't, in general, discussed and approved his appointment. There was not sufficient collegial discussion, and I think they simply would not agree to his appointment: and so Dean Coffman, I think, had to withdraw his offer to Hawkland. I think that really triggered the situation, because then, as I understand it, a group of the faculty determined that this was an intolerable situation and went to the chancellor and described it to him.

GALM: One of the earlier actions that Dean Coffman took was to appoint Harold Verrall as assistant dean. What was the background on that [action], do you recall?

McQUADE: Harold Verrall and Dean Coffman were very close friends, and of course as the school grew there began to be a lot of paperwork to do and, particularly, dealing with the students, who had a number of problems. I think that he wanted to have someone in whom he had confidence with respect to their having similar viewpoints on how to handle matters, and so he appointed Verrall to take that position over. I think that's really what it was.

GALM: Was there any resistance by the faculty to this [appointment]?

McQUADE: I don't really think so. It was a position nobody wanted. A lot of the problems that the assistant dean or the person in that position deals with are small. They're big to the individuals that they're dealing with, but they're recurring student problems. And someone at that point, even though students had a limited choice, someone had to review their programs to make sure that they were taking enough units and those kinds of things. And while I did a lot of that, still, in all, there needed to be a faculty member to enforce the rules, really. And I could see how it was really not an appropriate thing for Dean Coffman to be doing. So I don't think there was any resentment on the part of the faculty. So long as Mr. Verrall adhered to doing what only needed to be done as assistant dean, I don't think they minded.

GALM: Are you saying that maybe with time in that position he went beyond what were really the duties of the assistant dean?

MCQUADE: Well, I don't think so. No, I really don't think he did. I probably put that in the wrong — I think the faculty felt that if he was willing to take the job and do it, they were happy to have him do it. I think that's really what I meant.

GALM: I guess it's just that there seems to be building these two camps.

MCQUADE: I think that's quite true.

GALM: And certainly Verrall and Coffman were —

MCQUADE: — were in one camp. And Perkins, Rollin Perkins, was the other person who was in that. He was beginning to get close to retirement along about now. But in any event, he was an adherent of the Coffman camp, if you will call it that.

The only thing I can think of, the only possible resentment with respect to Harold Verrall, would be simply that the decision to approach him was taken somewhat unilaterally by Dean Coffman, and he might, or might not, have informed the faculty of it. But it was not done, as it would be today, where the dean would advise the faculty that he or she was considering doing this and that, with respect to faculty appointments, and would go through a faculty appointments committee, and people would have the opportunity to voice their opposition if there was any. Whereas in the days of Mr. Coffman, there was no opportunity to voice opposition without really making a public stand, which ultimately happened.

GALM: Who really took the lead among the dissatisfied faculty?

MCQUADE: James Chadbourn and followed very closely by Ralph Rice.

GALM: Had there been a camaraderie between the two before this, or did they just agree in principle in taking, making a stand?

MCQUADE: I really wouldn't be able to say what the degree of their friendship before [was], and even during this period, both of them being very strong personalities, it's kind of hard to say how close they were personally, but rather that their concern for the principles, and their concern for what they viewed as the potential for the law school was paramount in what they were doing. I'm not too clear on the stand of some of the other faculty

because I was attempting at that time to run my part of the school and to provide adequate nonacademic staffing for the operation of the school and not get involved in the faculty situation, because in a sense it was none of my business.

Along about then Mr. Coffman began to, I think, feel that it was not part of my business to know about what was happening, so he communicated with me only through his secretary. We had very little direct communication.

GALM: Were you ever approached by faculty members, just as a shoulder to cry on or someone to talk to about what was happening?

McQUADE: No, no, I was not. I would talk to them about law school matters only with respect to something that they were involved in, about their course or something of that sort. But we never discussed the faculty's "revolt," shall we call it.

GALM: Do you have any feeling that Dean Coffman may have felt that you were pro-faculty?

McQUADE: Well, I think he perhaps felt that I was not supporting him totally. The other thing may have been that he may have been sort of suspicious that maybe — I don't know, I shouldn't say that — maybe that if I knew about what his activities were I would report them to the faculty. Anyway, I was just interested in keeping my job and staying out of any partisan activities at all, on either side.

GALM: Did what happened really affect staff morale?

McQUADE: Certainly the students were very much affected, because they knew what was going on, and I think, perhaps, if I had taken a more active role in espousing one side or the other, it might have had more effect on the staff. But I simply tried to keep the staff [nonaligned], telling them, we're here to do a certain job, and we tried to not talk about the problem of the faculty's revolt. People knew about it, but we just tried to ignore it, and carried on as if we were working for everyone to the best of our abilities. I know that one of the faculty secretaries did all the typing for the dissident group, but they were entitled to secretarial assistance and we never made an issue of the subject matter of the work.

GALM: Were you less affected than, say, the students were affected?

McQUADE: Oh, I think so, yes. I think the students were — as you know, students find that kind of thing absolutely appealing, exciting, and there was endless speculation on the part of the students about what was happening. And it was perhaps exciting for them, but I think also it somewhat detracted from the level of legal education they were getting.

GALM: Were the students organized enough at that point to have any influence or any say in what was happening?

McQUADE: No, I don't think they were, not really. I mean, even if they had been organized, it was not at that point the custom to invite student opinion on a situation like that, at least in a formal way. I mean, faculty members may have talked to individual students about the competence of another faculty member, or something of that sort, but it was not done formally.

GALM: You had mentioned earlier that there was this memorandum that went to the chancellor [Raymond Allen]. How well known was it that a memo had gone?

McQUADE: I really have no idea how well known it was. I just don't know.

GALM: Were the contents of it [known]?

McQUADE: No, it was really done — It was not made public. It was done — I don't like to say in a secret [way] because that makes it sound —

GALM: Discreetly?

McQUADE: Discreetly is very accurate, yes.

GALM: OK. Because that type of thing might have been used and not been handled privately.

McQUADE: No, it was handled very, very discreetly, because I'm sure at that time the leading members of the faculty had no idea what the outcome would be, and they were not — I really think truly that they were not eager to disrupt the law school; they were simply anxious to get the law school in what they felt was the modern current way of operating, which was in the collegial atmosphere instead of being run by one person.

GALM: It finally did come down to the full support of the faculty on that memorandum, except for perhaps the three that you mentioned.

McQUADE: Yes, I think so.

GALM: Did you see any attempts upon Coffman's part to change or to back away from his stands?

McQUADE: As I say, since he wasn't communicating with me it was hard for me to tell you what his views were. I'm sure that it was probably turning out to be a much larger situation, a greater disruption, than he had ever realized could happen. I'm certain that it was a surprise to him, to put it mildly. And I suppose that in that situation, I don't really know whether — let's assume for a moment that he was willing to back down — whether at that point the faculty would have said, "We'll continue on," because I don't know whether they would have had any confidence in his ability to change and be a leader. The first among equals. I just don't know.

GALM: It seems one of their major complaints was that he would perhaps say something one day, and then perhaps not follow through on that.

McQUADE: Well, I'm sure he was — I'm certain it was a difficult situation for him to determine; it was the kind of thing that I don't suppose happens very often. He was certainly not an evil man, and I think that it was just his way. I don't think he even probably knew himself whether he had the ability to change.

GALM: Did he go to the regents at all during this period?

McQUADE: Oh, I'm sure he did, I'm sure he did, because he was very close to Edward Dickson and Victor Hansen, and I'm confident that they were very well aware of what was happening. Yes, I'm sure.

GALM: But you have no concrete examples of —

McQUADE: No, I don't. Not of my own knowledge. No. It just kind of — we wandered on; Mr. Verrall continued as assistant dean, and after the faculty had — I think it was one year we had while the faculty was talking to the chancellor, and my recollection is that for the next two years, Mr. Coffman went on leave — he went on leave in any event — and we had a triumvirate appointed to run the law school. That was Mr. Chadbourn, Mr. Rice, and Chancellor [Allen].

We had a very interesting way to run the law school. When a problem came up, I would go to either Chadbourn or Rice, and whichever one I

went to first I would explain the problem, and they would generally ask me, what do you think would be an appropriate solution? And I would suggest something, and then they would say, yes, I agree with that, but see what the other person says. So I would go to the other person and, just as a matter of principle, I think, the other one would disagree. And of course the chancellor really knew nothing about the law school, so he really didn't participate very much in the day-to-day running of it. So I finally devised a way where I could get approval of the way I thought something should be done by approaching Chadbourn or Rice and saying the other man leaned to the opposite view but would leave the final decision up to the man I was then talking to, so that I'd get them to vote my way. I am sure they knew what was going on, but it worked. It was an interesting period, I must say, and I learned a lot about human nature in that year.

GALM: How did the announcement come out that Dean Coffman was leaving?

MCQUADE: It was announced that he was going on leave, I mean that was the first thing, and he was going to accept a position — I can't remember its title, but it was some kind of a commission on —

GALM: Security Commission [Commission on Government Security].

MCQUADE: Security Commission, yes, and the man who ran that was a longtime friend of his. So he went to it, and we were told that he was going on leave. After that had been announced and accepted, then it was announced that there would be the three-person triumvirate running the law school for the next year and that matters would be handled by them.

GALM: Had he officially resigned?

MCQUADE: Oh, no, he did not resign; no, he never did resign. He never resigned from the [faculty]. He ultimately resigned as dean, but always was a professor of law.

GALM: No, I know, but —

MCQUADE: But he had not resigned at the time that he went on leave is my recollection. Then, subsequently, while he was on leave, I think he did submit a letter of resignation. But it was very quietly done, and nobody really knew about it until, I guess — now I can't remember exactly how we

knew, but I think that it was submitted to the chancellor and the regents and came through that way.

GALM: In the Coffman affair and in that memo that went to Chancellor [Allen], there were some pretty strong charges that were made against Dean Coffman and how they [his attitudes] were affecting the law school. One area was faculty recruitment, and the charge of anti-Semitism was brought up against Dean Coffman.

McQUADE: Well, I would think that that probably had some substance to it. To put it in the kindest terms, I think he was very much aware of whether a person was Jewish or not, and that entered into his relationship with them. And I guess, looking back, I can't think of any Jewish members we had on the faculty while he was doing the recruiting, so I think that that was a fair statement.

GALM: The remark [by him] that I know I have [heard] — that has been quoted — is that the hundredth member of the faculty would be Jewish. Was that something that — had you ever heard that?

McQUADE: Yes, I've heard him say that. He used to — before all the problems arose, at least publicly — he used to like to have coffee in the morning, and he always invited me and his secretary to go up to the faculty lounge, I guess it was, up on the second floor here. He liked to sit and talk during that period, maybe a half an hour or twenty minutes or so, depending. Often that was the opportunity — if any faculty members wandered by, he would invite them to come in and sit and have coffee with him. He often expounded on his theories at those times. If I were to recall, that would be the kind of time when I would have heard him say that. Now, I don't know what audience would have been there other than Evelynne Hanson and me, maybe; but in any event, it would be a remark that I would not be surprised at.

GALM: The other persons that he didn't want on his faculty were "left-wingers."

McQUADE: That's right.

GALM: How do you think he defined left-wing?

McQUADE: Well, anybody, I guess, that was — that was a term that was very elastic, I would say. He espoused, as I recall, McCarthy and his views,

and I suppose that pretty much sums up Mr. Coffman's views. And when the wars came along — we had the Korean War, and so on, at that time — he was very ardent in his support of America: everything it did was right, and he wouldn't countenance any consideration that there was any other way. He often used the term, "the Little Red Schoolhouse." I think he felt that many members of the faculty of the other disciplines were far left, far left in his opinion, and he tried to isolate the law school from them.

GALM: Did he have a middle ground? Was he able to perceive a middle ground between left and right?

MCQUADE: Well, I suppose he probably viewed the ground where he was [as the middle ground]. I'm sure he didn't view himself as an extremist. [laughter] And he was a smart man and certainly, as the saying goes, able to think like a lawyer; so he had to be able to see both sides of the question. But he was pretty firm in his views of what was right and what was wrong, and there was really not an awful lot of middle ground.

GALM: Because it seems as though he really felt that the Academic Senate was controlled by left-wingers.

MCQUADE: Oh, I think so. Yes, I think he felt that in a large part the general university faculty was pretty left wing. And of course the controversy over the [loyalty] oath also enforced that opinion, in his view.

GALM: As far as you know, were there any strong relationships between law faculty and Academic Senate members that could really be considered as alliances?

MCQUADE: Well, as I indicated a few minutes ago, I think that Dean Coffman felt that the Academic Senate members were pretty leftist, and he discouraged any members of the faculty and students from participating in any activities with them; but some of the faculty members — for instance, Mr. Rice was very eager to participate in discussions with other disciplines and felt that was part of the advantage of being in a university: to be able to have friends in other parts of the campus. So I know he was very active in other groups and discussions. But, because the law school was not a member of the Academic Senate, its faculty, of course, was not eligible to be on any of the committees. So there was no formal activity, but some of the members of the law school formed friendships, I'm sure, and participated

in discussions with other members of the university faculty. But, as I say, Mr. Coffman felt that was a bad thing to do.

GALM: Or perhaps it was even being disloyal to the law school?

McQUADE: Sure. If it was bad it was probably disloyal.

GALM: In talking about some of the faculty who were denied tenure, or denied permanent positions here, there were some that came who were prominent at this time, and one of them was Harold Marsh.

McQUADE: Well, Harold Marsh certainly was, probably is, a middle-of-the-roader, I'd guess, although I don't know anything about his politics. But he's certainly not a communist, I'm fairly sure of that. But he was a man who felt that he wanted to have the opportunity to speak his own voice and not to be guided by someone else. He and Mr. Coffman simply did not get along. As I said, he's a difficult personality anyway, but a very fair man, and they just simply didn't get along. Mr. Coffman just wouldn't consider him for a tenured appointment, and the faculty was very strong in supporting Mr. Marsh. So I think that was another situation where they just wouldn't — the two sides simply couldn't get together.

GALM: And it seemed that a similar situation was Allan —

McQUADE: Allan McCoid. Yes, exactly. Very similar, although of course Allan McCoid wasn't the outstanding scholar that Harold Marsh was, or the great teacher, or anything of that sort; but he was very popular with the students. The faculty felt that Allan had a lot of potential and would be an outstanding teacher, an outstanding scholar. But Allan supported the students in instances where I guess Dale Coffman didn't think they should be supported, and so it was another situation where, because of reasons other than teaching and scholarship, he didn't want him on his faculty. The rest of the faculty felt that those were inappropriate reasons.

GALM: And according to the new relationship with the regents, the faculty were to have participated in appointments. He seemed to want to deny them any control.

McQUADE: That's right. And, of course, you can imagine by then, I'm sure, the bitterness that had arisen between the two sides, and in addition, lawyers are by nature interested in always looking at the other side and being

controversial to some degree. So all of those things just came together, and there just could never be any agreement between those groups of people.

GALM: I think earlier you touched upon another factor that bothered many members of the faculty, and that was the whole idea of [faculty] meetings, the fact that they were luncheon meetings rather than formal meetings. But one charge that was made was that the minutes of the meetings were sometimes altered.

McQUADE: Well, I can't really speak to that, because a faculty member took the minutes and wrote them up and, I presume, gave them to the dean. I'm trying to recall how that went. He may have altered them. At that time, I wasn't as aware of the proper way things should be done, and I suppose I didn't really stop to think about how terrible that was to alter the minutes. I think he probably would pass it off as putting it in more correct form or something of that sort. So I can't recall any instance of my own knowledge where the minutes were altered, but that does not seem an unusual kind of thing to me, as I think back on it. In '53 or '4, somewhere in there, they began to have the faculty meetings in the law school at a regular time other than luncheon. He was finally forced into that arrangement.

GALM: The other [action] that he seemed to be forced into at that time was appointing committees, or creating committees. The Curriculum Committee was established and an Appointments Committee was established.

McQUADE: Yes, that's right. I don't really know — again, not having sat with those committees or in the faculty meetings, I don't know how much credence was given to whatever those committees decided or determined; but, at any event, that was a departure from his normal way of operating, to appoint committees. He was not very enthusiastic about that system. It became prevalent in law schools; so far as I know, it became prevalent along about that time, or maybe just a little bit before.

GALM: Did you ever work with him on setting up class schedules?

McQUADE: Oh, yes. "Worked with him" is a strange way of putting it. He did the first year or two, and then after that, forever more, I did them.

GALM: I mean, in the sense of who was to teach what?

McQUADE: I'm sorry, I thought you were thinking of hourly schedules. Oh, sure, I would sit with him as we talked about how to try to work out

proper teaching loads, and so on, although I think he did a lot of that in conjunction with Harold Verrall. I certainly wasn't participating in any decision-making; mine was more of a determination that everybody had a full teaching load and that all the classes were covered, that kind of thing, as they would make the decisions.

GALM: Were you ever aware that there might be inequity in how things were assigned, or when they might be assigned?

McQUADE: Oh, I think so, sure, sure. There was clear favoritism. Yes, I think so.

GALM: Summer session seemed to be a real bone of contention with many of the faculty?

McQUADE: Summer session was indeed, because there was an extra stipend for teaching in summer session, and it was a fairly grand stipend, I guess, as things went in those days. The faculty stipends were determined, it seems to me, on a percentage basis, that the university had worked out a formula, and so it turned out to be they were getting a fairly good amount of money.

Well, Mr. Coffman would determine that his friends and those in whom he had found some warmth and enthusiasm would be those selected to teach summer session, and then we usually invited someone from the outside, one or two people from the outside, to come and teach. And, of course, theoretically that was one of the opportunities to look over potential appointees, although I don't know that that ever worked out. But many of the faculty never got an opportunity to teach summer session and, as you suggest, that had become a great bone of contention.

When finally the faculty were in control, they established a very elaborate system of the priorities in teaching summer school. Those who had been longest on the faculty and who had been passed over in the opportunity to teach got higher priority on the future selection for summer school than those who had either taught or had less [seniority], had been on the faculty a shorter time. It was a kind of a funny thing, if it hadn't been so serious, because it must have taken us five years to work out this sequence. It began to be a little ridiculous, but there were some, like Chadbourn and Rice, who had worked this out and who were determined that we were going to follow through on it. But that was a kind of a funny, funny way.

GALM: And there was objection to retaining, or to reemploying, Professor Perkins beyond retirement.

MCQUADE: Yes, yes, that's right. Dean Coffman always said that he thought Mr. Perkins was a wonderful teacher and a great scholar, and I guess that view was — well, it was felt maybe by the other members of the faculty — I don't think they had so much opposition to Rollin Perkins, but I think they felt that — they knew clearly that he was going to retire and efforts should have been made to replace him, rather than to have invited him to stay on, because clearly he was going to have to be replaced, and the sooner a Criminal Law teacher was brought on the faculty, the better off everyone would have been. But Mr. Coffman, I guess, wanted to keep him on to give him the opportunity to continue to earn and, I suppose, maybe to continue to teach and to support him. Mr. Perkins was not a man that talked much about himself. He was a very retiring sort of individual. After he left here he went up to teach at Hastings and taught there for many years.

GALM: Did the school honor his reemployment for the time beyond his retirement?

MCQUADE: I think he taught a year or so after. I'd have to again check the record, but I think he did stay on for a year after, and then went up to Hastings. He wasn't here too long after he retired, and he may have gone right away. I just simply don't remember the details now. But I know that he did ultimately go to Hastings, and then, I suppose, once he had that appointment Mr. Coffman was unwilling to fight that fight anymore.

GALM: It seemed [to be] in that category of his making decisions without consultation with the faculty.

MCQUADE: I'm sure that as time went on and the [opposing] positions became firmer, he probably less and less, just out of stubbornness — you know, it would seem like that would follow in human nature — that he would determine he wasn't going to contact the faculty, he was just going to go ahead and do what was right. If they didn't like it, they could do whatever they wanted to do, which they were doing.

GALM: Did you have any sense of how Chancellor Allen was dealing with this during that year, from, say, the time of the memorandum to the time of the announcement that Dean Coffman was going to take a leave?

McQUADE: I really had very little sense — I think I may have met Chancellor Allen once in that period, and it was in a most casual way; so I really don't think that I did have any sense of that. I suppose that he was terribly concerned in trying to straighten matters out. But the dissident faculty would go over there to meet with him in the chancellor's office, or at least in the administration building or wherever they went. They didn't meet in the law school. During the period when the Rice–Chadbourn–Allen triumvirate were running it, I think that Chancellor Allen came over to the school maybe, as I can recall, a couple of times for faculty meetings. At that time he would come. But, really, he never participated in any of the affairs of the law school, other than actually meeting with the faculty. But how he handled [matters] — I really don't know. I don't know him, and I couldn't estimate anything.

GALM: Is there any sense of whether Dean Coffman still had his support to the end?

McQUADE: I don't really know. I would just make the assumption that Chancellor Allen wanted to solve it in any way that could be done. I have the feeling that, as any administrator would want to do, he'd rather have Dean Coffman continue as dean and solve the problem in that way, rather than to have to oust him. That would just be an administrator's natural reaction. Whether or not he had any personal feeling about him, I just have no idea.

GALM: What was he like to — did he have good rapport with the law faculty after Dean Coffman's departure?

McQUADE: Well, I suppose that I don't really know what they thought of him personally. He was, I think, very agreeable to what they wanted to do. Within the university rules I think he was perfectly willing for them to take over the running of the school as if it were a dean running it. I just had the feeling that he was not a strong voice in their deliberations or determinations or anything, and simply acceded to whatever they recommended, if it was possible to do.

Then, of course, after that year, Dean Albert Harno came on as acting dean. He had just retired as dean of the University of Illinois [law school], where, as I understand it from other people who had known him at Illinois, he ran the school in somewhat the same fashion as Dean Coffman.

[laughter] I think he came — I'm convinced that he thought we were all crazy, absolutely crazy. Because this dissension in the faculty was something, I'm sure, he must have heard about from wherever. But he probably just couldn't believe it and just assumed it couldn't be true. I can't remember when Ted Jones became assistant dean, but anyway, when Harno was here he was assistant dean, because Verrall, I guess, had been assistant dean while we had the trio.

Dean Harno simply was overwhelmed by California and the way the law school ran. For example, the budgetary considerations. One of the members of the faculty who had been at the University of Illinois told me that, for instance, when Harno decided on his budget, he would write it down on a piece of paper and say, "We need this amount of money for salaries and this amount of money for support, and so on." Then he'd walk across the street to the president's office and say, "This is what I think we need," and the president would say, "That looks good to me." And that would be it.

I can remember trying to describe to him the procedure we had to go through to make our budgetary proposals — we used to make them two years in advance and he would just look at me and I could see his eyes cloud over. And he would think, I am sure, this woman is — it can't be true what she's saying. He just never was able to cope with us, absolutely. I'm sure it was a nightmare for him.

GALM: Was he clearly meant only as an interim dean?

MCQUADE: Oh yes, yes. Yes, that's right. I think the feeling was that it was inappropriate to continue the way we had been with the three operating as dean, with our trio. Well, just for instance, for recruiting purposes people would wonder, why don't you have a dean? And we'd have to go through all this problem. For just a whole variety of purposes, and I suppose the thought that they could get — I suppose also that there were very few people who would be willing to take that job. I'm sure that they probably did a lot of recruiting before they got Albert Harno.

GALM: How old was he? Was he just at retirement age or even —

MCQUADE: Oh, he was, I would say, in his late sixties; I just don't remember exactly. He had been retired from the University of Illinois because of age, and so he was whatever that age. Maybe he was sixty-seven, sixty-eight,

something like that. Of course he knew some of the members of the faculty. Naturally they all know each other. But I'm sure that that was an unbelievable year in his life, because he just couldn't really realize that we were — . The complexity of the university system alone would have been difficult for him to deal with, and then all the dissension and the lack of precedent: "Well, last year we did it this way because we didn't have anybody to tell us," and so on. He just couldn't — .

After Christmas he spent most of the time writing letters in answer to Christmas cards that he got; I think that was his refuge. He would invite his secretary to come in, and he wrote a long letter in response to every Christmas card he got, so that occupied him for most of the spring.

GALM: How did you survive this period?

McQUADE: Well, it was very enjoyable — [laughter]

GALM: Any thoughts of looking for jobs elsewhere?

McQUADE: Well, I did — yes, I must say at one time I did consider leaving the law school and going — there was an opening elsewhere in the university, in the School of Nursing as a matter of fact, and I was considered for that job. And I considered it, and I think I probably could have had the job if I wanted it. And I did talk to — I don't know whether it was Chadbourn or Rice or both — but anyway I did indicate that I was interested in leaving, and they encouraged me to stay on, they wanted me to continue. So I decided to continue anyway. It was certainly interesting. You know, for a while I felt that perhaps I was just sticking with a sinking ship, but as I say, I think they persuaded me that I should continue on.

And it was, I must say, a very interesting period because since there really was nobody running the school, I had plenty of opportunity to run it, and took advantage of some of it. I had good relations with all of the faculty, other than Dean Coffman when he was here, who, as I said, stopped talking to me. But the rest of the faculty I think felt that — at least I like to think they felt that I was trying to run the school, and that I wasn't terribly interested, if you will, in their concerns with recruitment and so on. It was really none of my business, and aside from that, I just wasn't paying any attention to it. And so they, I hope, respected my abilities to take care of the school matters.

GALM: One of the things that Dean Maxwell credits Harno with accomplishing during his brief year was the recruitment of Murray Schwartz and Addison Mueller.

McQUADE: Yes, that's right. Addison Mueller had been considered during the Coffman period. He had come out to visit, and they had not hit it off, and I think that was probably on politics, just in discussion, social discussion. Mueller would not have come under the Coffman regime, but the faculty had been very interested in having him; so as soon as Mr. Coffman was no longer dean, they got in touch with him, and he came.

And Murray Schwartz, yes, I think he had been solicitor general, or whatever it is, of Philadelphia before he came. That's not the right title, but he'd been in public service in Philadelphia. Then, I guess, he decided he wanted to go into teaching, and so he was recruited. And, yes, he was of course a great find. And that's true, I think Dean Harno did — that's of course one of the things he did do very well, I must say. You know, there are association meetings at Christmas, and that's the time when faculty who are looking for new members usually send a team to talk to those people who are interested in either making a move or teaching for the first time. So I think that whole relationship formed during those meetings. And I'm sure that Dean Harno, who was so experienced in those matters, probably did handle that very, very well.

GALM: One of the other things that was accomplished during this period, and which I'm sure was very important for the faculty and for their own morale, was the faculty bylaws.

McQUADE: Yes, well, of course that was an outgrowth of the whole relationship. Arvo Van Alstyne I remember was very active in that; he was a kind of a legislator type and he drew up those bylaws. The faculty reviewed them constantly, and they made them then very well known. I can remember some faculty member — I really don't even remember who it was now — making sure that I knew about those bylaws and had a copy of them and was aware that they were in force.

GALM: Now, these bylaws — do they continue up to the present and are they constantly reviewed?

McQUADE: Yes. Of course I can only speak for the time when I was here; but, yes, the faculty bylaws were reviewed and revised on occasion. And when a matter came up that could be guided by the bylaws, we always referred to them. When I was secretary of the faculty, I always had the bylaws with me when we went into faculty meetings, just in case a matter came up, and occasionally some matter would come up. Largely, it spoke about who could be present at the meeting and who could vote on different kinds of matters: tenure matters, approval for appointment to the faculty at different levels, and different people voted at different levels and so on, and dismissal — that whole kind of thing.

GALM: I think it also [addresses] just the whole sense of faculty meetings.

McQUADE: Oh, absolutely, no question, and who can call a faculty meeting, because that was another problem during the Coffman era. He refused to call faculty meetings when he thought that there was going to be a problem. And so the faculty bylaws clearly spell out how a faculty meeting can be called: how many people it takes, and what the procedure is, and so on. And the committees are also included in there, too.

GALM: I think one of the other committees that Dean Coffman had established was an Advisory Committee, which was rather surprising.

McQUADE: Well, I think that was forced upon him.

GALM: Van Alstyne was appointed chair, and then later when asked for a report, couldn't recall that the committee had even met or had been formed.

McQUADE: That's right; well, I think that's right. I think that, in forming the faculty bylaws, it was clear in the minds of those who were preparing the bylaws that there should be an Advisory Committee. And I suppose that at that point Dean Coffman acceded to things, that he felt it was easier to say yes and not carry them out than it was to argue once more. But that Advisory Committee is still in existence.

GALM: It seems to be a powerful force. Has that changed somewhat over the years as far as its structure and its membership?

McQUADE: Well, its membership, it's now elected by the faculty, and it used to be that it was only tenured members of the faculty who could be

appointed to it. Now, any faculty member can be appointed, and as I recall — well, I'd have to review them again, but I think as I recall all members of the faculty vote. I think they were originally elected by the tenured members. The three tenured members were elected by the other tenured members. But I think now everyone votes, and I think any member of the faculty is eligible to be appointed to the Advisory Committee. I think the only restriction is that they try to have somebody who is going to be in residence the entire year.

That's really the only restriction. They don't want a change in midyear. It's a very powerful committee because it's the committee that advises the dean on faculty salaries and other matters, but I think that dearest to the heart of the faculty are the faculty salaries. So I think that's where their power really lies.

GALM: Why don't we go on to what you perhaps know about the appointment of Maxwell, Richard Maxwell, as acting dean.

MCQUADE: Well, towards the end of Dean Harno's period, that was one of the few times when I ever did have a meeting with Chancellor Allen. He invited me to come over to his office, and we talked a bit about the present state of the law school. He wanted to know how it was running in my view, and so on, and said that he was thinking of appointing one of the faculty members to be acting dean for the next year, rather than to get someone from the outside, and asked me if I had any suggestions. And I did in fact suggest Richard Maxwell. I don't recall that I suggested anyone else, although I think he did ask me about a couple of other people: Did I think they would be suitable or good, or what was my opinion of their possibilities as acting deans? I remember that there was one — whose name I'm not going to mention — that I did not think would be a good person. And I said I thought that perhaps there would be someone else who would be better. So anyway that was our discussion.

Then somewhat after that, Dean Harno told me that Chancellor Allen had been in contact with him and that he was proposing to appoint Richard Maxwell as acting dean. I presume he must have contacted the rest of the faculty, who I presume supported it. And so the following July when Harno left, or whenever Harno left, Richard Maxwell took over.

GALM: What were your reasons for choosing Maxwell over other faculty members?

McQUADE: Well, I had had some contact with him when he was chairman of a faculty committee to establish the number system for students taking exams. Now that seems like a kind of small thing, but the faculty had been pressing for that, and Dean Coffman had not been enthusiastic about it. At least he had not put it into force. So as soon as the faculty were in power, they determined that they wanted to have the number system. And the students were enthusiastic about it too. But, as you can well imagine, it was a complicated thing — nothing is ever simple — about how it's going to work out and how we're going to handle it, because it was something that the staff had no experience with. It took a fair bit of staff doing because we had to give each student a number and make sure that the student knew what the number was and that they would put it on their exam books. Then when the faculty turned in their grades for the courses, they had to be translated into the student's name, of course, and the faculty member not to know what number related to a particular student.

Also, the faculty, when they had approved the number system, had said that they wanted to have a provision for students to get some extra points for good classroom participation. So that added a little extra fillip to the whole thing. They had to then separately submit a list of names of those people for whom they wanted to have additional points (I think [three points] was the maximum they could have added to the grades that they had received). We had to be sure the staff understood this, and that it was done correctly, because it was very important. I worked with Mr. Maxwell on that, and that's how I got to know him, I think. I found that working with him was a pleasure. He was so good at getting things done and understanding how to do it, and yet so pleasant to work with. That I think is probably what led me to suggest him.

GALM: What happened during the year that he was acting dean?

McQUADE: Well, I don't recall anything spectacular, other than he was trying to pull the whole thing together. Of course Dean Coffman was still gone. I can't recall who he had as assistant dean, whether Ted Jones stayed on that year or not as assistant dean. I think he did, although I'd have to check again; but I think he probably did. But, anyway, he was just engaged

in trying to pull the school together and reestablish its morale. It was a momentous task that he undertook, really. Of course, being acting dean, he really didn't — at the time when he took it [acting deanship], I'm sure he must have thought about the possibility of becoming dean, and he must have decided that if it were offered he'd take it, or otherwise I would assume he wouldn't have taken the job as acting dean.

GALM: Did it come as a surprise, though, that a permanent dean should come from the present faculty because of the past?

MCQUADE: Oh, I think that's true. Probably it was a difficult situation to get someone from the outside to come. Whether or not they did any recruiting before they made Dick Maxwell the permanent dean, I don't know, although I would think in the nature of academic institutions, they would have. But under our circumstances it was probably better to have somebody from the faculty as the permanent dean, rather than someone from the outside, because the school had undergone so many upheavals in that last five years that one more person having to learn again about the university and about its administration and about the problems of the law school probably would have been just one too many.

GALM: What were your priorities as far as activities?

MCQUADE: Well, I suppose that — When Dick Maxwell became dean, he turned to me for a considerable amount of help in running the school. He made it clear that there was a lot about the university administration that he didn't know and really wasn't terribly interested in learning if he didn't have to. If I could handle those aspects of the administration, that would be fine with him. I found that very attractive, and so we established a system where I handled as much as I could and I would report to him what I had done, often after the fact. Of course if I thought there was something that needed an opinion from him, I obviously would talk to him beforehand. But I didn't go to him with everything that needed to be done. I would draft all the materials that we needed to submit to the university administration, and then he would review those, and it enabled him not to have to start from scratch and figure out what had to be done, and so on. I would draft letters or memos, or whatever they were, and put in (if I didn't know the facts about something or other), "In this part we should have" —

whatever the situation was — so that he knew what part he had to fill in, and so on. That seemed to work very nicely.

And, as I say, I enjoyed working with him so much because he has the ability to make everybody do their very best. He gives you the impression he has full confidence in you, and that you will be able to do whatever he asks you to do, so that you often find yourself doing something you never thought you could. It's a marvelous ability he has.

GALM: Before we get into discussing the deanship of Richard Maxwell, I'd like to go back to a case that came up, at least it came before a faculty meeting in 1954, the Joseph [Alex] Cota case, as a student. Could you give me the background on that as you recall it?

McQUADE: Well, as I recall, he was in the first class, or perhaps the second class, but very early in the law school's history. As I understand it — this is not from having been present — in the Torts class which Dean Coffman taught, he and Alex Cota had several discussions, because Mr. Cota was liberal in his views and wanted to expound those views. So they, as I say, had several apparently public discussions and disagreements.

At the time when the exams took place, there was a rule in the law school that a student had to achieve a certain general average in order to stay in the school, then a lesser amount in order to be on probation, and if he didn't succeed in getting the probation average, he was dismissed. There was also an arrangement whereby a student could improve his situation in summer session. Unfortunately, the problem was that by the time summer session started, the grades for the June exams were not yet available. So the student could improve himself in summer session possibly, if he was on probation, and took some courses and was able to increase his average. However, if he was a borderline case, as I recall, and went to summer session and didn't do very well, he could find himself in trouble. So it was a very difficult situation for the students because it was kind of a Russian roulette arrangement, where they didn't know whether to go to summer school or not.

As I recall, the summer following his June exams, Mr. Cota had elected not to go to summer school, and after summer school had begun he found himself in the situation where his grades were not sufficiently good for him to continue. He petitioned to try to enter summer school late, in order to

bring himself in a position where he could possibly be able to continue on probation; but that petition was denied. He was very upset about it, and understandably, of course. However he determined that Mr. Coffman had made a personal attack on him and that he had deliberately reduced his grade so that he would not be able to continue. Because it was a question of an overall average, the sequence in which the grades came in would have to be known to determine if Dean Coffman had the opportunity to use his Torts grade to affect the overall average. Anyway that was the basis for the problem.

After his petition was denied, Mr. Cota made endless appeals to everyone, including the regents and tried to go as far as the California Supreme Court, alleging that he had been unfairly treated. He picketed outside the law school personally, he distributed handbills all over the campus, he just made every effort he could think of in order to attack Mr. Coffman and the school, and has continued that. Each time a new dean came in, he repeated his efforts, and he repeated them as recently as when William Warren became dean in 1975.

GALM: I notice in my readings that as student activism began in the seventies, or took place in the seventies, that there was, it seemed, student support for his case, which may not have been as vocal as in the past.

MCQUADE: Well, I think he presented himself as an attacked underdog, and students are always going to respond; I think not only students, but people generally will respond to that posture. Each time the faculty was impressed by what he said and felt that there was a basis for review and did review the case two or three times that I recall. But each time they found that he had not been unfairly treated, that he had been treated in the same way as every other student then in the school. Now the fact that the rules changed subsequently didn't mean that he had been treated unfairly. The faculty reviewed the rules and made changes from time to time, but that didn't affect the situation at the time Mr. Cota was a student.

GALM: That does seem to be something that really did occur over the years, and that was a going from very strict regulations as far as readmission to fairly lenient, or at least perhaps taking into consideration the human situation.

MCQUADE: I think that's true. I think that in the early days the school probably reflected the world, which didn't have very many human concerns

about people. The system was more important than the people. I think one of the good things that's happened is that we are concerned about people now, and individuals. And I think the school's rules generally reflect that.

Another reason I think for the rules to be somewhat less stringent was that as time went on and the opportunity to be admitted to the school became more difficult because we had more and more applicants, it really ended up that probably every student who was admitted to the school had the ability to get through successfully, so that there was no longer the view as in the old days, where students had to prove themselves after they got into school. Now, the feeling is that every student can get through, and many of those who aren't admitted could also, in fact practically all who apply, because it's now almost a self-selecting process. People who don't have the grades rarely apply to the school because it's known that they aren't going to be admitted.

GALM: Was that also true during the early period of the minority admissions, as far as trying to be readmitted after low grades?

McQUADE: I suppose there was more concern at that time, because for one thing, the faculty had had little experience with students who had come in who were not as well prepared as the general run of students had been previously. They were eager to help the students. As you probably know, there were a variety of programs that were instituted by various members of the faculty, and by the faculty generally, to try to help the minority students. I think probably in the beginning it may have been that some of the students who were admitted simply didn't have the discipline that required them to concentrate and work as hard as was necessary to be successful. And of course many of them had absolutely horrendous personal problems, and one wonders how they cope with them under any circumstances, much less trying to be in a highly competitive law school.

GALM: Why don't we go back to the period when Dean Maxwell became officially the dean after that period of — what? — a year as acting dean.

McQUADE: A year as acting dean. I was remembering, after we talked the last time, about Dean Maxwell telling me that he really didn't expect that he was going to have to do a tremendous amount of institutional paperwork. When he first became acting dean, he said that he didn't think he would move down to the dean's office because he didn't see any reason why

he'd have to. If there were some delegation or some large number of people, he could come and see them there, but otherwise he was sure he could do what little deaning business he had to do from his own office. That quickly became one of his standard remarks about how little he knew about the deanship, because he learned rapidly that there was a tremendous amount of paperwork and other kinds of work to do as dean.

GALM: What was the administrative organization at the beginning of his deanship?

McQUADE: Murray Schwartz was assistant [dean] for the 1960–61 academic year. In 1961 he became a full-time teacher and was succeeded by James Malone as assistant dean for all general student affairs. He was concerned about admissions, and by then we had begun to have enough graduates that we were beginning to have a placement program, in the sense that many law firms would call and ask about our graduates as potential associates in their firms. Up until that time, either Dean Coffman had handled such requests, or he often passed them off to me, and I would try to tell the students about a job that I thought they'd be interested in, and tell the employer about students that I thought they might be interested in talking to. It was done very unscientifically, I must say, and I probably didn't do it properly at all. But in any event, there are several people out in the legal world today that thank me every time they see me for the job they got. But, anyway, we began to have enough inquiries that we had to set up a special placement and alumni affairs office. Jim Malone handled all that sort of thing.

Dean Coffman [correction: Maxwell] then made me assistant to the dean, and I handled all of the nonacademic running of the law school and I also accompanied him to meetings and any other activities that he participated in where it was possible for me to be there, so that I could implement whatever decisions he made with the least amount of his having to tell me about them. It was, he thought, the most efficient way to operate, and I thought it was great.

GALM: Now you said Dean Coffman, but you meant Dean Maxwell.

McQUADE: I meant Maxwell, yes, of course; I'm sorry, yes.

GALM: Then later on, at what point was an associate deanship established?

McQUADE: I was just trying to remember exactly in the time sequence, but the need for an associate dean became evident when the number of faculty grew [and] the number of courses began to grow. The complexity of the appointments and promotion and review system in the university is such that about, I would say, half the time of a person would be spent reviewing faculty, preparing the documents for appointment, for merit increases, for promotion to tenure — all of those kinds of things — and an overview of how the courses related to each other and what new courses ought to be instituted and how to set the program for the students, who by now had a choice of courses except in their first year. So there was a whole variety of needs in the educational program side of the law school that he [Dean Maxwell] perceived and that he felt could be best handled by an associate dean, and in very general terms, that's what the associate dean's primary responsibilities are.

Of course, Dean Maxwell was concerned about building alumni relations, beginning to worry about the expansion of the building, and reestablishing the law school's credibility and reputation among law schools, the university, the legal community, and the world generally. So he had more than enough things to do.

GALM: Was the associate dean a part-time position, or was that —

McQUADE: The associate dean was always a teaching member of the faculty and has been, I think, always a tenured member of the faculty because the associate dean was considered to be really in charge of educational policy. In that light it was considered part-time in that there was a teaching component, but it's hard to say how part-time and how full-time, because it depends somewhat on the person in the job. Subsequently, the teaching load of the associate dean was reduced so that I think they had just a half load, and I think that still exists; they probably just teach one course a semester, or a quarter, or whatever.

GALM: Because it seems that when Murray Schwartz came on [as associate dean] in 1967, or thereabouts, that was when Jim Malone resigned, or did he leave?

McQUADE: He left to go to another position as I recall. Anyway, he left of his own volition.

GALM: Because then it seems that they established two assistant deanships.

McQUADE: That's right, that's right. Well, see, the school kept growing. When Murray came in as associate dean, I think he was and still is very interested in educational programs, so that dovetailed very nicely with his own interests. I think he viewed it as [though] he would be able to continue his teaching and research and also follow his interests in that area. When Jim Malone left, I think the faculty and the administration reviewed his responsibilities and felt, particularly with the advent of the minority program, that they really needed someone in a full-time position to review the files and to really talk with the minority students, to recruit them, because to many of them this was an alien atmosphere, and we really needed somebody who was going to be able to relate to them.

GALM: And who was appointed to fill that role?

McQUADE: I was afraid you were going to ask me that.

GALM: Was that [Anthony] McDermott?

McQUADE: I can't remember whether he was the first one or not. At one time, he was, yes. We had such a sequence of assistant deans, I can't remember the — I'd have to look up to see who did that first.

GALM: Why was there such a turnover in the assistant deanships?

McQUADE: Well, that's a very difficult job to fill. Ideally, in order to deal with law students and their problems, you would say you need a lawyer, someone who has been through law school and who understands the particular and peculiar difficulties of going to law school, and has been successful, so that students feel they're talking to somebody who has been through the experience and has succeeded in it. But when you find somebody who has done that, they don't want to be assistant dean because it's a position that goes nowhere. The people who come into that position are not candidates for faculty appointment because they don't have the particular academic background. They usually don't have sufficiently good grades, and they weren't an outstanding star. If they were, then they wouldn't want that job. And yet we got a number of people who would come in and do it, but they viewed it as a kind of a stepping stone to some other job that they were looking for, or as an interim activity or something they'd like to do for a little while and try it.

But people quickly got tired of it, because unfortunately what happens in all jobs when you're dealing with students is that the problems tend to recur. It's difficult to sometimes work up the same degree of enthusiasm about solving a student's problem which is very important to him, and everybody recognizes that, but you've heard that same story many other times. When you become aware of the fact that you have heard that story many other times, it's time to leave the job.

GALM: Let's then go to some of the early tasks that Dean Maxwell had to face, and certainly it seems one of the major ones was appointments.

McQUADE: Yes. Yes, he really had to work very hard to get some faculty appointments that would be a credit to the school. Each year, as I mentioned earlier, there is this meeting of the Association of American Law Schools, which is a large recruiting activity as well as a meeting to consider various other matters. He would bring a fairly large delegation of law school faculty with him when he went to these meetings, and they really spent a considerable amount of time planning on whom they were going to look for when they got there. At that time one of the great ways of recruiting was to write to deans of other law schools and ask for their outstanding graduates who might be interested in teaching positions. If there were such graduates that the deans wrote us about, why, then the law school, if they thought they would be interested, would contact that person and try to make an appointment at the association meetings. Because if a person were interested in going into law teaching, the custom at that time was to go to the meeting and try to see as many representatives of the schools in which they'd be interested as possible, which made it easy for both sides and saved a lot of travel money. So, anyway, the law school faculty really worked very, very hard.

Of course, we also had a number of visitors, because in an effort to staff the courses, a lot of visitors were brought in whose appointments could be gotten through the university a lot easier than either permanent appointments or people who would be candidates for tenure. Because these were people who were established at other law schools and who weren't coming on a permanent basis, the university wasn't as concerned about the amount of scholarship or academic background with respect to teaching and so on. If the law school was satisfied with the person, then the university in general would be willing to appoint them.

The only hassle we ever had was the salary. That was always a constant problem, because wherever these people came from, it was always more expensive to live in California, and they felt that they should be rewarded for dislocating themselves and for the additional expenses they incurred. The amount they should be rewarded by was always the question.

So, anyway, that was a hassle, but it was an easier hassle to work through than trying to appoint new people, which was always a problem, because the law school standards were not the same as the standards in, let's just say, the College of Letters and Science. Because there, as I understand it, people who are either about to get Ph.D.'s or just recently awarded Ph.D.'s come in as assistant professors, and then in due course they work through the various levels and up through associate professor when they get tenure and then on to professor. But in the law school, that was not viewed as an acceptable way, because in law schools, generally, people move much more rapidly to tenure than they do in the other disciplines. In most law schools, people who have been successful in doing some worthwhile academic research and writing about it, and who have been reasonably successful teachers, generally move to tenure within four or five years. That whole principle was not well received by the Academic Senate committees and the university. It was a kind of a revolutionary idea, so that Dean Maxwell had to try to get that whole problem understood.

Eventually we got a separate salary scale and a whole separate scale of academic titles, shall we say. Although that, I think, was primarily accomplished either at the end of Dean Maxwell's deanship or early in Dean Schwartz's, I just don't remember the time, but it was a continuing problem. We were always working on it, always working on a salary scale for the law school and some way to get around this problem of tenure. Eventually what they did was to have an [acting] appointment. The initial appointment for a person who is a candidate for a permanent appointment to the faculty is acting professor. Then they are reviewed sometime within the first three years of their appointment and then subsequently reviewed for tenure in the next year or so, if they're making satisfactory progress. So that generally within four or five years they are either appointed at a tenured position, which is professor (the law school only has acting professor and professor), or they decide this is not for them and move elsewhere, on to something else.

GALM: Well, by the time that you left the law school, was salary a real problem in recruitment — of say, again, the discrepancy between law school faculty and a lawyer's salary?

McQUADE: Well, I think that most people who decided to follow the academic life, most lawyers, had realized that they were not going to make the money that they would in the practice. Many of them have been in the practice for a year or two before deciding to go into teaching, and so they were aware of the potential that they had for earning huge salaries. But they determined that it wasn't worth it, because there is a tremendous discrepancy between salaries in law teaching and in what those same smart people could earn on the outside. They've finally gotten to a point that the law school salaries are certainly very adequate. These days you simply can't attract good people, and certainly not in the professions where they have the opportunity to practice their profession in a lucrative situation as contrasted with the academic, unless you are somewhat competitive in salaries.

GALM: One of the things that of course happened early on and did affect how appointments were made was that the law school was brought back into the Academic Senate. That was in 1962. Do you recall the sequence of events that brought that about?

McQUADE: Well, I think there'd been a lot of pressure on Dean Maxwell to bring the school back into the Academic Senate. I think the feeling was that perhaps the law school had gained something by its autonomy, but really it was beginning to lose what little it had gained. Because even though the law school wasn't part of the Academic Senate, it was being required to adhere to the rules that were established by the Academic Senate, particularly again in the matter of appointments and various other [matters], primarily appointments. That was where the rules were being laid down, that even though they weren't members of the Senate they had to meet the same level of academic criteria for appointment.

GALM: The push, though, seems to have come from the president's office, from Clark Kerr.

McQUADE: Yes, I think he — of course, at that time I didn't really know too much about — I'm sure Dean Maxwell may have spoken about that in

his oral history. But, yes, he was really being pressured to get back into the Academic Senate, and he just finally acceded.

GALM: Because it seemed like he wanted to put it off as long as he could. Possibly because of this period of intensive appointments.

MCQUADE: I think that's true. You know, there were just so many things to do, and the faculty I think were very ambivalent about whether to go back into the Academic Senate or not. Some of them of course had had no experience with it. They had absolutely no idea. Others wanted to be in the Academic Senate because they wanted to participate in the university administration, which they were prohibited from doing when we weren't members. So there was, I'm sure, no clear-cut feeling on the part of the faculty. And I'm certain that the pressure from the president's office finally influenced Dean Maxwell, who, I'm sure, in turn influenced the faculty to accede to what was a lot of pressure.

Of course the law school was in a very difficult position vis-a-vis the university generally at that point, because I think the administration was wishing we'd go away and all of the problems that had been created over the previous few years and had caused them so many difficulties. Then Chancellor Allen left, and I guess it was when Franklin Murphy came in. He was new to the administration and wanted to, I suppose, get the law school to conform to the university policies, to the extent that it could, and stop making waves. I mean, that would be a normal reaction. I shouldn't really speak for him, because I hardly knew him, but in any event I feel confident that would be his attitude.

GALM: What was Franklin Murphy's relationship to the law school?

MCQUADE: I think he respected Dean Maxwell very much; I mean, I think they formed — I would hardly call it a friendship, but I think that Franklin Murphy was very impressed with Richard Maxwell, and I think if Richard Maxwell made a request or spoke, I think that Dr. Murphy would listen to it very carefully and consider it. Other than that, he came to the law school once or twice to visit, as I suppose he visited all the schools and colleges on the campus and met with the faculty; but he certainly was not an active participant in any of our affairs.

GALM: Let's then return to appointments that were made during Dean Maxwell's tenure. Do you feel that Dean Maxwell attempted to create balance on the faculty?

McQUADE: Oh, I think there's no question about it, I think he did. Of course, in trying to establish the credibility of the law school again, when it had the reputation under Dean Coffman of limiting the kinds of people that would be considered for the faculty, I think he wanted to try to expand it so that everybody who met the criteria for academic background in research and who had the proper credentials with respect to law school and undergraduate work would have the opportunity to be considered equally. I think he was very eager for that.

GALM: I think a curious incident happened when UCLA was going to cosponsor something with the American Civil Liberties Union. There was faculty opposition on both sides. Some of the faculty felt by cooperating with them it would extend the image of the "Little Red Schoolhouse." The other side felt that we were too identified as a right-wing school, and this might be a way of showing that we were going in a new direction. Or at least that we were open to —

McQUADE: That's right — open to other views. Yes, because there were some members of the faculty who were active in the American Civil Liberties Union, who served as counsel and so on. Yes, it was a very divergent group that we had at that time. I know that the National Lawyers Guild established a — I don't know what they call it — a chapter or whatever.

GALM: Chapter.

McQUADE: Yes, and they were very active and they recruited a lot of students. At that time, of course, it was the beginning of all the tremendous formation of student organizations. We had an organization for everything, and we still do, for that matter. I mean, any little group who has a special way to identify themselves can form an organization. It was just a ferment everywhere. The students were active in bringing themselves together for various causes, and the faculty themselves were active; so it was a very exciting time. I probably didn't realize how unique it was at the time, but in any event, as I look back on it, it certainly was an exciting place to be.

GALM: I think something we may speak about [now] is the expansion of the law school, the building of the new wing.

MCQUADE: Yes, you know, it rapidly became obvious that the law school was outgrowing its building, because we really only had three large classrooms. Originally it was built with three classrooms — a large one for the first-year class, a smaller one for the second-year class, and an even smaller one for the third-year class. Because when Dean Coffman, as he said, designed the building, that was the procedure: People were expected to flunk out — a considerable number at the end of the first year, a lesser number at the end of the second year, and so on. Then there was one other classroom, which seated a smaller number, which was to be used for elective courses. But we simply couldn't operate.

When the law school educational program changed to the point where only the first year was required and the second- and third-year courses were optional, immediately the proliferation of courses outgrew the classrooms. We tried to get classrooms elsewhere in the university, which is very difficult to do for a couple of reasons: one reason being that our students had become accustomed to using classrooms with continuous writing space, because the books that they had made use of armchairs almost impossible. A student needed to have a big casebook and a notebook and sometimes another book of rules or some other reference book before him during class, and that was impossible to do with an armchair. So we tried various things. When we were forced to use classrooms with armchairs, we tried to seat the students every other seat so that they would have two arms to use. But it was difficult.

Then another problem was our scheduling. Instead of scheduling a three-hour class as generally is done in the university — say, Monday, Wednesday, and Friday — we scheduled ours three days in a row: Monday, Tuesday, Wednesday; or Wednesday, Thursday, Friday. And to some extent we had had Saturday classes, although those were eliminated reasonably early in the sixties because the Jewish students called upon us and felt that they couldn't attend classes on Saturdays, and that we were discriminating against them. So we began then the policy that any class that we offered on Saturday was also offered during the week. We have, over the years, offered a class in Trial Tactics, for example, taught by a practitioner who really

only could comfortably come on Saturday, and so students could opt for that, or there were other sections of it at other times. But I digress.

So we were desperate for classroom space and office space. We had faculty members officed all over the campus. Money became available for us to expand the law school, and a committee was appointed, faculty committee, to determine the needs to work with the architects for the planning of the new building. Arvo Van Alstyne was the chair of that committee, and he spent a lot of time working with the library, with various members of the faculty. He talked with me about the needs for administrative space.

GALM: Certainly a great change and a great effort in the law school was minority admissions, and I think it really began around 1966. What do you recall of the history?

McQUADE: Well, I think that when we moved into the new wing, new building, we realized that we then had some additional capacity for students and the number of students admitted could be increased. But, that wasn't the only reason for consideration of the minority needs. I think the whole country had begun to realize that minority students had been disadvantaged and the time had come to do something for them. Professors Leon Letwin and Richard Wasserstrom of this faculty were the two who really spearheaded the law school's recognition of the problem.

Also, about that time there had become some funds available. There was what was called the CLEO program; I think that was California Legal Education Opportunity Program. Then subsequently there was the LEOP program, and that was Legal Education Opportunity Program. Now, CLEO was a program that, as I recall, had federal funds. What it did was it provided funding for a summer program for disadvantaged students, and I think it was primarily for Blacks. I don't think at that time that the Hispanics had made themselves known as a minority, so it was primarily geared to the Black students. It was a summer program for them to participate in, with the intention and the hope that they would then ultimately qualify for admission to a law school. And the program was offered — in California it was moved around from one school to another. We hosted it two or three times; I don't recall exactly how many times. Subsequently, we would have faculty members participating in it, and then after the program got underway, each year some of the graduates of the previous CLEO

programs would participate as assistants and so on. But that's going ahead a little bit.

I remember that Mr. Letwin prepared a lengthy memo for the faculty, which was discussed at length several times in the faculty committees and in the faculty meetings in general, about the needs of minority students and the fact that an admissions program for them could be — should be — created. I think the faculty in general were enthusiastic about supporting this idea. There were some members who felt that any distinction based upon race between potential admittees was wrong. And they made themselves known, but their views did not ultimately prevail.

A program then was created, a special admission program, and that was a program that was constantly under discussion every year, because we, as other law schools, were really in the dark how to go about this. The faculty originally admitted — I think it was, my general recollection was — about ten students, who were graduates of that CLEO program, and then it increased every year. They tried to help the students, and originally they had special tutorial sessions for them. They tried to get some of our third-year law review students, and so on, those who were known to be outstanding students, to assist. I think we tried every conceivable method that you can think of to try to assist the students. After a while, after the program had been under way for several years, some of the minority students began to resent getting special treatment and felt that it put them in a position that was somewhat degrading; so some of those special arrangements were canceled as a result.

GALM: It seems there was also some resentment upon the majority students?

MCQUADE: Well, yes, that was another whole problem. Of course that was the ultimate *Bakke* situation. The majority students, yes, many of them resented the fact that — they felt that they were being disadvantaged because the Black students or the minority students were getting special attention. So it was a source of a great deal of tension in every respect.

The faculty had to face the problem of how to select the students, whether there should be any kind of special grading assistance, and so on. They really looked at all of the courses and the methods of examination, and so on, at the time when the minority students were first admitted. I shouldn't say that — limit it to them — [because] they're always looking

at that whole program, I think; but at that time it caused them really to rethink a lot of things that they had been doing traditionally.

After a while, just to take the minority program as a whole, when it was evident that it was successful in large part, the students themselves were engaged in making the selections. All of this was of course at their own request. They were given the opportunity to do some preliminary screening of candidates who would be admitted to the program. Because it was their contention that the student who was admitted to the law school should be one where there was a good chance that he or she would return to the community, and let the minority community benefit by the additional education that that person had obtained, and they felt that they were in a better position to make that judgment than white nonminority faculty members.

We also, at about that time, began to appoint a second assistant dean whose whole responsibility was that minority program, because there was the problem of the admission of the student, the selection of those to be admitted. Then, even after that hurdle was overcome and the student got into the school, they nearly always needed financial aid. I mean practically, because if they didn't need financial aid they were suspect by their own peers as not being likely to return to the community, so nearly all needed financial aid.

And they had just tremendous personal problems. Many of them came from very difficult home situations, and they needed a lot of counseling because they didn't come from a tradition that encouraged people to go to advanced schooling. They had a lot of peer pressure within their own groups, as I understand it, from people who rather looked down upon them for attending school, who were from their old neighborhoods or whatever. So there were just a whole multitude of problems. It turned out that that was really a very important factor in their education, aside from the actual classroom attendance. So we did in fact appoint an assistant dean for that purpose.

GALM: Do you recall who that was?

MCQUADE: I think that Anthony McDermott was the first one who was appointed for that purpose. I can't remember how long he stayed on, and then we had Roger Cossack.

GALM: I also came across the name Martin Kahn.

McQUADE: Martin Kahn, he was — the thing is that I can't remember now. Martin Kahn, that's right. He, I think, succeeded Tony McDermott as the assistant dean for special programs. Then ultimately Michael Rappaport came in, and he is still in that capacity. Although now there is no longer the need for the separation of the two kinds of students, and he's just the assistant dean for admissions generally. He now has the whole program. Because since the *Bakke* decision, race is simply taken into consideration as one factor among many in consideration for the admission of, I think, it's forty percent of the students. Sixty percent of the students are admitted in the regular traditional way of law school admission test grades and scores in college. The others are given special consideration, and among the things, as I say, is race and what else they have done in their lives that would set them apart as making them specially good candidates for admission to the law school.

GALM: What are some of those factors?

McQUADE: Well, some people have done remarkable things. I mean, they've run their own business, or they've lived in exotic places, performing sometimes dangerous jobs. They have, of course, perhaps advanced education. What can I think of? Oh, some of them have been in the Peace Corps, and they've done very remarkable things in the Peace Corps. I really can't begin to tell you, but it's just amazing what — some of them are active in other disciplines. We have M.D.'s and dentists and nurses and so on.

GALM: Are a few slots allotted for elderly people, too?

McQUADE: Well, yes, they do have, they nearly always have some who have completed their careers in one way or another, and we've had — I remember we had a woman who was admitted, I think she was well in her sixties. So we had just a whole variety of people, and the feeling was that that helped everyone else, because they brought a variety of experiences to the classroom which educated their fellow students, and their faculty members sometimes too, because law schools try to get a mix. It's a lot more advantageous if you can discuss a legal problem from a whole variety of points of view and backgrounds and experiences rather than everybody being the same and sitting around nodding in agreement. You don't get that variety of opinion and the intellectual stimulation and the review of

a social need or whatever, because that's very important to understand in considering a legal problem.

GALM: How did the special admissions program affect the bar scores?

McQUADE: Well, I think many of our special admittees did not do very well on the bar initially, and even to this day that's still a problem. I think in general, with some exceptions of course, most of them didn't finish in the — most of the special admittees, if they finished, finished in the lower part of the class. And traditionally the people in the lowest part of the class have the hardest time passing the bar, and so I think that they didn't do — and there's still a problem there.

GALM: Does that have an effect on the reputation of the school itself?

McQUADE: Well, of course it does, really, no matter how much one tries to ignore that fact. It certainly doesn't enhance the reputation, and that's something that we've been very much aware of over the years. When we've had a particularly poor time on a bar examination, the faculty usually has taken steps to try to look into why we were not successful on a particular bar and try to determine which were the students that failed and look over their academic records, and so on, to try to not permit that to happen again. So it's a big factor in the law school's looking at itself.

Even though in some ways the faculty has felt over the years that the California bar examination is not the best way to determine the admission of lawyers. You know, in many states if a person graduates from an accredited law school and otherwise meets whatever kinds of standards the state sets, they are admitted on motion. But in California, because California allows these unaccredited law schools and also has a provision where a person can study law on their own under the supervision of a member of the bar, the state has this very difficult and lengthy bar examination, and so it's difficult for anybody, no matter what school they graduated from, to go through this three-day program of bar examination. Even the best people sometimes can fail, because they don't have the physical stamina, or they get nervous, or just a whole variety of reasons. It isn't because they don't know the material; some people just have a terrible time with that exam.

Over the years, I remember particularly, Dean Maxwell tried to get the Legislature to consider changing the bar examination so that graduates from the accredited schools could be admitted on motion or in some easier

way. But, as they call it, the "Abe Lincoln syndrome" prevailed, and they've never been able to change it. They've changed the bar examination to some extent now and [have] divided it into two parts, and so a person can pass one part and retake only the part they didn't pass. I mean, they have modified it to that extent. Also I think they have now what they call generally a clinical component. But in any event, it's still open to people who have graduated from unaccredited law schools and whose legal education is, perhaps, not the best. It certainly has to be determined that they have the ability to practice law, and that's not evident from their legal education, I guess would be a better way to put it.

GALM: As I think you mentioned, one of the factors in admissions that seemed to have created problems from the very beginning was the personal interview.

MCQUADE: Yes, that has been a problem. I think very early on when we started the minority program, my general recollection is that because of the CLEO program, and so on, everybody who was being admitted was pretty well interviewed one way or the other. But as time went on, and when the program became known, of course we had a tremendous number of applicants, and it became very difficult for the faculty members who were passing ultimately on the applications to be sure that there was no bias on the part of the students who were interviewing the candidates for admission, because faculty members weren't present at those interviews. And as always happens in situations like this, various factions of the students became predominant in the students who were doing the interviewing, and [there was] concern that it wasn't being conducted on an impartial basis. And so that created a problem over a period of time. Of course as the Hispanics became an evident minority and began to require that they get some consideration under this program, then we had a similar kind of situation among the Hispanic students, and so we had the Blacks and Hispanics.

Then ultimately the Asians were asking for some consideration for special admission also — not so much because they [had] the same problems. Their problems were rather — they came from an intellectual background. They had financial problems. Another problem that they had was that lawyers in their culture were quite alien, because their culture was one of

respect for the older person and traditional values. They never would argue and raise another point of view, and so this was a kind of a whole new idea for the Asian culture. So, anyway, they were awarded a small number of places, because eventually what happened was that each year the faculty would meet to try to determine the numbers of students that would be admitted in the minority program for the following year, and as time went on, that had to be broken up into so many Blacks, so many Hispanics, so many Asians. Then there was always a little allotment for "others." And "others" I think turned out to be — I think we had some Indians for a while, and then we had some people from Appalachia — just a variety of other kinds of people. But primarily the minority program was, as I say, geared of course to the Blacks and the Hispanics.

GALM: You mentioned Appalachia. Did they ever consider the poor urban white as a special —

McQUADE: Of course, they were always eligible to apply for admission, and were included among the "others" for any special consideration. There were not a lot of scholarship funds available, but they were eligible to apply. And the scholarship situation was one that they could apply for, and if they could get the money, then that was fine. But the feeling was that in general they didn't need any particular admission program because it was just a matter of money; and the law school wasn't handing out the money: it was the university administration that was handling all that.

GALM: So, in other words, the cultural or sociological disadvantage didn't seem to be that great or great enough to —

McQUADE: That's right, that's right. Because we had many poor students, really. I mean every student seemed to be living on the edge of poverty anyway. You know, generally speaking, a state university has a lot of students who have terrible financial problems. Aside from minority people, the others had great, great financial difficulties as well.

GALM: I wonder if you could summarize what you feel were his [Dean Maxwell's] accomplishments as dean?

McQUADE: Well, I suppose he really restored the school to an accepted status, to say it in the . . . simplest terms. Prior to the time when he came in as acting dean, and subsequently his appointment as dean, the morale

of the law school faculty and the students and the staff, to a large extent, was really almost totally destroyed. And he, by virtue of his leadership, restored people to being proud of the law school. He recruited faculty, and I can imagine that must have been a tremendously difficult job to convince people to come to Los Angeles to a school that had had such a short, but rocky, history. He expanded the educational policies and offerings of the school to bring it up to date with the advances in legal education during the period since the close of World War II, which, as I understand, was really a time when legal education made tremendous changes, both in the method that was used and in the breadth and scope of its coverage. He enlarged the building by adding the north wing. He was just a wonderful person, and everyone who was fortunate enough to be around him, I think appreciated that opportunity. I think I may have said previously he had the marvelous ability of inspiring people to go beyond what they thought they were capable of by his own complete confidence in them and his willingness to help and listen in a most unobtrusive and kind way.

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SECTION 3

UCLA LAW PERSONAL REMINISCENCES

THE UCLA LAW SCHOOL —

Reminiscences from Its Second Decade

NORMAN ABRAMS*

I.

The UCLA Law School was founded in 1949. I, along with several others, joined the faculty in the summer of 1959, just as the school's second decade began. It was still a very small school with a faculty of twelve (prior to our arrival), but it was already on its way to becoming the newest major law school in the country. In the almost six decades since, the school has undergone remarkable changes — in number of faculty, the physical plant, the curriculum, the size and makeup of the student body, the number and kinds of programs, projects and centers, and above all else, in its stature as one of the top-ranked law schools in the country. But some things have not changed.

I arrived in August, along with three other new faculty (Bill Warren, Bob Jordan, and Bill Cohen). We referred to ourselves as the "class" of '59. Herb Morris also effectively joined the law school that year. (He had been a junior member of the Philosophy Department faculty doing some teaching

* Distinguished Professor of Law Emeritus, UCLA. For further information, see the Editor-in-Chief's introduction on page 1 of this volume: 11 Cal. Legal Hist. 1 (2016).

in the law school, but around that time he began to make the law school his primary academic home.) The core faculty then was a mixture of some distinguished middle and senior faculty enticed from other institutions and a couple of very junior academics at the beginning of their teaching careers.

In its first decade, the school had suffered from some internal problems — culminating in a successful rebellion by the faculty against the then dean; this period of turmoil caused some faculty to leave and, overall, made the law school a somewhat less attractive place for new faculty than it might otherwise have been. By the time the class of '59 arrived, however, the internal problems had all been resolved, and a new interim dean, Dick Maxwell, had been appointed, soon to be confirmed as dean. Our "class" was the first set of appointments entirely post-turmoil, and probably the largest number of new hires in a single year to that point. The future of the school was very bright; its trajectory upward and without limit. And that has been the situation ever since.

I mention those early internal problems, but forgo developing the details. While the fact of that early turmoil helps to explain certain characteristics of the law school, the specific details are not important. (It is also the case that I have no firsthand knowledge of the matter; I only knew of it through the lunchtime stories of my early colleagues.) This history, I believe, contributed to shaping the legal/political structures governing the internal operations of the school, and also to its culture — large impacts on the character of the school that have continued ever since.

What were these impacts? First, most law schools during that era functioned under a strong dean system. Faculty democracy tended to be very limited. The effect of that early history, by the time the class of '59 arrived, was to reverse the then-common relationship between dean and faculty. Ours was a faculty for which faculty democracy was an important value; accordingly, the faculty democratically resolved most issues of academic policy and, often, many of the implementing details. Of course, it is cumbersome to have the faculty trying to exercise a large amount of essentially executive authority, and over the years, the faculty has learned to delegate some of this authority, but it is fair to say that faculty democracy is still one of the strengths of the school.

Even more importantly, out of that period of turmoil, civility grew as a faculty value; a very strong sense of a shared community and getting along

with one's colleagues also became and have remained hallmarks of the school. This is not the case at many law schools or in academic departments generally. There is an impersonal, everybody-going-their-own way quality at many schools, and some actually descend into periods of backbiting, jealousies, and extreme conflict. With one or two minor lapses, our faculty has managed to avoid such internal conflicts, and we have, I believe, a well-deserved strong reputation for being a positive community of scholars and a very special place to hang one's academic hat. We read and comment on each other's scholarly papers. We collaborate in joint work. We respect each other — all of this despite the fact that we have grown to be a diverse faculty, with many differences among ourselves, and with, for example, political views that span the spectrum. The traditions and culture of community have been handed down from senior to junior faculty now through a number of generations. It is a character trait in which we justly take pride.

II.

During the early years of the '60s decade, we hired new faculty slowly, and consequently, remained for some time a small but dedicated band. Small size had consequences: it meant, for example, that faculty meetings were not large gatherings and, with the exception of admissions and faculty hiring committees, we mainly functioned as a committee of the whole.

Faculty meetings were memorable, though. One of the first important issues addressed after I joined the faculty was whether to continue to have fixed and required courses in the second year of the three-year law school curriculum — an issue that seems almost quaint today, but it loomed large at the time. There was little disagreement about the first-year curriculum. The courses were all basic, important as foundational courses, and traditionally required and taught in the first year — courses which included Contracts, Torts, Property, and Criminal Law. The second-year required courses included Business Associations, Evidence, and Constitutional Law. Were these courses important enough that every student should be required to take them? Was there value in giving students a choice whether to take these courses and if so, whether, in the second or the third year?

The issues were strongly debated with views expressed about the value of the courses in question, especially by faculty who taught them. In the

end, the second-year courses all became electives, but nothing much really changed: the subject matters of the second-year courses were on the bar examination, so even though they were now electives, almost all students took these courses, and mostly in the second year.

Another significant issue addressed during that early period was, should we offer classes on Saturdays? At the time, the only Saturday class was Trial Practice, taught by a federal judge who was not available to teach during the week. (Note: the Trial Practice course was the curriculum's then only limited venture into the world of what we today call Clinical Legal Education. It was ten years later that the school began a full-fledged, clinical legal education program.)

The question regarding Saturday classes arose because we were running out of classroom space; the building was relatively small. (Later, over a period of twenty to thirty years, there would be three construction projects each of which would make a major addition to the original building.) In the end, the Saturday class proposal was defeated. And it is interesting to recall the discussion in the faculty meeting and the telling argument that won the day. The point was made that Orthodox Jews and Seventh Day Adventists would not be able to attend classes on those days. The rejoinder was that by then many of our classes were being taught in two sections, and we could schedule one of the sections so that it did not meet on Saturdays, and put those students who could not attend Saturday classes in the appropriate section. The sur-rejoinder was that this would require those students to declare their religious preferences in order to qualify for the no-Saturday classes section — and that, it was contended, would be an unconstitutional requirement. And so the proposal died. I was a very young junior faculty member, and the quality and integrity of that discussion had a strong impact on me.

A second consequence of the small size of the faculty in those early years was that in order to have all of the traditional or mainline courses taught, each faculty member needed to carry a heavy teaching load of such courses. For example, as a regular matter, for many years, I taught each year four mainline courses — Criminal Law, Constitutional Criminal Procedure, Administrative Law, and Evidence. Today, that would be an unheard-of course load; in that early period, it was hardly noteworthy. What this also meant was that, given the small number of faculty, the curriculum

could not be enriched with a wide range of specialized courses or seminars from which students could choose. To achieve that kind of curriculum, we needed to grow, and as the decade progressed, grow we did.

A third beneficial consequence of the small size of the faculty during that early period was that we were small enough to form a single social group. Faculty often got together socially and there developed a tradition of a faculty lunch table at the UCLA Faculty Center, which had been built the year I arrived. On any given day, there might be eight to twelve law school faculty at this table, which, while not formally reserved for us, was generally recognized as our table. Conversations ranged widely from erudite constitutional law or philosophy discussions to academic gossip or current events. Most often, some of the people at the table went after lunch to a downstairs coffee lounge and a 30–45-minute extension of the conversation. I always thought of the faculty lunch table and post-lunch coffee as a mechanism for bonding and integrating the faculty into a cohesive social group — one which was both nourished by, and contributed to, the tradition of a shared sense of community.

Alas, those halcyon days could not last. With the passage of time, the faculty grew; the student body grew and the physical plant grew. By the end of the decade of the '60s, the faculty had more than doubled in size. Today it stands doubled still again, to more than seventy, a number which makes things like a single faculty social group and a faculty lunch table effectively things of the distant past.

Before concluding, I wanted to mention two non-academic items, both of which, while very different from each other, also had a role in shaping the character of the law school. The first was the tragic Bel Air Fire of 1961, which swept across the low-lying Santa Monica Mountain range just north of the law school — and was clearly visible from the second-floor rooftop of the classroom/library wing of the building, which in turn was easily accessible from the office wing of the building.

The entire faculty gathered on the rooftop to watch the conflagration in awe and distress; the fire seemed very close; I had never seen anything like it before, or since. Several members of the faculty had homes in the path of the flames. Two faculty homes burned to the ground, I believe, and several more were barely saved. One of my colleagues was so traumatized by the loss of his home that it took years before he even began to rebuild.

All of the faculty were affected by what we had seen; we had front row seats to a massive tragedy, and some of our own had been directly affected.

The second item is a much more positive one — a tradition that began in those early days and still continues today — the dean's annual law school beginning-of-the-year party for the faculty and their families. What was noteworthy about these parties in those early days was their location. For the first ten years or so after I arrived, the party was held at Ken and Louise York's place in Topanga Canyon. It was too casual and informal to be called an estate, though we did jokingly refer to Ken as Squire York: it was on a hilltop; though they had goats and other animals, it did not seem to be a farm, but there was lots of room to wander and for kids to play. Subsequently, the location was switched to Monroe and Aimee Price's family summer place on a clifftop overlooking the Pacific, north of Malibu, with a stairway down to the beach below, so that we were able to have a multilevel beach party. Glorious. Only in Southern California.

* * *

FOR THE RECORD

MICHAEL ASIMOW*

I taught at UCLAW for over forty years. I have enough memories to fill a book. When I walk the halls of UCLAW now, I am flooded with memories. Where to begin?

A bit of bio for those who don't know me. After graduating from Berkeley Law in 1964, I worked for Irell and Manella (then a small firm) in Los Angeles for two years. I got a call from a faculty member at Berkeley asking me if I had ever thought about teaching, It had never occurred to me, but the idea was very attractive. Because my family didn't want to move away from L.A., I approached UCLA, and the rest was history. This was 1967 and I was twenty-eight years old. I received the princely salary of $14,400 per year, which didn't seem too bad since it was more than I was making in law practice. The dean was the great Richard Maxwell, who almost singlehandedly rescued UCLA from the disasters of its early years.

Leaving practice for law teaching was one of the best decisions of my life. From the first day, I knew that this was the job I was born for. To this

* Visiting Professor of Law, Stanford Law School; Professor of Law Emeritus, UCLA School of Law. For further information, see the Editor-in-Chief's introduction on page 1 of this volume: 11 Cal. Legal Hist. 1 (2016).

day, I still get a thrill out of teaching and I have always loved the research end of the job. Committees — not so much.

At UCLA I taught numerous subjects. I started as a tax teacher. The dean asked me if I could teach Administrative Law. I hated the subject in law school (where it was a required course), but I said I'd give it a try. Administrative Law turned out to be the subject in which I specialize, and I have continued working in it throughout my career. I also taught numerous other subjects including Business Associations, Constitutional Law, Business Planning, and Contracts. Because I love first-year teaching, Contracts has remained my favorite.

I retired in 2001, and started collecting my generous pension, but in fact I never retired. I continued teaching one class a year and doing research. Although I was very happy as a UCLA emeritus, in 2010, I moved to Stanford Law School. At Stanford, I still teach one class a year (depending on the school's needs) and continue doing research. This move occurred primarily because most of my children and grandchildren live in the Bay Area and my wife Merrie and I wanted to be closer to them.

As I reflect back on my forty-plus years at UCLA, my first thoughts turn to my colleagues who are no longer with us. Most of all, I remember my dear friend and tennis partner Gary Schwartz, but also my great colleagues Julian Eule, Don Hagman, Murray Schwartz, Hal Horowitz, Ralph Rice, Herb Schwartz, Ben Aaron, Arthur Rosett, David Mellinkoff, and so many others.

I'm so grateful to my thousands of students and my fellow professors. I remember so fondly the warm and friendly atmosphere of the UCLAW faculty. We had our political disagreements, of course, but everyone remained civil and friendly. There was never the kind of backbiting and political intrigue that has occurred at so many law schools. I worked under numerous deans and interim deans — Dick Maxwell, Murray Schwartz, Bill Warren, Susan Prager, Norm Abrams, Jon Varat, Steve Yeazell, and Mike Schill. Every one of them offered me nothing but friendship, support and encouragement.

To select just one of many possible subjects that I might write about now, I'd like to mention popular culture. In the 1990s, Paul Bergman came up with the idea of writing a book on courtroom movies. I offered him so many suggestions that he invited me to become his co-author and so *Reel*

Justice was born. My work with Paul was and is one of the richest collaborations I've ever had [see also the essay by Paul Bergman in this volume]. This launched me into a new career of research and teaching about the intersection of law and pop culture — that is, law and lawyers in movies and television.

When Paul and I decided to offer a pop culture seminar, the Curriculum Committee turned us down. But we beefed up our application and resubmitted it and the course was approved. I recall so vividly the many times I offered this seminar at UCLA and all the enthusiastic students who enrolled in it. I continue working on pop culture subjects to this very day. UCLAW was a place where a faculty member could branch out into a new and untried field and receive the unstinting support of the administration and colleagues (even if they had their doubts about the academic value of studying movies and television).

So I conclude these reminiscences by offering my thanks to everyone at UCLA past and present — faculty, students, and staff. I had a wonderful career teaching at UCLAW and nothing but fond memories of my many years there.

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PRANKS FOR THE MEMORIES

PAUL BERGMAN*

I joined the UCLA Law School faculty in 1970. I'm sure that one of the reasons that I ended up as a law teacher is that I enjoyed being a law student. Here are some of the ways that I continued to have fun during my first decade on the faculty side of the podium.

1. PHOTO SIN-THESIS

In the early 1970s, David Binder and his wife Melinda had recently returned from a hiking trip to Nepal. Because at the time few people had taken "exotic" trips like this, David left announcements in the mailboxes of law school faculty and staff inviting them to view slides from the trip during a lunchtime gathering in the old Faculty Conference Room. Sensing the opportunity for amusement, I purchased a few commercial slides of questionable taste. Shortly before David's presentation I wandered into his office and surreptitiously slipped a couple of my naughty slides into his carousel of slides. When it came time for the show, I was shocked to see that a huge crowd was gathered in the

* Professor of Law Emeritus, UCLA School of Law. For further information, see the Editor-in-Chief's introduction on page 1 of this volume: 11 Cal. Legal Hist. 1 (2016).

Faculty Conference Room, not just law school folk but people from Murphy Hall and elsewhere. I thought about removing my slides from the carousel but doing so would have been impossible — in their square holders, all the slides looked alike. As David was describing photos of Nepalese villagers, suddenly one of my slides popped up. There was dead silence for about ten seconds. Then David screamed one word: "Bergman." The show did go on, at least until the second slide appeared. I'd probably be sacked if I did this today, but it's an incident that no one who was there will ever forget.

2. ADJUNCT PROFESSOR OF THE WINTER QUARTER

In 1978, I was an adjunct professor of law, not yet a full professor. I was therefore not eligible for the annual Professor of the Year award. So I decided to try for a lesser award: Adjunct Professor of the Winter Quarter. Undeterred by the fact that no such award existed, I posted flyers all around the law school announcing the award and asking students to vote for me.

The "Karst Report" was issued in the middle of my campaign. The report recommended changes to the process by which applicants who were members of under-represented racial minority groups would be admitted to the law school. The changes were partly in response to the U.S. Supreme Court's recent *Bakke* decision. Nevertheless, the report generated mass protests by students. As had happened a few years earlier during the anti–Vietnam War protests, students lined the halls for days, shouting and pounding on any object that would produce a lot of noise.

I decided to use the boisterous protests as a chance to increase my chances of winning a non-existent award. I placed one of the law school's videotape recorders in the main hallway and wrote a script for a phony news story. With the noisy protesters in the background, I made a video recording of my secretary Vi Denney reporting that what was happening was a spontaneous demonstration in support of my campaign to be named Adjunct Professor of the Winter Quarter. Luckily Vi and I escaped to the quietness of the third floor before the students realized what we had done. But none of us succeeded — the faculty adopted the Karst Report recommendations, and I never was named Adjunct Professor of the Winter Quarter. (Ironically, about a decade later the faculty considered a variety of changes to the admission of

applicants from under-represented minority groups. The students of the late 1980s protested nearly as vigorously in favor of maintaining the processes prescribed by the Karst Report as the students of the late 1970s had protested in an effort to convince the law school not to adopt them.)

3. PHOTO, PHOTO ON THE WALL

Through the 1970s, the law school tradition was to display formal photos of all currently tenured law school professors on an interior wall in the law library. Coincidentally, the law school decided to terminate the tradition at nearly the same moment that Paul Boland and I were granted tenure. The wall on which we proudly expected to see photos of ourselves was suddenly empty. We took the setback sitting down — that is, we took very casual Polaroid pictures of each other sitting in our offices, eating an ice cream cone. We then went to the now-empty wall where the tenured faculty photos had until recently been displayed, and taped our photos to the wall. We left notes in each faculty member's mailbox, inviting him or her to stop by the faculty photo wall in the law library to see the newest additions. The photos stayed up on the wall for a couple of weeks before they vanished. Boland and I weren't positive that our tenured status would endure that long.

4. BERGMAN'S HOLIDAY BOUTIQUE

As holiday seasons approached, my custom in the 1970s was to create a parody of the usual holiday catalog and distribute it to students and faculty who might be looking for just that special gift to a favorite lawyer. Here are a few sample items from one of the catalogs.

Cheaper By the Case

Yes, opinions at Bergman's Holiday Boutique are Cheaper by the case! Why purchase an entire volume of the Federal Reporter or the California Appellate Reports when all you really need is one case. The cover of each case is made of genuine Alaskan Baby Sealskin (except Environmental Law cases).

Unanimous Opinion	$6.95
Opinion with Concurrence	$7.95
Opinion with Concurrence and Dissent	$8.95

Cases on Point

Do you know a special lawyer who never seems to be able to find a case on point when one is really needed? Here's the answer. Choose a specially wrapped box of six opinions from the jurisdiction of your choice, each opinion guaranteed to be strictly on point. (First 100 orders receive a 7th case on point at no extra charge.)

Boxed set of six intermediate court opinions	$19.95
Boxed set of six Supreme Court opinions	$39.95
Boxed set of six Texas opinions	$0.95

Electronic Plea Collar

Does your gift-giving list include a criminal defense lawyer who is always itching to plead clients guilty? We have just the solution: the Electronic Plea Collar. The colorless collar fits comfortably under any dress shirt. Studies prove that the collar is 94 per cent effective at preventing plea bargaining by emitting a vile odor when its language processor detects the words "deal," "drop," or "golf." Defense lawyers cannot detect the odor, but prosecutors cannot tolerate it.

Electronic Plea Collar	$24.95

Dictum Alarm

Is your favorite appellate court lawyer frequently reprimanded by judges for relying on arguments based on dictum? If so, Bergman's Holiday Boutique has the perfect gift! Just roll the Dictum Alarm over the pages of any appellate court opinion. It will respond with a loud shriek whenever it is passed over a sentence that constitutes dictum. (Activated by 28 AA batteries, not included.)

Dictum Alarm	$13.95

5. RETIREMENT PLANNING

In the mid 1970s, all UC employees were allowed to choose whether to rely exclusively on their UC retirement benefits, or to coordinate those benefits with Social Security benefits. Faculty members with specialized

knowledge in financial planning distributed memos explaining the ramifications of making one choice or the other. What these memos had in common is that I could understand none of them. Figuring that other law school faculty and staff could be in the same boat, I distributed a memo that all could understand.

> To: Faculty and Staff
> From: Paul Bergman
> Re: UCRS and Social Security
>
> February 18, 1975
>
> Like Bill Klein, I have adopted a position of rigid refusal to give advice as to whether they should choose to coordinate UCRS with Social Security. However, I want to point out the following facts that I have carefully culled from the complex computations.
>
> Retirement benefits will be larger for those whose salaries are bigger, under either alternative.
>
> If you retire after 40 years of service, you will have worked twice as long as an employee who retires after 20 years of service.
>
> The following figure seems to be pervasive, and may be meaningful: 32.1 per cent.
>
> Attila the Hun had neither UCRS nor Social Security but was able to retire comfortably.
>
> Sample computation: Multiply your years of UC service by your age when you began service. Take your Average Salary Factor, divide it by your benefit percentage, reduce that by 2 per cent of your Otherwise Eligible benefit at 64 or 65, whichever comes first, and hypothecate the remainder over a ten year span. Then figure the likely cost of a world cruise in 1990. Under either plan, you will not have enough.

6. DUSTBALL

By 1978, I had achieved a form of tenure called "security of employment." In my newly exalted status, I sent a memo to Dean Bill Warren asking him to extend the honor to another long-term law school occupant.

To: Dean Bill Warren
From: Paul Bergman
Re: Honorary Tenure for Ball O'Dust

September 1978

Dear Dean Warren,

I think it appropriate for the law school to grant Honorary Tenure to Ball O'Dust. Ball has been a member of the law school community for at least seven years. Thus, UC tenure policy requires that Ball either be granted tenure or terminated. I support the honorary tenure option because Ball has remained in the law school day and night, in his office in the corner of the third step from the top of the staircase leading to the law school's third floor. Conferral of Honorary Tenure on Ball will recognize Ball's contribution to the law school community as a welcoming presence whose steadfastness is comforting in these turbulent times.

Thank you for your consideration. I hope that you will follow up on this matter at your earliest opportunity.

Paul

7. CLASS ACTS

My interest in practical jokes often followed me into the classroom. One law student organization regularly sponsors a Red Cross Blood Drive. When a Blood Drive day coincides with one of my teaching days, I often wrap my wrists, forearms, neck and scalp with ketchup-smeared gauze. The gauze was not immediately visible to students, as when I come to class the gauze is hidden by a scarf, a hat and a sweater. I begin class with a fervent plea along these lines: "I urge you to donate blood today if you haven't already done so. I donated earlier, and I assure you that the donation process is easy and painless. The Red Cross nurses are highly skilled; you won't feel a thing." As I talk, I remove my hat, sweater and scarf, slowly revealing gauze strips that appear to be smeared with blood. As the students realize the gag, their hesitant titters build into loud laughter and often applause. Of course, I hope I never dissuaded a student from donating blood!

I taught the first year Civil Procedure course once, in Fall Semester 1991. It was my students' first law school course, and I began it by telling the students that the Admissions Office had admitted too many 1L students. (Luckily I taught this course four years before my wife Andrea became the law school's assistant dean of admissions!) Adopting my most serious tone, I told the class that three students in our section had to be dismissed, and that after observing them for a week, I would make a final decision about which students to dismiss. I gave them time to write down any objections they had. After a few minutes I called on students and put a list of their objections on the blackboard. Just as I had anticipated, virtually all of their objections were procedural: "We don't know what standards you are using to judge us." "We should have a chance to talk to you before you dismiss us." "The Dean should have the right to review your decisions." "It's too late now to do this." I then assured the students that this was an exercise: no one would be dismissed from the 1L class. The purpose of the exercise was to demonstrate that as a society we care not only about legal outcomes, but also we care strongly about the procedures that lead to those outcomes. Civ. Pro., I said, focuses on these procedures. Admittedly this exercise was as much a teaching method as a prank. But it was my way of responding to a common student belief that Civ. Pro. covers insignificant minutiae and is much less important than "real" first year courses like Torts, Contracts and Criminal Law.

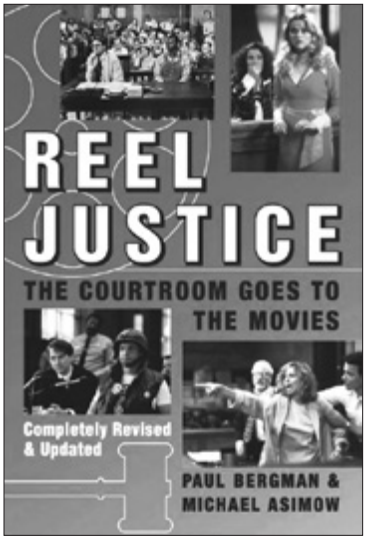
8. THE REST OF THE STORY

I am truly blessed to have been a faculty member at UCLAW for over forty-five years. When I was hired in 1970 to teach students how to be lawyers and try cases, I had been out of law school less than two years myself. If you had asked me upon graduation from Boalt Hall to identify ten ways in which I might use my law degree, law teaching would not have been close to being on the radar screen. But as a student I loved the classroom experience, and as a lawyer I wanted to use whatever skills and talents I had in service to marginalized people. Despite my qualms that I knew little more about the practice of law than my students, I thought that teaching-by-doing was a perfect way for me to find a purpose for my life that I was passionate about.

I have enjoyed every minute of it (with the possible exception of committee work). I truly value the opportunity to teach and learn from students, even though they have stayed the same age and I have gotten older every year. My law school faculty colleagues have always been kind and generous with me beyond my deserving, a true community rather than a collection of academic specialty groups. And I love writing. Just as I never thought I'd be a law teacher, I never imagined that I would have lists of books and articles to my credit.

Ultimately, UCLAW has allowed me to follow my professional interests in whatever direction they took me. When I wanted to help students improve their legal drafting skills, my proposal to teach a will drafting course and prepare wills for actual clients was approved without hesitation. Likewise for my Street Law proposal, in which I provided law students with opportunities to teach law-related material to high school students and used their experiences to help them think about how to communicate legal principles and knowledge effectively.

Most significantly, UCLAW supported the development of my interest in Law and Popular Culture. I first used clips from courtroom-focused films and TV shows as educational tools when I began teaching Evidence in the early 1990s. As I sought to identify sources of clips beyond those that I already knew about, I realized that no one had ever analyzed the genre of courtroom films even though law-related films and TV shows were for many people the primary source of their knowledge of law, lawyers and the legal system. A book proposal began to form in my mind, and over a series of lunches with my wonderful and brilliant colleague Michael Asimow the shape of *Reel Justice: The Courtroom Goes to the Movies* came together. Its publication in the mid-1990s, followed by a second edition in 2006, changed my life. Inside the law school, Michael and I developed a brand new UCLAW course in Law and Popular Culture. The course was tremendously popular, and we asked



students to think as carefully about the portrayal of law and lawyers in films and TV shows as they thought about principles of torts and contracts.

But the biggest impact of *Reel Justice* on my life was taking my interest in teaching law through film clips outside the law school. Like Michael, I have presented *Reel Justice* programs all over the country and beyond. My audiences have included law teachers, lawyers, judges, and community groups. Depending on a group's interest, film (and sometimes TV) clips are an entertaining method of addressing topics as diverse as trial tactics, legal ethics, divorce law, legal history, and (of course) principles of evidence law. I have also discussed the portrayals of law and lawyers in popular culture on numerous TV and radio shows. I am so grateful to UCLA for supporting my work because these experiences have tremendously enriched my life. I hope that in all that I have done I have also been a goodwill ambassador for the law school.

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THE EARLY YEARS OF CLINICAL LEGAL EDUCATION AT UCLA:

Across Substantive Domains

DAVID BINDER AND PAUL BERGMAN*

DEDICATION

We dedicate this brief memoir about the first decade of UCLA law school's clinical program to our late and beloved colleague and friend, Paul Boland. Paul was one of the "Three B's" during the decade before he began a distinguished career on the bench, and his fingerprints are all over the design of the UCLA model of clinical education. Paul was a genuinely kind and caring soul; if you were his friend for a minute you were his friend for life. We are grateful for our time together.

* * *

Under the leadership of Deans Richard Maxwell and Murray Schwartz, UCLA law school applied for and received a grant from CLEPR (the Council on Legal Education for Professional Responsibility) and in 1969 became one of the first law schools in the country to establish a Clinical Legal Education program. The program was started partly in response to law student demands for greater relevance in a legal education. Students wanted to go

* Professors Emeriti, UCLA School of Law. For further information, see the Editor-in-Chief's introduction on page 1 of this volume: 11 Cal. Legal Hist. 1 (2016).

beyond three years of analysis of abstract legal principles and reasoning; they also wanted to learn how to be lawyers while promoting social justice. Law schools responded by emulating medical schools and adding "learn by doing" programs that breathed new life into the traditional law school assortment of "podium courses," seminars, and moot court exercises. Students would learn how to practice law by working with faculty on actual cases.

UCLA hired David Binder to establish its clinical education program. David was then a public interest lawyer at the Western Center on Law and Poverty, but he had been a lawyer in private practice before that. Under David's guidance, the law school hired three additional clinicians as adjunct professors: Paul Bergman, Paul Boland, and Bob Chartoff. The long-term job prospects for these four initial clinical faculty members were uncertain. The CLEPR grant provided two years of seed money; after that it was up to the law school either to support the program on its own or terminate the experiment. Bravely and perhaps naively, David, the Pauls and Bob began teaching clinical courses in the fall of 1970. Bob departed the law school after a couple of years. Law school funding for the clinical program did not. UCLA continued to support clinical education and the "Three B's" developed the program as a team until 1980, when Paul Boland went on the bench. His parting gift to the law school was an ethic of caring for students and clients; his parting gift to Paul Bergman was a classic original Eames chair that Boland was too tall to sit in comfortably.

In the beginning, UCLA's clinical courses were focused on litigated disputes. Binder, Boland, and Chartoff taught Civil Trial Advocacy courses. They supervised students in the representation of low-income clients who were plaintiffs or defendants in a variety of civil disputes. Bergman taught Criminal Trial Advocacy; he supervised students in the representation of criminal defendants at trial. (Bergman somehow persuaded David Binder and the UCLA hiring committee that he was competent to do so, based on the one state court indigent criminal appeal he had handled while clerking for a Ninth Circuit Court of Appeals judge.) For the record, we fulfilled the rules that required us to secure the written consent of all clients to have law students work on their cases.

Soon after the clinical program was established, the Three B's made a fundamental decision that established a UCLA Model of clinical legal education that set UCLA apart from the clinical programs that many of

its peer schools established. We decided that our primary educational mission was to help students who would enter diverse practice areas after graduation to learn how to use lawyering skills competently. The result was a "skills-centered" clinical program that focused not on discrete types of legal problems of low income clients but instead on complex lawyering skills such as interviewing, counseling, negotiation, and trial practice. These skills were important across virtually all fields of law practice, whether clients were business leaders or low income tenants and whether legal claims were based on contracts law, tort law or the U.S. Constitution. Moreover, as a general rule these skills were not systematically taught to law school graduates by practicing lawyers — if they were taught at all. The creation of courses devoted to different lawyering skills meant that the UCLA clinical program would not become a general purpose legal services office that aimed to maximize the number of low income clients that it served.

The UCLA Model of clinical legal education had three primary characteristics:

- Courses were based on discrete lawyering skills rather than on discrete types of legal problems of low income clients. UCLA clinical courses carried titles such as Interviewing and Counseling or Negotiation, rather than Landlord–Tenant Clinic or Domestic Violence Clinic.
- In simulated exercises that took place during classes and in out-of-class individual exercises (our teaching load was heavy!), students practiced and received feedback on the skill or skills to which a course was devoted. The substantive law backgrounds of the simulated exercises varied; one might involve a contracts dispute and another one a wrongful termination dispute.
- The actual cases that students worked on were selected because they allowed students to practice and receive feedback on the discrete skill or skills to which individual courses were devoted. For example, students enrolled in an Interviewing and Counseling clinical course worked with clients who sought advice concerning a wide range of legal problems. If further legal work was needed the clients were referred to other offices. Students enrolled in a Depositions clinical course represented clients in the deposition phase of complex litigated disputes that arose in a variety of substantive law areas, both taking and defending depositions.

The skills-centered design of UCLA clinical courses helps to explain UCLA's prominence in the national development of a literature of clinical legal education. The Three B's (joined at and for different periods of time by Al Moore, Gary Blasi, Susan Gillig, Carrie Menkel-Meadow, Lucie White, Bill Graham, Robert Mann and Vikki Bonebakker) began analyzing lawyering skills and creating course materials and simulated exercises aimed at developing students' competence in the skills that lawyers needed to represent clients competently across substantive domains. These course materials became textbooks and law review articles in which UCLA clinicians analyzed lawyering skills with the same care that more traditional law school professors analyzed Torts, Contracts, and other substantive law subjects. For example:

- Along with psychologist Susan Price, David Binder wrote *Legal Interviewing and Counseling*, in which he developed the then-radical idea that legal problems belonged to clients and not lawyers and that lawyers should educate clients about alternative approaches and their likely consequences and encourage the clients to make important decisions.
- Paul Bergman wrote *Trial Advocacy in a Nutshell*, which approached courtroom advocacy as learnable skills rather than intuitive artistry. For instance, Paul's Trial Ad book incorporated the "Safety Model of Cross Examination" that Paul had developed and described in an earlier *UCLA Law Review* article. (In 2016, Paul published the 6th edition of the Trial Ad Nutshell.)
- Paul Bergman, David Binder, and Susan Price published *Lawyers As Counselors — A Client-Centered Approach*. Ever since the publication of the book and its successor editions, the notion of client-centered representation has dominated the teaching of lawyering skills within law schools and in the legal profession generally.
- David and Paul co-authored *Fact Investigation*. From the time of Langdell in the 1870s at Harvard onwards, legal education had emphasized analysis of appellate court arguments. *Fact Investigation* analyzed the processes of factual inference, and set out reasoning and investigative methods for developing strong factual arguments.

- Al Moore wrote about cognitive schema and inferential reasoning in decision-making.
- Carrie Menkel-Meadow analyzed legal negotiation and the structure of problem-solving.
- UCLA clinical faculty wrote scripts for and produced lawyering skills videotapes that were used in law school classes across the country. The videotapes consisted of short vignettes of lawyer–client interactions that law school instructors and students could critique in class. (A new generation of recorded exercises is planned as we write this memoir.)

The books, articles and materials written by UCLA clinicians were used in clinical education courses across the country. This lawyering literature demonstrated not only that lawyering skills were complex, but also that they were worthy of and amenable to description, analysis and teaching. This work helped to support the idea that clinical legal education was a legitimate part of a first-rate academic legal education.

UCLA clinicians also spurred the international development of clinical legal education by partnering with colleagues Avrom Sherr and Roger Burridge at the UK's Warwick University for a series of legendary Clinical Education Conferences. The conferences attracted clinicians from all across the country and Europe, as well as law school instructors from countries such as Japan that were in the process of trying to establish clinical programs. The conferences were paper-based, and many important lawyering skills articles that further stimulated the analytical underpinnings of clinical legal education and the understanding of lawyering skills were first presented as papers at the UCLA/Warwick conferences. The early conferences took place at UCLA's idyllic Lake Arrowhead Conference Center. The lakeside locale was so identified with the clinical conferences that when it became Warwick's turn in 1993 to host a conference, England's Lake District was the only logical site at which it could take place.

A desire to teach lawyering skills across substantive domains was reflected in UCLA's unique Witness Volunteer Program. In simulated lawyering skills exercises, students initially served as clients and witnesses for each other. But we soon realized that law students talked and acted too much like law students to serve as adequate proxies for the people whom our students would be working for and with after graduation. With that

in mind we brought on board Witness Volunteer Coordinators (the first coordinators were Bunny Friedman and Marian Gilbert) whose task it was to recruit volunteers from the community to serve as clients and witnesses in simulated exercises. The community volunteers usually performed in roles that the clinical instructors had created. But instructors often invited volunteers to "be yourself" and discuss personal experiences. Since our goal was to train students to use lawyering skills effectively across all substantive domains, the nature of the specific legal problem that a volunteer talked about was largely irrelevant. If a volunteer wanted to talk about a restaurant-related dispute in which the volunteer had once been embroiled rather than the circumstances in a "canned" landlord–tenant dispute, that was fine with us.

UCLA demonstrated support for clinical education in a variety of ways. One small example is that the Three B's obtained tenure as professors of law with full faculty rights and privileges, not as clinical professors of law with limited faculty rights as at many other law schools. UCLA also softened the margins among faculty members by encouraging clinicians to teach non-clinical courses, and vice versa. On a regular basis, David taught Civil Procedure and Paul taught Evidence. While these courses were not clinical, we incorporated simulated exercises into classes and blended discussions of skills into our coverage of substantive law.

As clinical education at UCLA and elsewhere expanded beyond its initial focus on court cases based on the legal problems of individual low income clients, UCLA clinicians maintained a skills-centered ethos. Paul for example taught a Street Law course, in which law students taught law-related materials to high school age students. Paul considered his primary "clients" to be the law students enrolled in the course, and he approached the course primarily as an opportunity to develop students' lawyering skills no matter what topics they chose to cover in their teaching. For example, how did students attempt to establish rapport with the students in their classes? What did their classroom experiences teach them about how to develop rapport with clients? What did they learn about communicating the meaning of abstract legal principles such as due process of law to non-lawyers? How might educating high school students compare to educating clients, judges and jurors? By using simulated exercises and students' teaching experiences as a vehicle for helping them to develop lawyering skills, Paul sought to help

students transfer their learning from law school into their professional lives, regardless of the fields of law they worked in.

Decades on, the excitement of the early years of clinical education remains one of the memories for which we are most grateful. All of us, instructors and students alike, were aware that we were involved in an experimental and untested type of legal education. We were privileged to experience the moments when students began to understand the meaning of professional responsibility and to realize that they could translate their legal knowledge into actions that could improve the lives of clients. The excitement extended to the videotapes we made to record students as they practiced lawyering skills in classroom and out-of-class simulated exercises. Even though the recording machines used reel-to-reel tapes and the pictures were black-and-white, in the 1970s the ability to see oneself immediately on a TV screen was itself a thrill (if occasionally painful). Our careers unexpectedly and serendipitously turned in the direction of law school teaching at a unique time in the history of legal education, and for that we are forever thankful.

Just as we teach client-centered lawyering, we are also student-centered law school instructors. With this in mind, we asked a few of our earliest clinical students to send us brief recollections of their time as UCLA clinical students. We conclude this memoir with their responses.

PAUL MARCUS (Paul has had a distinguished career as a law school academic, among other things serving as the dean of William and Mary Law School and president of the Association of American Law Schools):

> I remember vividly the time I spent with Dave Binder, Paul Bergman, and Paul Boland in the clinical program at UCLA. I learned a great deal about the practice of law, the respect to be given to all clients and lawyers, and the standards of professional responsibility that we must adhere to. We worked on cases for poor people, individuals who could not get lawyers, individuals we cared about a lot.
>
> In the coming year, I will become the president of the Association of American Law Schools. The theme I will emphasize is Access to Justice: What law schools can do to involve students and professors in providing legal services to those in need. I learned a lot about this during my time at UCLA. I never forgot it.

DOROTHY WOLPERT (Dorothy was an "OWL" (Older and Wiser Law student) when she entered law school. She has enjoyed a lengthy career as a civil litigator and a transactional lawyer):

> I couldn't possibly recount what the clinical program meant to me and did for me in a few sentences! It was the highlight of my legal education.
>
> After two years of appellate erudition, I was finally exposed to professors who were talking about people and their actual problems and how to prepare ourselves to help them solve those problems. Rigor and compassion were the hallmarks of the courses; and the principles on which they were based were loyalty and the best interests of the client and our public responsibility as officers of the court.
>
> In forty years of practice I've yet to interview a client for the first time without thinking of my closing statement. David taught me that. When I started my first job, I knew where the courthouse was — unlike many of my young colleagues. I knew from firsthand experience the awful power of a judge. I appeared in a case for a young Mexican who was on probation and was seeking permission to visit his family in Mexico, which had just suffered a catastrophic earthquake. He didn't know if his family had survived.
>
> I pled with the judge as best I could. My client, more eloquent than I, said he had to go home to grieve for them if they were dead. The monstrous judge responded in a chilling voice: "You can grieve here," and denied the request. That experience has made it easier and mandatory for me always to tell my clients that you never can know what will happen to you in a court of law and that risk factor must always be part of one's decision-making in pursuing and conducting lawsuits.
>
> Your amazing work in trying to impose some order on "the anarchy of human experience without suppressing the vitality of diversity and disarray" has inspired me and countless students and made them better lawyers. I could go on, but won't.

RICHARD FYBEL (Rich has been on the bench in Orange County, California, for many years, first as a Superior Court trial judge and later as an associate justice of the California Court of Appeal):

> In 1970 and 1971, as a third-year law student, I was fortunate to participate in the first year of UCLA law school's clinical program. The program was led by star Professors Binder, Boland, and Bergman. I represented a mother in court in dependency proceedings in a successful effort to regain custody of her child. I also represented a woman who was sued on a questionable debt; we prevailed at trial when the lawyer for the plaintiff company was unprepared and a continuance was denied. My practical experiences in the program and the important lessons learned from our wonderful professors have stayed with me during my professional career as a lawyer and judge. I remain grateful to have been included in the inaugural year of the clinical program.

BOB McKAY (Bob is in private practice as a commercial and real estate lawyer and litigator in Pasadena, California):

> I believe the clinical program that Dave Binder created was UCLA's first. I thought the class would be a respite from the typical law school routine. It was. I was excited about being in Dave's first class, and in the forefront of clinical programs with the opportunity to help real clients in real need of representation — to find out how it really works. I really looked forward to the class. Dave gave his students a head start on the real practice of law. Through the program a classmate and I had the opportunity to work on an actual case and argue in court. We won — victory attributable to the clinical program, and, of course, Dave. The experience was invaluable.

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MEMORIES OF LONG AGO:

My Years at UCLA School of Law

NORMAN EPSTEIN*

It seems so long ago, probably because it is. I graduated from UCLA with a BA in the spring of 1955, entered the School of Law there that fall, and graduated with the Class of 1958. Look at it this way: if the speaker when I graduated from law school had received his or her (more likely "his" in those days) degree, as long before then as my time since then, he or she would have been admitted to practice at about the turn of the century (the one before this one). I've been asked to assemble some memories of my three years in law school, and what follows are a few of them. They stand out, mostly, because they seemed odd or startling at the time. And, looking back, they still do.

First let me set the scene. The three outstanding qualities I remember about the UCLA School of Law are that it was good, it was new, and it was free.

I'll start with the last: it was free. Or nearly so. There was no tuition for California residents, and the only thing we had to pay to the university was an "incidental fee." That was not tuition, but payment for various benefits

* Presiding Justice, California Court of Appeal, Second Appellate District, Division Four. For further information, see the Editor-in-Chief's introduction on page 1 of this volume: 11 Cal. Legal Hist. 1 (2016).

that went with being a student, such as tickets for varsity games. The fee, as I recall it, was about $37 a semester. I already was the beneficiary of a free education as an undergraduate at UCLA. I was treated to a full, free public school education by the citizens of Los Angeles for twelve years, and then by the citizens of California for another seven. They gave me a profession and a life, and I'll always be grateful.

The school was relatively new then, in its first decade. The building was almost spanking new. Walking through it, the first thing we noticed was that there were three large classrooms, one for each of the three years. Each classroom was progressively smaller than the last, with the third-year classroom being about half the size of the classroom for first-year students. The message was subtle, but we all understood it.

And the school was good. The founding dean, L. Dale Coffman, had come from Vanderbilt, at about the same time and from the same place as the then-new UCLA head football coach, Red Sanders. Dean Coffman assembled a remarkably able faculty for the new school, including Roscoe Pound, the renowned former dean of Harvard Law School. They delivered a first-rate education in the law.

Two of the faculty are among the finest persons I have ever known. Arvo Van Alstyne taught Constitutional Law and several other courses. He was a brilliant teacher and a wonderful person. I enrolled in or audited every course he taught at UCLA. He eventually moved to Utah where he held an executive academic position and, I believe, was an elder in the Mormon Church. He died of cancer, far too young.

The other was Richard Maxwell, a renowned scholar and national expert on the law of oil and gas. He taught Property and several other courses. After Dean Coffman was obliged to step down as dean, and after the service of an interim dean, Dick Maxwell became the dean and guided the school into what some have described as its greatest years. Certainly so, up to then. He retired from the faculty and began a new career in legal education at Duke University school of law.

Dean Coffman taught one of the two sections in Torts, a first-year course. We were divided by alphabet, the first half being assigned to Dean Coffman's section and the other to Professor Allan McCoid. I recall vividly and with horror the day we reached the renowned *Palsgraf* case (*Palsgraf v. Long Island Railroad Co.* (1928) 248 N.Y. 339). We all knew we had to

have some grasp of that case (it's still a conundrum), or else. And many were petrified over the prospect of being called on to recite or explain it. Professor Coffman announced the case, then began to scan the classroom, moving his gaze slowly from left to right. When he got to the middle it was as though an electric eye contact had been made. The student upon whom he had then fixed his gaze thought he had been called on to recite the case, and proceeded to do so. He had it wrong, and all of us agonized dying for him, but no rescue was possible. (I don't believe that student was among the second-year class.)

I recall something almost as untoward in the final round of the Roscoe Pound Moot Court Competition. The four of us, two students on each side, were before a hypothetical supreme court made up of three federal judges. The presiding judge interrupted my argument and asked me to turn to page whatever of our brief, then to a particular paragraph and line, then pointed out that we had misspelled a word. I suppose the idea was to see if we could maintain composure. I think I mumbled an apology for the error and went on with my argument. One of the other judges asked only a single question during the entire ninety-minute argument. I've committed the question to rote memory. He turned to the PJ and asked, "Isn't it time for lunch?" Perhaps there was some wisdom that I missed. But the question did make an impression. (My partner and I managed to win the competition.)

At the time, the Office of Legislative Counsel had a program under which it brought in a second-year law student from each of the five major California law schools for a (paid) summer clerkship. I was fortunate to have the appointment from UCLA. I learned most of what I know about the legislative process and working with statutes during that summer. The legislative counsel, the first to hold that position, was Ralph N. Kleps. He was a renowned scholar and had written the definitive article on judicial review of administrative adjudication. (The article is *Certiorarified Mandamus: Court Review of California Administrative Decisions (1939–1949)*, 2 Stan. L. Rev. 285.) He later became the first director of the Administrative Office of the Courts, serving under the Chief Justice and the Judicial Council.

He shared a story with me about his time as a student at Cornell. He was president of the Young Democrats, which had invited the First Lady of New York, Eleanor Roosevelt, to come to Ithaca and give an address.

Kleps had an opportunity to speak with Mrs. Roosevelt privately. He asked her what advice she would give to a young man (meaning himself) interested in a career in politics. She looked directly at him and responded, "be born rich." He obviously never forgot it, but he evidently did forget about a career in politics.

During my final year, when thoughts turned to finding a job, the only one I was interested in was with the state attorney general. I was interviewed for the position by Frank Mackin, the assistant attorney general in charge of the Los Angeles office. His office was on the 6th floor of the old state building (on First Street, between Spring and Broadway, now razed), and my interview was at noon. It was 1958, an election year. We were about five minutes into the interview when the phone rang. The conversation lasted about fifteen minutes. I tried not to pay attention, but it seemed obvious that he was speaking to the then–attorney general, Pat Brown, who was running for governor. I always suspected that I got the job because by the time the conversation ended, I had heard too much.

Finally, I end this reminiscence where it began, at the law school. The fall bar exam was held there, in the first-year classroom. The only question I recall from the exam was from the first session. It was a mixed tort/property problem, positing two neighbors who had a party wall on their property line. After a hard rain the wall collapsed, damaging the property and causing someone to be injured. There were several of us huddled in the hall after the session, going over what the question was about. One of the group announced that he had figured out what the exam author wanted us to discuss: water rights. According to him, we were supposed to discuss various theories about getting rid of the rain runoff. My first thought was, good grief, I missed it entirely. My second thought followed: that this guy had. (I don't know how this fellow did on the bar exam.)

The exam itself was given in July, and it was hot. The air conditioning, such as it was, was not working. So, the doors of the classroom were open. The mass of sweating humanity packed inside the classroom seemed to attract every flying insect in Westwood, and they assembled there in plenary session, to attack us helpless prey. Somehow, we all got through it; I don't know about the insects.

One final story about the bar exam: The Supreme Court clerk's office was on the top floor of the state building, near the coffee shop. One morning

the clerk walked over to several of us at the coffee shop on that floor. He told us the bar results were out and we all had passed, except one of our group, Phil Griffin. We all trooped down to the State Bar office which was in the Rowan Building. Phil got up to the window to verify how he did; he was told that his name was not on the list of successful candidates. We returned to the office in a funk. Then Phil got a call from his wife. The mail had just arrived and he had passed. Turns out the list of names had been mis-alphabetized. So, we did what any recent law student would do: theorized about what torts the bar people may have committed in causing this emotional distress. (Phil went on to a long and distinguished career in the AG's office.)

As it has for so many others, the law school has been an important part of my life. And most of the memories are good ones. I have been privileged to be a part of the school family ever since.

★ ★ ★

REFLECTIONS ON MY TIME AT UCLA LAW

CHARLIE FIRESTONE*

I came to direct the UCLA Communications Law Program in August, 1977. Geoffrey Cowan and Monroe Price co-founded the program in 1972. Geoff directed it the first two years, then went to teach undergraduate communications at UCLA, and engage in the other four things he was doing at the same time, as he has continued to do to this day.

Monroe started many activities at the law school, including the *UCLA–Alaska Law Review* (quite a concept in itself), the Indian project with Carole Goldberg, and other assorted activities that comprised a wing of the law school that we called Monroe, Inc. Monroe would toss five or six balls in the air on a given day and the trick was understanding which ones to run with, which to let drop to the ground. Monroe's departure to become dean of the Cardozo Law School in New York was a big loss for the law school. He was also known for absent-mindedness, such as the apocryphal story that he walked into someone's office and said, "Monroe?," and the person said, "No, I'm Bill, you're Monroe."

* Executive Director, Aspen Institute Communications and Society Program; Adjunct Professor, UCLA School of Law, 1977–90. For further information, see the Editor-in-Chief's introduction on page 1 of this volume: 11 Cal. Legal Hist. 1 (2016).

When Geoff Cowan left the program, Tracy Westen took it over and ran it for three years with Molly Larson as his assistant. By the time I got there the program was the best communications law offering in the country with courses, speakers, public interest litigation, and the groundwork for bringing the *Federal Communications Bar Journal* to the school.

I came from a public interest communications law firm in Washington, D.C. Jimmy Carter had recently won the presidency and my mentor headed a new agency, the National Telecommunications and Information Administration, to which he asked me to become general counsel. But if I stayed out of the government, I was in line to argue a major communications case before the Supreme Court, *FCC v. National Citizens Committee for Broadcasting*. It was an appeal by the FCC, the newspaper industry, and the broadcast industry from a ruling in the court of appeals requiring the divestiture of every major newspaper–broadcaster combination in the country. Moving to UCLA Law to prepare and argue the case was perfect. I could teach, run the program, involve students in the case, and get away from Washington.

When I arrived, Dean Warren called me into his office. First things first, he said. Would I come to dinner with two other new professors, Steve Shiffrin and Ted Eisenberg? Of course. And would I come to the Faculty Malibu Beach Party that weekend. Wow, I really was in L.A. Then Geoff Cowan had a "Goodbye Tracy, Hello Charlie" party with the likes of Norman Lear, and who knows who else, welcoming me to the city.

With extensive contacts from eight years in the Washington, D.C., communications bar, I solidified the move of the bar journal, renamed the *Federal Communications Law Journal* to be edited by UCLA law students. I was the faculty adviser, a role I greatly enjoyed. I offered a paper in lieu of final for my Communications Law course, so students could get credit for their work and publish it in the FCLJ if it was good enough. And the opportunity to edit a journal also brought new students to the Communications Law Program. They were a fun, tight-knit cadre of students highly interested in the field.

I thought I would stay for only a year or two. But it was interesting, I loved L.A., my wife and I started a family. And the NTIA, a part of the Commerce Department, seemed a bit bureaucratic and had a general counsel in place for well over a year before I could even consider going back. We

stayed for one, two, three years, and decided the way to live was to act like we would be there forever. Then Ronald Reagan won the presidency, so no one was going to bring me back to the government, nor was I particularly interested in returning. All in all, we lasted thirteen years in Los Angeles before returning to D.C.

The Communications Law Program consisted of the courses in Communications Law, which were unusual in that day, a bevy of speakers including Chief Judge David Bazelon of the District of Columbia Circuit, Frank Mankiewicz, then president of NPR, and actor George Takei. We held a series of biennial symposia on satellite law, something at the cutting edge of its day, clinical communications public interest litigation, and externships, where students could get a quarter's worth of credit by working for FCC commissioners or the like. We placed students in the FCC chairman's office, as well as other commissioners' offices in the FCC and FTC, the Directors Guild, Association of American Publishers, American Film Institute, public interest law firms, House subcommittees, the National Association of Broadcasters, NTIA, four judges of the U.S. Court of Appeals, and even the International Institute of Communications in London, England. UCLA Law was well known to all communications practitioners, and I think without much question was regarded as the best place to study if one wanted to specialize in that field.

The NCCB case on newspaper–broadcast cross-ownership was extremely high profile. Students helped in the research, and I held a moot court at the law school on the case before arguing it in January 1978. Justices Karst and Shiffrin were particularly sharp in their questioning. The critique was invaluable, though the outcome was an inevitable 8–0 reversal, upholding the FCC's original rules which allowed for grandfathering existing cross-ownerships unless they were actual monopolies.

We were to get a second Supreme Court case, *Community Television of Southern California v. Gottfried*. I won't go into the details, but a local Los Angeles attorney, Abe Gottfried, literally made a federal case out of the local public broadcaster's refusal to air the captioned ABC Newscast offered to it by PBS, and misled him as to the reasons for not doing so. Here again students were invaluable in their aid in the briefing, and Angela Campbell, FCLJ editor in chief, top aide in the briefing, and now a clinical professor at Georgetown Law, even came back with me for the argument.

When we arrived at the Supreme Court for the argument, the Court gallery was packed. All those people to hear us? No, the first case was the Bob Jones University case which challenged whether the U.S. Government could refuse tax exemption to an organization openly discriminatory against Blacks. When that argument concluded, and they called our case, the gallery emptied.

Other litigation proceeded to encourage more access to the airwaves for minorities and women. One case we considered and worked on but did not bring was particularly interesting. George Takei, Mr. Sulu on *Star Trek*, was a candidate for the L.A. City Council. Under the FCC's equal opportunity rules for political broadcasting, a local station that aired one candidate had to give equal time to his or her opponents. This meant that the local station that had the rights to *Star Trek* reruns would not air the episodes, depriving Takei and his fellow actors of their residuals. What particularly galled him was that the episode they withheld was one where he was on a planet that made him get progressively crazier and crazier. Hardly a campaign asset. We were going to propose that the rule should only apply when the candidate's appearance was as himself, not a fictional character. It would have application as well to Ronald Reagan, who was running that year for president, when he appeared in *Bedtime for Bonzo* or as the Gipper. Unfortunately the student work on that one was too deficient to edit and submit in time to be relevant.

Creating symposia was one of the highlights of our activities. In 1979 we held one on "The Foreseeable Future of Television Networks." Speakers included Norman Lear, FCC Chairman Charles Ferris and Richard Frank, president of TV distribution for Paramount Pictures.

In 1981, with inspiration from Monroe Price, the active participation of my assistant Doris Davis and many students, and support from the National Endowment for the Humanities, we created "Privacy and Democracy in 1984," a look into the future. Davis thought that speeches from humanists were fine, but the program needed more, and convinced me to engage an improv group called the Groundlings to perform in between sessions. We spent time briefing them with materials and discussions as to where the technology was headed, and it paid off. Led by Phil Hartman (later of *Saturday Night Live*), the group performed songs such as "I'm Just an Analog Man in a Digital World," and had a family scene where

the father breaks down to his wife, "Marge, I'm afraid I just can't provide enough data for the family."

In 1981 we also convened a symposium on the Regulation and Deregulation of the New Video Technologies. Appearing were FCC commissioners Tyrone Brown and Anne Jones, former FCC Chairman Richard Wiley, Congressman Al Swift, NTIA Administrator Henry Geller and various industry and public interest leaders.

We went on to hold a series of symposia every two years on satellite law. This came about at the urgings of my best student during my thirteen years at UCLA, Martin Rothblatt. A single parent of a mixed-race child, and working part-time at Hughes Aircraft, Martin still had time to ace his courses and exhort me to do more in satellite law. I gave him independent study time to help devise and put together readings for the first symposium in 1981, and we held two more after that.

After graduation, Rothblatt went to Covington & Burling in Washington, D.C., and worked for some satellite clients. Before turning thirty, Rothblatt was president and CEO of Geostar. Subsequently he formed his own firm and helped a man named Rene Anselmo start PanAmSat, the first competitor to Intelsat that eventually sold for $3B, all from a plan he had concocted while in law school. He then (maybe not in exact order) conceived of direct broadcast satellites and started CD Radio, which is now SiriusXM, married and had three more children, got a Ph.D. in bioethics, changed sexes and became Martine, found out that her daughter had a devastating pulmonary disease for which pharmaceutical companies were not willing to research a cure because it was too rare, researched cures on her own enough to craft a request to crowd-source a cure, found one and saved her daughter's life, formed a company called United Therapeutics, went public with the company, and in 2014 was the highest paid female CEO in the country. Her latest book, *Virtually Human*, looks at cyber-consciousness: extending life by transferring one's consciousness to a computer. I was honored to present the UCLA Alumna of the Year award to her in 2014, pointing out that her entire life consisted of crossing boundaries in space, race, gender, business, and even life.

Among the course offerings was a seminar that engaged the students in a comprehensive rewrite of the Communications Act of 1934. In the spring 1978 students prepared papers in different areas of the extensive law,

material that was part of House Communications Subcommittee Chairman Lionel Van Deerlin's rewrite activity. Congressman Henry Waxman, a member of the subcommittee and UCLA Law alumnus, conducted field hearings at the law school on the topic.

Another area of activity was to provide legal advice and support for the League of Women Voters of California, who sponsored statewide debates on gubernatorial candidates Jerry Brown and Evelle Younger.

I kept teaching a seminar in the program through 1989, but in 1985 I left as director, bringing in Daniel Brenner as my successor. Brenner required that the position be on the tenure track. It had always been an adjunct position, a fact I was quite happy with. When I attended my first faculty meeting, I learned that I had no vote as an adjunct. To my delight, that was the last faculty meeting I attended. Ultimately, placing the position on the tenure track led to the demise of the program. In a close and controversial vote a few years later, Brenner did not gain tenure. I think the faculty saw the rare opening of a tenure track position as too alluring to them to bring in another traditional professor. This was their most valuable currency, and they did not want it going to an odd backwater position. With Brenner's departure, the program was eventually dissolved — the editing of the FCLJ went to the University of Indiana, public interest litigation was on the wane, and they decided that entertainment law was more in the crosshairs of UCLA tradition. This was in the mid-1990s, the early days of the digital revolution.

* * *

THE UCLAW MUSICAL

Introduction: UCLA School of Law, 1987–1990

GEORGE ABELE*

I had never been to Los Angeles before arriving for my first day of law school at UCLA. I knew no one. The bulletin board in the school hallway contained a flyer for auditions in a musical written and directed by Professor Kenneth Graham, and performed by law students. "What a great way to meet my classmates," I thought. A second thought crossed my mind as well: "What a great way to embarrass myself in front of the entire student body." Singing was not my strong suit. Or any suit at all, for that matter.

I sought out Professor Graham. "I'd like to be in the musical," I said, "but I can't sing." "Anyone can sing," he encouraged me. "You don't have to be a Broadway star." Practicing my lawyer-to-be skills, I negotiated a non-singing role, the only one in the production. I played a law professor who provided a narration for the performance, to fill in the storyline between the musical numbers.

We rehearsed for months, and I found the camaraderie I was looking for. Professor Graham was as friendly and as patient as one could be, gently

* President, California Supreme Court Historical Society; partner, Employment Law Department, Paul Hastings, Los Angeles. For further information, see the Editor-in-Chief's introduction on page 1 of this volume: 11 Cal. Legal Hist. 1 (2016).

GEORGE ABELE ON STAGE, FEBRUARY 1988.

Courtesy Kenneth Graham

guiding us through the storyline and lyrics he had written to Cole Porter songs. Showtime was upon us before we knew it, and we performed in front of much of the student body and faculty. I recall when I stepped out on stage to open the show, I heard a fellow classmate call out from the audience, "Let's go Abele!" Momentarily distracted, I nearly forgot my lines, but managed to survive the stage fright. We carried off the show without a hitch.

At the beginning of second year, I had the opportunity to take Evidence with Professor Graham. Recalling the bond we had forged in the play, I registered, expecting, perhaps, some lenient treatment when it came to the challenges I had heard Evidence class could present. As I settled into my seat toward the back of the class on the first day, Professor Graham began, "What evidence is admissible? Let's go, Mr. Abele!" Momentarily distracted, I completely forgot my lines.

* * *

THE HISTORY OF THE UCLAW MUSICAL

KENNETH GRAHAM*

The UCLA law school has a long history of doing musical comedy parodies. Originally, students performed these during the law school's annual variety show, "The Law Revue." For example, one year Ralph Shapiro wrote a parody of "Fiddler on the Roof" that brought down the house when students sang "If I Were A Lawyer" to the tune of "If I Were A Rich Man."

The history of the show as a separate entity began in 1981 when Bill Peters and Bryan Hull wrote "My Fair Law Student" for their classmates to perform as part of The Law Revue, then invited Professor Graham, their Procedure teacher, to fill that role in their show. At one rehearsal, when the lines they wrote did not fit the music, Graham (who had no previous experience with lyric writing) sketched out a better set of lyrics, which they readily adopted.

That might have ended it, but later that year Graham broke his elbow playing basketball. On visiting him in the hospital, the students urged Graham to try his hand at another parody for the next Law Revue. Graham agreed and, using the tunes from Rodgers and Hammerstein's

* Professor Emeritus, UCLA School of Law. For further information, see the Editor-in-Chief's introduction on page 1 of this volume: 11 Cal. Legal Hist. 1 (2016).

"Oklahoma!," came up with "Carcinoma." Because of its length, the directors of The Law Revue would only schedule it if it were performed as the last number. The remaining audience applauded the performance of "Carcinoma" even though it did not end until well after midnight. And so the tradition began.

Here is a complete list of the shows and the originals from which they were taken:

1982 Carcinoma ("Oklahoma!")
1983 Obfuscate ("Kiss Me, Kate")
1984 Soporific ("South Pacific")
1985 Songs Without Heart (The Rodgers & Hart Songbook, the first show not based on a single musical but an entire body of work)
1986 Damp Hankies ("Damn Yankees")
1987 My Fair Lawyer ("My Fair Lady")
1988 Exam-a-Game ("The Pajama Game")
1989 Coleslaw (The Cole Porter Songbook)
1990 S.O.U.L.S. ("A Funny Thing Happened on The Way to the Forum")
1991 West Side Glory ("West Side Story")
1992 Guise Enthralls ("Guys and Dolls")
1993 The Wizard of Laws ("The Wizard of Oz," the only show based on a movie)
1994 The Good Lawyer Svejk (The Beatles Songbook)
1995 Muzak Man ("The Music Man")
1996 Justice Mall (the only musical based on classical music, "Pictures at An Exhibition")
1997 Anti-Kids'n'Fun ("Annie Get Your Gun")
1998 I.R.A.C., By George (The George and Ira Gershwin Songbook)
1999 Thinking An I ("The King and I")
2000 Kernal Knowledge (The Jerome Kern Songbook)
2001 Care or $ell? ("Carousel")
2002 No Diploma ("Oklahoma!")
2003 Fogey Barcicle (The Hoagie Carmichael Songbook)
2003 We're Singing It Again (the first Alumni Musical — selections from the above shows)

The careful reader of this list will note that while many of the shows took music from a single Broadway musical, a significant number drew from a composer's complete body of work; for example, "Songs Without Heart" rested on the many songs written by Richard Rodgers and Lorenz Hart.[1]

WRITING THE SHOWS

Once the musical became an annual affair, immediately after one year's show Graham began writing the musical for the following year. Usually it took around six months to complete the script. But we should note two exceptions.

"S.O.U.L.S." (the acronym stood for "Some Other University Law School") began life as a project for the annual meeting of the Association of American Law Schools. When the AALS decided to come to Los Angeles, UCLAW Professor Jesse Dukeminier (a member of the local program committee) suggested they recruit Graham to write something for evening entertainment. However, when the Committee saw a first draft of a parody of "A Funny Thing Happened on The Way to The Forum," they promptly rejected it as "too controversial."[2] Graham later recycled the script for local use.

The second case of rapid writing began when at the cast party in 1990, Graham casually mentioned that he had thought of using "West Side Story" to recount the battles over affirmative action at UCLAW but decided this would not work as the original required more choreography than usual. The students urged Graham to give it a shot. He did — and completed the script in six weeks. "West Side Glory" proved quite successful, particularly in stirring student discussion of the complexity of the issues.

Graham usually altered the original script during rehearsals — sometimes because he found a better line or lyric, but often as a result of suggestions from cast members. Hence, in addition to the original script, the show archives contain an "As Performed" version prepared after the

[1] Readers who would like to see more, including programs and photographs of the shows should visit our Facebook page, "The UCLAW Musical." The complete show archive with scripts, CDs and DVDs of performances, photos, T-shirts, and other memorabilia was deposited in the UCLA Law Library's historical collections.

[2] The premise of the show involved the then-current attempt by some right-wing groups to hire students to spy on their teachers and report any attempts to indoctrinate students with some leftist ideology.

THE STAFF SCENE FROM THE "WIZARD OF LAWS," 1993. L.–R.: STUDENTS TIFFANY WAGNER AND MEGAN SATTERLEE, UCLA LAW LIBRARIAN FRED SMITH, STUDENT MARCUS DELGADO (SEATED), AND (IN CENTER WITH LONG DRESS) LINDA KRESSH OF THE LAW SCHOOL PLACEMENT OFFICE.

Courtesy Kenneth Graham

show. Because students, faculty, and staff contributed to the final product, we attributed authorship to "The Aesopian Collective."[3]

Though we advertised the shows as "musical comedy" (and they had a lot of jokes poking fun at student and faculty foibles), as the example of "West Side Glory" shows, they also dealt with serious issues. Many shows had something to say about feminism and the status of women (including sexual harassment). Other shows looked at climate change and CIA spying on domestic dissidents ("Care or $ell?"), the culture of corporate law firms ("Anti-Kids'n'Fun"), jury trial ("Kernal Knowledge"), and nostalgia for the 1960s ("Fogey Barcicle"). While one faculty supporter thought the show took a Manichean view of the world, another quoted a line from

[3] For those too young to remember the McCarthy era, members of the Communist Party were accused of using "Aesopian" language that had one meaning for initiates while outsiders assumed the words had their normal meaning.

the show during a faculty meeting. In perhaps the most remarkable tale of influence, in "Soporific" one of the characters called another "a rebel without a pause." Someone in the audience used that line in an article in a national publication to refer to members of The National Lawyers Guild. From there someone picked it up to use as a label for a local talk-show host.

MUSIC AND MUSICIANS

Over the years, many talented musicians provided accompaniment for the singers and dancers, beginning with Mark Swanson who played piano for the first three shows. Mark had performed a similar role for undergraduate performances at Stanford.[4] In some later shows it took two or more pianists to fill Mark's shoes. Notable exceptions include Cathy Paul[5] and Darron Flagg.[6] So that the pianists did not have to play at all the rehearsals, they recorded the music on tape cassettes (remember those?) that were played on a boom-box at rehearsals. The cast and the pianists usually assembled at the Graham manse on the Thursday night before the dress rehearsal to run through the music.

The show had other musicians. Beginning with "Obfuscate," the show usually had a faculty band that played an overture and an entr'acte. At their first appearance, the band included Professors Reggie Alleyne (flute), Michael Asimow (piano), Ken Graham (trombone), Henry McGee (violin), and Patrick Patterson (winds and arrangements). Students sometimes joined the faculty band, but eventually students formed their own bands. Jason Axe, who, as an undergraduate, had been an arranger for the UCLA marching band, played a key role in this development. The student band originally accompanied the big production

[4] After a brief period practicing law, Mark went to music school at Indiana University and when last heard from had joined the music faculty at Dartmouth, where he served as director of university choruses.

[5] Cathy joined us for "Coleslaw," the musical that had more songs than most.

[6] Darron had classical training; his skill led Graham to the ill-fated venture into classical music, "Justice Mall," based on "Pictures at an Exhibition" by Moussorgski. But neither Darron nor his collaborators (Peggy Chen and Jason Axe) bear any responsibility for that disaster.

Professor Clyde Spillenger (right) and Adam Kaufman, a member of the student band, in "The Good Lawyer Svejk," 1994.

Courtesy Kenneth Graham

numbers, but they reached their zenith in "The Good Lawyer Svejk" when they accompanied most of the Beatles' songs in that show.[7]

In a couple of shows we used recorded music. For example, in "Damp Hankies" the second act began with the cast singing Don McLean's "American Pie." And in "The Wizard of Laws," the opening scene featured the music from "2001: A Space Odyssey." And later the cast closed Act I by singing lyrics written to accompany "The Star Wars Theme" by John Williams.

THE CAST: RECRUITMENT AND REHEARSALS

We began recruiting students for the musical soon after the start of the fall semester.[8] We posted flyers around the law school and hung envelopes with sign-up sheets on bulletin boards. The sign-up sheets asked students to indicate their talents and interests. Once we had these, we printed up scripts and held an informational meeting where students could pick up scripts, ask questions, and get a sign-up sheet for auditions.

After the students had enough time to read the script and decide what roles they wanted, we held auditions. In the early years, the student directors in consultation with Graham cast the show.[9] At the auditions, students had to read a bit of dialog and sing one of their character's songs. The student directors usually found the casting easy, but when he took over the director's role, Graham found it quite difficult, except in those years where

[7] The faculty band did a couple of numbers.

[8] In some years, student groups like ours got a table at law school orientation to provide information about and recruit members for their organizations. When available, we took advantage of this.

[9] The consultation requirement was added after several students who had been in the show the previous year quit after the student director passed them over for lead roles. Graham thought prior service in the show should count for something but most student directors rejected this.

few students auditioned. The shows were usually double-cast; that is, one student played the role in the 7:00 PM show and a different student took over the role in the late show.

The number of students in the shows varied widely and without apparent reason. For example, only twelve students appeared in "Coleslaw," which ironically had more songs than most shows.[10] On the other hand, "The Good Lawyer Svejk" had more than twenty-five cast members along with more musicians than any other show.

Similarly, the student skills spanned the range from Karen Ragland and Susan Keller, who had been professionals before coming to law school, to those who had never set foot on a stage before. Seeing some of the latter blossom over the course of their work provided a real delight. Though you might not expect this, the professionals took direction better than some of the students who thought they had been stars in high school.

We rehearsed for a month. During the first three weeks, rehearsals were held Monday through Thursday from 6:00 to 8:00 PM. However, not every cast member was called for every rehearsal; we typically called the chorus members only twice a week. But many cast members rehearsed on their own outside of the scheduled rehearsals.

Cast members were busiest the week of the show. Typically, everyone was called for every rehearsal. On Thursday night the cast assembled at the Graham home to run through the music for the first time with the pianists. The dress rehearsal took place on Friday night and sometimes the students wanted an additional rehearsal on Saturday afternoon prior to the evening's performance.[11] Then after the show, cast members helped strike the set and move props back to the law school before heading off for the cast party.

We held rehearsals in the student lounge but moved into the law school lobby to choreograph the dance numbers. The week of the show, we moved into the lobby twice to run through the show with each cast, a move that occasionally brought complaints from students trying to study in empty classrooms along the main hall. When Keith Endo took over as our sound

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10 Because of the small numbers, leads in one show had to appear in the chorus in the other, putting further strain on their vocal cords.

11 At the extra Saturday rehearsals, cast members usually stayed in the theater after the rehearsal, ordering takeout rather than trudging home to eat.

technician, he came to these rehearsals to see how he needed to set up the sound system — for example, which performers might need body microphones to be heard. Dress rehearsals took place, of course, in the performance venue.

FACULTY AND STAFF: RECRUITMENT AND REHEARSALS

We worked hard to get faculty to participate in the show because we drew an audience that wanted to see their professors on stage as much or more than their classmates. During Susan Prager's deanship, she encouraged faculty to take part as she did and allowed Graham to make his pitch at faculty meetings. Some faculty participated regularly, including those mentioned above who joined the faculty band.

Though most faculty did not want to do more than join the faulty chorus, Ken Karst, Dan Lowenstein, and Gary Schwartz agreed to sing solos. Once this became clear, Graham began to write songs for them to sing. When writing "The Good Lawyer Svejk," Graham asked Professor Schwartz to name his favorite Beatles tune; then "Let It Be" became "Let Tort Be." This dirge against tort reform included the memorable line, "My class notes would be obsolete." When Gary sang this in the show, not long before his untimely death, it brought the house down.

Staff participation began early, with most of the regulars drawn from the Law Library and the Placement Office but occasionally we got administrative assistants to join us — most memorably in "Songs Without Heart," where the hero (then a paralegal), went to law school at the urging of his co-workers. Perhaps the most memorable staff work came in "Anti-Kids'n'Fun" where they played The WackyNuts, a group of escapees from a lunatic asylum who flitted through many of the scenes.

On a few occasions, faculty and staff offspring appeared on stage. The dean's daughter, Casey Prager, appeared as "Dean Vaguer" in "Guise Enthralls." And Nancy Berkowitz's daughter Andrea played violin in "I.R.A.C., By George" during the song "Bummertime," based on "Summertime." Our L.L.M. candidates rarely appeared in the show, but when they did, they enjoyed it.

Originally the student director tried to do faculty and staff rehearsals, but this proved too onerous. So Kris Knaplund and Ken Graham shared

this task. (In later years, Kris also recruited faculty members). Faculty put up some resistance when we began to choreograph their production number in "West Side Glory," but our student choreographer, Julie Van Wert, finally convinced them they could do it. When they did so, the audience expressed great appreciation for their efforts — even when faculty feet would not do what their brains told them needed doing.

We made one concession to the demands on faculty time. Since faculty meetings usually took place on Friday, during dress rehearsal we usually put on the faculty out of order whenever they were able to arrive. The students did not mind since this was the first time they had seen the faculty number. Though we offered staff members a similar dispensation, many of them were willing to stick around in order to see the rest of the show. During the performance, rather than wait back stage, faculty and staff sat in seats reserved for them and came backstage shortly before they were scheduled to come on.

PRODUCTION

Putting on the show required a lot of advance work that most cast members knew little about. When the show left The Law Revue to become a separate entity, the Public Interest Law Foundation (or PILF) under the leadership of Alan Garfield agreed to produce the show in return for adding any profits to their coffers.[12] So each year, PILF provided one person (sometimes two) to serve as the producer. The producers enlisted other PILF members for specific tasks. For example, each year someone with artistic skills would draw the show logo that was used for publicity, program covers, and T-shirts.

The producer's most important task was to arrange for lighting and the sound system, as well as people with the ability to work each. During the early years, we rented lights from Angstrom Lighting in Hollywood. Richard Graham (no relation) gave us a reduced rate because PILF was a non-profit. Ditto for Jim Ash of Ash Audio. One year when our student operator had trouble working the soundboard, Jim drove all the way up from Torrance to show him how.

[12] The amounts raised varied, but even when production costs ate up most of the profits, PILF still had the advantage of telling outside funders that none of their money went to administrative costs as profits from the show defrayed these expenses.

THE CAST OF "KERNAL KNOWLEDGE," 2000, ACKNOWLEDGING THE BACKSTAGE STAFF.

Courtesy Kenneth Graham

The producer not only had to rent this equipment but also arrange to pick it up before the show and return it afterwards. Usually at least one PILF member had a pick-up truck we used for this purpose, as well as moving props to and from the law school. Most years the only such props were tables and chairs, though in a couple of shows PILF members created scenery that also had to be moved.

The producer also had to arrange for a piano. After a couple of fiascos in moving the piano from the student lounge, we turned to renting a piano from the School of Music, which greatly simplified things. The School of Music would move the piano to the venue and tune it just before the dress rehearsal. In most years, the producer also found us a pianist (or pianists).

The producer helped promote the show and provide people to man the ticket table. Most years, the promotion consisted of putting up posters and making announcements in classes. In the early years, the cast helped promote the show by giving a preview of the show songs at noon in the law school lobby. We had to drop this after some faculty complained that the crowd made it hard for them to get to the Faculty Center for lunch.

The producer also had to recruit PILF members to work the night of the show. They performed such tasks as taking tickets and handing out programs.[13] They also recorded the shows, first on Graham's boom-box, then later on his video camera. Other students worked backstage as prompters, stage managers, and prop managers.[14] After the show, PILF members helped the cast strike the set and move stuff back to the law school.[15]

We referred to the entire crew it took to put on the show as "403 N.W.2d 143" — the citation for a Michigan case: "People v. Music."

THE END OF THE PILF CONNECTION

For the most part, the relationship with PILF worked well — with a couple of exceptions. The first problem arose over the artwork for "My Fair Lawyer II." The artist, Kat Kozic, originally based the show logo on the artwork for "My Fair Lady," which showed George Bernard Shaw pulling the strings on a female figure (presumably Eliza) in a semi-recumbent position. However, several PILF members objected to this artwork as "sexist," and Kat tried several alternatives, but the only one that satisfied them showed the female figure standing upright and using a pair of scissors to cut the strings. Kat was so unhappy with this ugly version that she asked not to have it credited to her in the program.[16]

The second controversy erupted over "The Muzak Man." In one scene, an elderly spinster (impliedly lesbian) remarked that Hershey's chocolate kisses "looked a little like nipples." A PILF member wrote an angry letter to the dean, completely misrepresenting the dialog, and asking how the dean could permit the law school name to become besmirched by such an

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13 The show used what came to be known as "festival seating"; that is, first-come, first-served seating. The sole exception: we reserved seats for faculty and staff members in front so they could easily reach the stage to perform.

14 This job took on greater importance after "Damp Hankies," when the first person who played the Devil walked off with a flash producer that allowed the Devil to make fire appear to emerge from his hand — a device that Graham had bought at a magic shop at the suggestion of the student director.

15 Since the lighting and sound equipment could not be returned until the following Monday, we had to find a secure place to store it — usually Graham's office.

16 Graham then reached an agreement with the PILF leadership that PILF members were not to meddle with the artistic side of the show.

obscene production. The dean, who had been present and found nothing offensive, suggested that he take up the problem with the PILF leadership. When Graham saw this exchange of correspondence, he feared this might lead PILF to ask for control over the content of the show.[17]

By this time, the enthusiasm of PILF members to aid in the production of the show began to wane. In one year, the producer could not get enough people to staff the show and cast members had to enlist friends to fill in. Moreover, PILF now had a more lucrative way to make money — an annual auction of items donated by faculty and alumni. The last straw (at least for Graham) was when he was in the lobby selling tickets for the show while PILF members were in the lounge selling tickets for the auction.

In 1996, the PILF leadership agreed with Graham that it was time for us to go our separate ways.

THE POST-PILF ERA

The most immediate consequence of cutting the PILF connection was that Graham had to formally become the producer of the show — a role he had pretty much filled in the last few PILF years. The second (and more momentous consequence) was that since we were no longer raising money for PILF, we did not have to use the cheapest venue. As a result, the first show under the new regime, "Anti-Kids'n'Fun," moved to the Northwest Campus Auditorium. Unlike the classrooms in which previous shows had been performed, this was a genuine theater with most of the usual facilities, such as curtains, dressing rooms, and the like.

Fortuitously, the year before, when PILF could not provide a sound man, we asked the Theater Arts Department to suggest someone we could hire — and that's how we met Keith Endo. When Keith learned we were going off on our own, he told us that he had his own sound equipment and a couple of follow spots. He suggested a package deal; his services and his equipment for not much more than we had paid for his services.[18]

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[17] It never did.

[18] We later learned that in addition to his freelancing at UCLA, Keith was also a prize-winning lighting designer for legitimate theater productions.

For the rest of the shows, Kieth was more than a sound man, though he did a very good job of that.[19] During dress rehearsals, he shouted out stage directions: "Don't turn your back to the audience," or "Come downstage to deliver that line." He also made audio recordings of the shows. Finally, during dress rehearsals, Keith took photographs — lots of them.[20]

AFTER THE CURTAIN CAME DOWN

The cast first took their bows, as orchestrated by the director.[21] Once that was completed, most of the cast helped to strike the set — an onerous task for just two people, particularly after all of Keith Endo's sound equipment had to be removed from the auditorium. Once the set was struck, his equipment loaded into Keith's car, and any props moved back to the law school, it was time to head off for the cast party.

The first cast parties took place in the law school, but the venue gradually shifted to local restaurants with a few held at the home of cast members.[22] In addition to reprising their performance, sometimes the cast members presented the director with what became the customary souvenir — an enlarged copy of the show logo signed by cast members and others (faculty members or the production staff). Ken Graham had these framed and hung in his office until his retirement forced him into a smaller office, when some of them had to be moved to his home.[23]

THE END OF THE UCLAW MUSICAL

Several developments contributed to the demise of the show. First, the university tried to make up for budget cuts by increasing the fees for use of

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19 For example, in addition to the usual stage microphones, Keith also used body mics where appropriate, and a backstage speaker so those waiting to go on stage did not have to peer through the curtain to see when it was time for their entrance.

20 Several hundred of these appear on the show's Facebook page.

21 Following a custom begun by our first director, Patty Mayer, the directors did not take bows. Ken Graham did come on stage after "No Diploma" to accept a plaque presented by Dean Jonathan Varat to commemorate the show's twentieth anniversary. He did the same after the Alumni Show.

22 One early party was held at Patty Mayer's home.

23 A few of these are in the law school archives, and the rest will eventually end up there as well.

an auditorium, making the show financially precarious.[24] Second, younger faculty from Ivy League schools found the show too undignified to participate in, and some older faculty stopped participating once PILF ceased its sponsorship.[25] Finally, the author's muse seemed to have deserted him.

The show left an interesting legacy. It raised thousands of dollars for the UCLA Public Interest Law Foundation. It brought students, faculty, and staff together in a common effort that enriched their interactions elsewhere. It led to several marriages between cast members that endure to this day, including the marriage of a faculty member (Evan Caminker) who went on to become the dean of the University of Michigan Law School. But most importantly, as many students wrote when they signed the show posters and repeated at alumni reunions, "It was the most fun I had in law school."

* * *

[24] Dean Susan Prager covered the shortfall during her deanship and later Ken Graham subsidized the excess costs of the show over the money from ticket sales.

[25] Faculty participation not only helped bring out an audience but also validated student participation in the show.

I LICENSED NIMMER

ALEX KOZINSKI*

I started law school at UCLA in the fall of 1972. No one in my family had been a lawyer or had anything to do with the law, so I had no idea what to expect. The first day of class, I had quite a surprise: The professor at the front of the class looked very familiar and, on closer inspection, I recognized him as Edgar "Ted" Jones, the judge on the 1960s TV show, *Day in Court* — an early and much tamer version of Judge Judy and Judge Wapner.

Was I jazzed! A law school with celebrities as teachers. I knew I'd made the right decision in picking the school

MELVILLE B. NIMMER
Photo by Hon. Alex Kozinski

* Judge (formerly Chief Judge), U.S. Circuit Court of Appeals for the Ninth Circuit, Pasadena, California. Reprinted by permission of the author from 60 J. COPYRIGHT SOC'Y U.S.A. 201 (2013). For further information, see the Editor-in-Chief's introduction on page 1 of this volume: 11 CAL. LEGAL HIST. 1 (2016).

closest to Hollywood. It was also the only one that didn't reject me, but I took credit for that too in strategically blowing a few key classes as an undergrad. The professors that first quarter were all showmen of one type or another, the way law professors tend to be. Some did it by strutting across the classroom and gesticulating with dramatic flair. Others did it by presenting deep paradoxes or anomalies in the law, and asking us to ponder the mysterious and nonlinear way in which the law developed. Still others did it by creative use of the Socratic method, always managing to manipulate students into making contradictory arguments and then telling them they were beginning to think like lawyers. And one did it by lampooning my accent, which got a big laugh.

There was one class that was a bit different, and that was Contracts. The professor was a neatly dressed, quiet, balding man with a mustache. He always wore a suit, a tie, and a shirt with French cuffs. He would walk into class, sit at the desk on the dais facing the class and, at the stroke of nine, start lecturing. He didn't move the entire period, except to turn pages in the book or recognize a student by pointing.

The entire lecture consisted of words, spoken softly but clearly, as he deftly peeled back the mysteries of consideration, meeting of the minds, parol evidence, and mutual mistake of fact. His explanations were simple and to the point; his Socratic dialogue was always calculated to illuminate, never to shock and awe.

Only once during the two quarters he taught us Contracts did Nimmer get up from his desk. I remember it vividly because it was such an event. He was in the midst of explaining a particularly tricky concept when some student (probably me) asked a convoluted, off-the-wall question. Nimmer paused a few seconds and then, as if making up his mind to do something distasteful but necessary, he pushed back his chair and stood up. He then buttoned his coat and started to turn towards the blackboard. As he did, he turned back to us and, in a tone that was half explanation and half apology, said, "I'll have to approach the . . . the . . . board." The last word came out muffled, as if it was not a term to be used in mixed company. We all cracked up.

With a few strokes of the chalk, he drew a diagram that untangled the questioner's conundrum, and quick as a bunny he was back at his desk, wiping chalk from his fingers with a monogrammed handkerchief. His

look of relief at having survived the ordeal told us he'd never do it again, and he never did.

* * *

While Nimmer was always soft-spoken and polite in class, we found out he had used the F-word before the Supreme Court. One of my classmates had heard a rumor to that effect and we were all wondering whether inside the mild-mannered Professor Nimmer was a Lenny Bruce trying to break free.

So, at the beginning of class, one student (probably me again) asked him about his representation of Paul Robert Cohen in the Supreme Court: "Is it true that the Chief Justice wouldn't let you quote what was written on Cohen's jacket?"

"Well, he tried," Nimmer answered. "When I started speaking, the Chief Justice said: 'Mr. Nimmer, the Court is familiar with the facts of your case so there is no need to state them.'" Nimmer continued, "I felt that if I let him censor what I said in the Supreme Court I'd be conceding that the word was taboo in other courtrooms as well. So I responded, 'I think I can summarize the facts very briefly, Mr. Chief Justice,' and I did."

The class was silent as we waited for Nimmer to quote that summary, but he never did. I guess he thought that kind of language wasn't appropriate for the classroom.

* * *

One day he assigned an opinion with which I disagreed completely. I tried to make the point in class, but I didn't manage to persuade anybody, least of all the professor. Why didn't this case have a dissent? A dissent would surely have explained to everyone's satisfaction that the majority was out to lunch.

So I decided to write a dissent of my own, and when I was done I dropped by Nimmer's office and handed it to him.

"What is this?" he asked.

"It's a dissent to the Smith case," I explained. "If you'll just read it, you'll see how wrong the opinion is."

I left it with him and waited for a week or two, hoping he'd buttonhole me after class — or, dream of dreams, during class — and tell me how brilliant the dissent was and how wrong the Smith case had been, but he never did.

After a couple of weeks, I could stand it no longer. So I went to his office and asked him what he thought of my dissent.

"It was very good," he said. "You ought to write more of them." Little did either of us know that one day writing dissents would be my life.

"But were you persuaded?" I asked impatiently.

"It had its points," Nimmer said, his voice trailing off.

After a few moments of silence, I completed his thought: "But you weren't persuaded, right?"

He shook his head. There was nothing left to say, so I turned to leave. As I did, it occurred to me that I hadn't kept a copy so I asked him for it back. He looked a bit perplexed and then he said, "Um, I filed it," pointing to the trash can. So my first dissent persuaded no one and wound up in the round file.

* * *

Near the end of the school year, I got it in my head to take pictures of my various professors. I had a state-of-the-art Nikon F, and I loaded it up with a roll of Kodak Gold 100 ASA film. I stopped my various professors wherever I could find them — after class, in the corridor, coming out of the bathroom.

I found Nimmer in his office, sitting at his desk, of course. He was dressed, as usual, in a blue shirt with gold cufflinks and a conservative pattern tie. He looked pretty much as he did in class, except his suit jacket was off. When he learned my business he demurred, but I would have none of it. Realizing he wasn't going to get rid of me without a fuss, he resignedly took off his glasses and leaned slightly on his right elbow. I had about five seconds to take my best shot, and I fired off exactly one.

Those being the days of film, I had to wait till the roll was full and the film was developed to see the results. By and large, they were a mixed bag, but the picture of Nimmer was pretty much perfect. Surrounded by books, illuminated by daylight streaming into his office, neat and kempt like a model from a Brooks Brothers ad — that was the Nimmer we all knew and loved. I had a copy of the picture printed and dropped it off at his office. He looked at it, gave me a slight smile and thanked me. As I left, I wondered if the picture would get filed, like my dissent, in the round file.

* * *

It was a few weeks later, just as finals were starting. I was walking down the main hall of the law school carrying a large cardboard box with my books and notes, pretty much oblivious to everything around me. Suddenly, I heard a voice calling behind me: "Mr. Kozinski, Mr. Kozinski, may I have a word with you?"

It was Professor Nimmer. Contracts had ended weeks ago and I had no idea what he could possibly want with me. Maybe — my heart leapt at the thought — he had found my dissent under a stack of books, re-read it and decided I was right after all. Could it be?

"I don't quite know how to say this," he said, "but I may have . . . um . . . infringed your copyright."

Say what? Had he published my dissent without my permission? But he was pointing to a poster on the bulletin board right next to where we were standing. It was an announcement for a lecture he was going to give a few days later, and right there, under the title and description, was a picture of the speaker. And not just any picture. My picture.

"They asked me for a picture to include in the announcement for this lecture," Nimmer was saying. "And the only picture I could find was the one you gave me." His voice trailed off. Finally he added, "I neglected to ask your permission."

When I finally got it, I put down my box, thrust out my hand and spoke words that I'm sure many a copyright scholar would be pleased to have been able to speak: "Professor Nimmer, I grant you a copyright license!"

He took my hand and we shook on it. Little did I know that years later, in a case involving a gustatory melodrama, I would hold that a transfer of copyright had to be in writing, but a non-exclusive license could be oral: "The leading treatise on copyright law states that '[a] nonexclusive license may be granted orally, or may even be implied from conduct.'" Effects Assocs., Inc. v. Cohen, 908 F.2d 555, 558 (9th Cir. 1990) (quoting 3 Melville B. Nimmer & David Nimmer, *Nimmer on Copyright* § 10.03[A], at 10-36 (1989)).

I'm sure this was the right answer, but I've always wondered just how it got into the treatise. Do you think Nimmer put it there to make sure the license I gave him orally, on the spur of the moment, would hold up in court?

Nah. To quote Elvis, "we can't build our dreams on suspicious minds." I'm sure Nimmer knew very well that an oral license was sufficient, and when I offered it, he was happy to accept, knowing it would stand up if it

was ever challenged. And now I'm happy to grant a written license to the Copyright Society of the same picture, to be run as part of their Nimmer Treatise Commemorative Issue. I'm honored to contribute to a Festschrift celebrating the finest copyright treatise of our generation.

* * *

SOME MEMORIES OF UCLA LAW SCHOOL

JAMES E. KRIER*

I joined the UCLA law faculty in summer 1969, after a year of clerking in San Francisco and two years of practice in Washington, D.C. The school had been founded only twenty years before, and had a relatively small faculty when I interviewed there — about thirty people. By the time I arrived it was substantially larger, thanks to a hiring spree that brought me and seven or eight others onto the faculty all at once. We young turks were instantly integrated into the faculty, treated as family, but we also developed close and supportive bonds with each other, and I remember how commonly five or six of us would all be at work in our offices late into the night, consulting with each other, laboring not just on our own, but — in a way — as a group determined to make a contribution to the school.

I had offers from several established old law schools (including Penn and Virginia) considered at the time to be far superior to UCLA, yet my experience interviewing at UCLA convinced me that it was the only place for me. The people I met were warm, sharp, ready to test my mettle with

* Earl Warren DeLano Professor, University of Michigan Law School. For further information, see the Editor-in-Chief's introduction on page 1 of this volume: 11 Cal. Legal Hist. 1 (2016).

much wit and humor, and, most important, free of the stiffness and pomposity that I found at some of the other schools I visited. They were my kind of people, and I thrived working among them, and with the young new colleagues who joined the faculty around the same time.

Westwood was still a village of sorts in 1969, and most of the faculty lived on the west side of Los Angeles, within a few miles of the law school. This made out-of-office socializing easy, and there was lots of it, usually in the form of dinner parties. There was also, of course, socializing during the workday, especially in the form of lunch at the Faculty Club, where a considerable number of us would gather at the same large table every day shortly before noon, eat together, and then go as a group for coffee in one of the club's lounges. I wonder if this wonderful tradition still goes on. I wonder if dinner parties are still a regular thing, now that many of the faculty live distant from the school, and now that the faculty is so much larger. I wonder if there is still a Ken Karst haiku contest each year. (I think it was haiku!) I wonder if the bonds among faculty are still as warm and tight as they were back in the day.

I say with utter confidence that my colleagues at UCLA were instrumental in the development of my career, and of my views about what a faculty should be. My years at UCLA were the happiest and most fruitful years of my life.

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TAKING A CHANCE ON LAW, UCLA STYLE

DANIEL H. LOWENSTEIN*

According to Tolstoy's famous opening of *Anna Karenina*, all happy families resemble one another. I doubt if that is true of happy families, but to a large extent it is true of American law schools, happy or otherwise. No matter where you go to law school, you will study Property, Contracts, Torts, Crimes, Constitutional Law, and a variety of other subjects, probably believing that your task is to figure out the rules in each subject and memorize them as best you can. You will be subjected to a barrage of questions intended to help you with your real task, figuring out how to solve problems and accomplish goals within the framework of clear and unclear rules. You will hone your skills at practical reason and, nowadays, be subjected to large doses of what is called legal theory, much of it claptrap. If all goes well, when you finish you will be prepared to pass the bar examination and, although

* Daniel H. Lowenstein joined the UCLA Law School faculty in 1979 after four years as deputy secretary of state of California under Jerry Brown and four years as the first chairman of the California Fair Political Practices Commission. At UCLA he became the first law professor to specialize in election law and in 1995 he published the first twentieth-century American casebook on that subject. In 2009 he retired from the law school faculty to become the first director of the UCLA Center for the Liberal Arts and Free Institutions (CLAFI). For further information, see the Editor-in-Chief's introduction on page 1 of this volume: 11 Cal. Legal Hist. 1 (2016).

not quite prepared to practice law well, you will be prepared to be prepared for practice. Meanwhile, your professors will devote a portion of their ingenuity to figuring out ways to reduce their teaching loads and spend as much of their time as possible writing books and law review articles that once in a while will contain something useful.

Although the big picture is much the same at all law schools, an omniscient observer would find that each law school has its own particular personality, helping to shape the experience of its students and, especially, its faculty members. In this essay, I'd like to emphasize three features I believe contribute to UCLA's particular quality. A confirmed Tolstoian might jump to the conclusion that if these qualities create differences from other schools, they must tend toward making our school an unhappy one. But whatever validity Tolstoy's claim about happy and unhappy families may have, experience at UCLA suggests (I am happy to say) that the claim cannot be extrapolated to law schools.

The first feature is the mutual supportiveness that exists in the law school. This is the one my colleagues and I like most to talk about, and the possibility has to be allowed that we exaggerate its magnitude, both absolutely and relative to other law schools. But most of my colleagues and others who have visited the law school in one capacity or another have believed it is real. Perhaps the most important manifestation of supportiveness is also, fortunately, the least frequent. That is, when a faculty member finds himself in the middle of a controversy or in some comparable difficulty, his colleagues are likely to rally 'round, and quickly. More routinely, faculty members are generous with their time in reading and commenting on drafts of articles and in discussing problems that occasionally arise in teaching.

One of the things university faculty members do is present papers, often to their own faculties but also by invitation at other schools. This is also done by candidates for faculty positions. My experience at law schools, both when I was a job candidate in 1979 and since then, is that law school faculties tend to fall into two categories. Some are very aggressive when someone is presenting a paper, peppering him or her with questions, often rather hostile and of a "gotcha" nature. Other faculties tend to be quite passive. They ask few questions and the questions they ask tend to be general and even bland. Usually, the UCLA law faculty does not fall into either of

these categories. The questions are just as frequent and possibly even more probing than the first category, but they are not hostile. Rather, they are designed to help the presenter improve the paper and to get at the truth. I don't think I've ever been more proud to be a member of our faculty as at some of these sessions.

The supportive environment of the law school in particular and UCLA in general makes it a very good place to work. I do not mean to suggest that it is a utopia. For example, early in my UCLA career I learned that when the towel dispenser breaks in the bathroom on your corridor, you are in for a six-month war. But drying your hands on your trousers is worth it for colleagues and an administration (well, sometimes an administration) that will both challenge you and stand behind you.

The remaining two features can be put under one heading, "Taking a Chance,"[1] but they are distinct and I will discuss them separately. The first refers to chances the law school takes, especially in faculty hiring. The second refers to encouragement or, at least, toleration of chances taken by faculty members.

I believe UCLA stands out among leading law schools for its adventurous spirit in hiring faculty members whose records depart from the standard. I will give four examples. The first is Steve Shiffrin, who joined the faculty a couple of years before I did and was an expert on the First Amendment. Shiffrin had spent ten years teaching and coaching the debate team at CSU Northridge and during that period went to law school at night at Loyola. Things have changed, somewhat, but in those days a candidate for a leading law school was supposed to have gone to one of the half dozen or so top schools. Beyond the leading twenty or so was pretty much unheard of. But UCLA took a chance on Shiffrin, who was one of the most brilliant members of our faculty until, after ten years, family considerations caused him to move to Cornell.

I myself am the second example. My educational background more or less fit the standard mold, but equally important, especially in those days, was some combination of a prestigious federal court clerkship, employment in elite federal government offices such as the Justice Department Office of

[1] The learned reader has probably noticed that my title for this essay is taken from the song, "Taking a Chance on Love," by Vernon Duke with lyrics by John La Touche and Ted Fetter, introduced in the Broadway musical (later a movie) *Cabin in the Sky*.

Legal Counsel, and employment in a large corporate law firm. Typically, a candidate would have been out of law school three to five years. I had been out of law school twelve years, which I spent traveling around the world (one year), working for California Rural Legal Assistance, a federally-funded legal services agency (three years), working for Jerry Brown when he was California secretary of state (four years), and serving as the first chairman of the California Fair Political Practices Commission (four years). So far as most leading law schools were concerned, I might as well have spent those years in a Bowery flophouse. But UCLA took a chance. Okay, the thing about taking a chance is that it doesn't always work out so well!

The third example is Gary Blasi. Blasi went to college at the University of Oklahoma and never went to law school at all. Rather, he qualified to take the California bar exam the old-fashioned way, by apprenticeship. He took and passed the exam in 1976 and our law school took a chance on him in 1991. He has had a distinguished career and helped to found the David J. Epstein Program in Public Interest Law and Policy, as well as contributing to the law school in countless other ways.

The final example is Sam Bray, whose record, while mostly as blue-chip as you could ask for, included an undergraduate degree from Bob Jones University. About ten years ago I spent three weeks in a seminar with a woman who was an expert in eighteenth-century English literature at Bob Jones and I learned (to my surprise, I am embarrassed to say) that there was some first-rate intellectual activity going on in that place. Nevertheless, I am pretty sure that Bray's *curriculum vitae* caused some lips to curl at other law schools. UCLA took a chance, and once again hit the jackpot. Bray, whose interests are wide-ranging but has concentrated particularly on remedies, is off to a great start in his career and was awarded tenure not too long ago. Among many other things, he is the author of what might be the only published law review article on the hendiadys — and it is a gem.[2]

UCLA — and this is a trait of the campus generally, not simply the law school — encourages or tolerates chance-taking by faculty members. One example is the latitude faculty members have in extending their teaching and research in unconventional directions. A typical example from early

[2] Samuel L. Bray, "'Necessary AND Proper' and 'Cruel AND Unusual': Hendiadys in the Constitution," 102 *Virginia Law Review* 687 (2016).

in my own career at UCLA is that in my first year, I taught an existing course entitled Legislation. By my second year, I had decided the course I wanted to teach was on election law, so a new course was created with the title "Law and the Political Process." At the same time, I devoted my research to election law and began, for starters, with a couple of articles on the California initiative process. At the time, no other law professor in the United States was specializing in election law and, even after Proposition 13, the initiative was about as obscure a subject in academe as you could find. Neither UCLA nor I could know that for a wide variety of reasons, election law would eventually become an important subject both in the legal–political world and in law school curricula. Around the same time, faculty members were extending the bounds of courses and research to "Law and —— ," with the blank filled by a bewildering variety of subjects, such as economics, psychology, history, philosophy, political science, literature, and many, many others.

But although this latitude in teaching and research is real and important, it is not in itself distinctive to UCLA in general or the law school in particular. Most law schools and universities, especially the better ones with reasonably ample resources, are similarly permissive. Furthermore, the latitude can be abused. In a history department, a faculty member offers a seminar entitled, "Working Conditions for Women in the Textile Industry in Lynn, Massachusetts, from 1820 to 1840." Can you guess what that faculty member's current research project is on? For better and for worse, flexibility in teaching and research is inevitable in a higher educational system in which the academic departments reflect disciplinary divisions established well over a century ago.

What, then, is distinctive about UCLA? I would say it is a relatively high degree of pluralism. The attentive reader probably figured, when I referred in my opening paragraph to a high percentage of legal theory as claptrap, that whatever else may be true of the author of this essay, he is — for better or for worse depending on your taste — pretty cynical. Not so fast, for here is the point: many if not all of my colleagues would probably agree that much legal theory is claptrap. The question on which we would disagree is, which parts? One of the subjects I teach is statutory interpretation. I believe some of the theoretical debates in statutory interpretation — for example, textualism vs. intentionalism vs. purposivism — can be

quite illuminating and of unusual practical importance, given that some of the leading theorists are or have been prominent judges. No doubt, many of my colleagues regard these theoretical disputes as nonsense or, to stick with the technical term I've been using, claptrap — terms I would readily apply to some of their pet legal theories.

Such differences do not prevent us from being happy colleagues. At UCLA — and I repeat that this is not at all limited to the law school — there is a wide and deep norm of laissez-faire. I may think what you are doing is nonsense, but I won't try to interfere, and I don't expect you to try to interfere with my preferred brand of nonsense. In the law school, UCLA's strong observance of pluralism has both reinforced and been nourished by the supportiveness and the willingness to take a chance in hiring that I have described. It also gives a particular quality to the latitude in teaching and research that, as I have mentioned, is not in itself unique to UCLA.

The laissez-faire norm is widespread at UCLA and I have seen much evidence of it. I will conclude with one example, again drawn from my own experience. Eleven or twelve years ago a friend interested in higher education reform suggested I try to start a center for the study of the foundations of free institutions similar to centers being created at a number of prestigious colleges and universities. I thought such centers could serve a good purpose, but I had a broader interest. During my law school career I had sadly observed what seemed to me a steady marginalization at UCLA and other universities of study of the history and achievements of Western civilization, a subject that had once been regarded as the core of a liberal education. My friend's suggestion was the catalyst for me to work with such allies as I could recruit to create what we eventually called the Center for the Liberal Arts and Free Institutions, or CLAFI.

The reasons for the marginalization of Western civilization were many and complex. Some were bureaucratic; some reflected a broad tendency in universities away from the humanities in favor of supposedly more economically relevant areas such as STEM; some reflected changing fashions; and some — oddly in my opinion — were ideological. These and other seeming barriers were what made me think success in creating CLAFI was a long shot.

Developing a group of supportive faculty members took time but was not difficult. What very pleasantly surprised me was the positive response

of the administration. I spoke to a number of UCLA officials, who ranged from cordial to enthusiastic. When a tentative decision was made to house the new center in the Humanities Division, the then-dean of Humanities, Tim Stowell, wisely decided to take on getting the opinions of a number of faculty members within the division. I had a very good meeting with him in which he made a comment that I believe was crucial to his agreement and very relevant to this essay. Many of the faculty members he spoke to had no interest in what CLAFI proposed to do and, in some cases, may even have been somewhat hostile. But they nevertheless recognized that CLAFI would serve a number of people at UCLA who were interested in its goals, and for that reason they supported (or at least did not oppose) its creation. That is laissez-faire in action. CLAFI has never encountered the resistance and controversy that has befallen somewhat comparable centers at other institutions.

When CLAFI was approved, I wanted to be able to devote most of my time to it. I therefore retired from the law school, though with emeritus status I have been able to continue teaching there each year. The law school administration was cooperative in my switch and where appropriate has continued to support me in my new venture.

Had I been inclined to do so, I could have filled an essay of at least this length with complaints and criticisms of UCLA and the law school. But in the ways that matter most, UCLA is a splendid place to work and, more importantly, facilitates the faculty's teaching and research that, at their best, serve the people of California.

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MY TIME AT UCLA LAW

ELWOOD LUI*

My parents emigrated from Canton (Guangzhou), China in the late 1920s. I was the youngest of seven children born and raised in Los Angeles. My parents' relatives and friends dreamed of making a sufficient fortune to return to China to retire. World War II and the Chinese Civil War dashed that dream for many of them. While my parents did return to China about a dozen years later, they were able to return to Los Angeles just as the Japanese army was about to capture Hong Kong, where the family had been living.

I was born after the family returned from China and just before Pearl Harbor. My father's business was successful enough to allow my older siblings to attend college. But when it came time for me to go to college, I had to pay for my own education. Fortunately, I was admitted to UCLA, which had a great reputation and was virtually tuition free at that time.

When I arrived at UCLA as a freshman in the fall of 1958, it was quite different demographically than it is today. There were very few minority

* Associate Justice, California Court of Appeal, Second Appellate District, Division One. For further information, see the Editor-in-Chief's introduction on page 1 of this volume: 11 Cal. Legal Hist. 1 (2016).

students. It was a bit scary for me at first because everyone seemed so intelligent. I had an aptitude for financial matters, and eventually I decided to study accounting to improve my prospects for employment after graduation.

The business school was located adjacent to the law school. The law students seemed to study constantly and appeared to enjoy what they were doing. It also seemed that the best accounting students were planning to attend law school.

As the Vietnam War was escalating and the draft seemed to be a certainty, my closest friends and I decided that by joining the Army Reserve, we could at least determine our own destiny and not be drafted. After six months of active duty, I returned to UCLA to earn my MBA at the business school. After receiving my MBA, I married and went to work at Deloitte, one of the large accounting firms. My first child was born soon thereafter. While I had, as I had hoped, enjoyed the study of accounting, I found the work in that field not as satisfying, so I began night law school at Loyola and finished the first year while working full time. I missed UCLA and the environment of the campus — Loyola just didn't seem like home. Fortunately, I did well enough in my first year to transfer to UCLA law school.

I can remember walking up the front steps of the law school and to the admissions office to enroll. I was excited, and happy to return home after spending five years on the UCLA campus, mostly around the law school itself.

My class of 1969 was the last of the small classes, and we had only around 180 students. The next two years were grueling. In addition to working full time to put myself through school and support my family, I attended Army Reserve meetings two weekends a month during my second year. I was always tired, but I could eventually see the light at the end of the tunnel. As a working student, there was not much time for any extracurricular activities.

The weekend before final exams in my last year of law school, my wife went into labor with our second child. I spent that weekend studying for finals and awaiting the birth of our second son.

One of my favorite family photos is a picture of my parents, my wife and our sons outside Kerckhoff Hall on the day of our law school graduation. My wife is holding our new baby as our older son stands next to her,

smiling. That night, my father told me for the first time that he always hoped that I would become a lawyer because one of his most respected friends, Y. C. Hong, was the first Chinese American to be admitted to practice in California. He wanted me to be like Y. C., who had been my mother's immigration lawyer and was a pillar of the Chinese community.

At that time it was difficult for minority and women lawyers to obtain positions in private practice firms, so I started my legal career at the California Attorney General's Office. After a few years, I went into private practice, before having the good fortune to be appointed by Governor Jerry Brown to the Municipal Court, and then elevated to the Superior Court and Court of Appeal. I served twelve years on the bench before returning to private practice. I am proud to be the first Chinese American to be appointed to the appellate court in the history of California.

When I left the court, I became a partner in Jones Day and saw that firm grow from 400 lawyers with three offices to 2,800 lawyers with almost fifty offices throughout the world. I was asked to start Jones Day's San Francisco office, and later to supervise the Chinese practice in the firm's four offices in Greater China. There were not many minority lawyers in the big law firms when I joined in 1987, and I became the first Asian partner in a firm that had started almost a hundred years earlier. Fortunately, times have changed and minority and women lawyers are now commonplace in law firms.

Last year I decided to retire after spending twenty-eight years with Jones Day. Governor Brown reappointed me to the Court of Appeal, the first time that a retired appellate judge had made a comeback. I enjoyed my time in private practice, but being a judge is an honor and a privilege. It is a way that someone can serve the community.

I am proud that my wife Crystal and I have two sons who have also pursued legal careers. Our older son, Bradley, is a partner in Morrison and Foerster, and the partner in charge of his firm's Washington, D.C., office. Our son Christopher practiced with O'Melveny and Myers and was an assistant United States attorney before his appointment as a Los Angeles Superior Court judge.

I have been the beneficiary of an extraordinary education at UCLA, which trained me and gave me the knowledge to pursue a career in business and law. I could not have succeeded without that education.

Last month I was invited to be a moot court judge at the law school. As I was walking from the parking facility to the school, I saw several hundred high school students on a tour of the campus. I thought how great it would be if they had as good a college experience as I enjoyed. I remember the day some forty years earlier that I walked up the steps of the law school to the admissions office to enroll. After the moot court session, I wandered around looking for where my name was posted. As a donor, I was told that my name would be recognized somewhere in the school. I found it on the Founders Wall, and it made me smile — it was a small "payback" to the school for the many opportunities that it has opened for me.

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MEMORIES OF UCLA LAW SCHOOL

DOROTHY W. NELSON*

In the class of 1953, the second graduating class, there were only two women, Ann Mobley and me. Dean Dale Coffman made it very clear that we didn't necessarily belong in law school. We took his Torts class. The first day he announced that he would only call upon women on Ladies Day. Ann and I were thrilled because we knew we would only be called upon on the day he announced it would be, and so we were super-prepared on those days.

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Dean Roscoe Pound taught a number of classes, all of which I took. I did well in his Common Law Actions class because I had had three years of Latin in high school. If you gave a particularly good answer to any of his questions in class, he made you a member of his "Tenth Legion," upon which he called to answer particularly difficult questions. We took turns driving him to school, stopping at a restaurant called Ollie Hammond's so he could have a bowl of "mush" that I called cream of wheat. Each time we

* Senior Judge, U.S. Circuit Court of Appeals for the Ninth Circuit, Pasadena, California; formerly Dean, USC School of Law. For further information, see the Editor-in-Chief's introduction on page 1 of this volume: 11 Cal. Legal Hist. 1 (2016).

drove him he would hand us a big cigar, and I still have stashed away in my attic my "Roscoe Pound" cigars. He was a wonderful mentor to me and recommended me for a research job at USC under a Professor Holbrook. We (with the assistance of two other research attorneys) wrote a book on how to reform the court system in Los Angeles County. During that time, I was asked to fill in for a professor teaching a law reform class and then invited to join the USC faculty as its first woman member.

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When I became dean of the USC Law School, my connection with UCLA was greatly increased, for USC and UCLA had lived through the Kent State–Cambodia days, and experiments with the first affirmative action programs, together. I was on the phone, almost daily, with Dean Murray Schwartz (whose wife taught a course at USC on Law and Anthropology) and Dean Richard Maxwell, discussing strategy, and they became some of my nearest and dearest friends.

* * *

It was my feeling that Los Angeles, with three fine law schools — UCLA, USC and Loyola — should collaborate since we had some of the greatest legal talent in the U.S. in Los Angeles. We often exchanged faculty (I borrowed Professor Mel Nimmer for example) and had a number of joint faculty workshops. Together we created the Western Center on Law and Poverty. It was housed at USC. Unfortunately, when the Western Center Board decided to sue Police Chief Davis for harassment of Blacks in Los Angeles, a decision that the Center had made, having nothing to do with any of us as deans, the police chief went on public television calling me a "communist," causing great unhappiness for the very conservative USC Board of Trustees. It was my friends at UCLA and Loyola law schools who helped me survive this crisis.

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Perhaps the most significant thing to happen to me during my time at the law school was my introduction to the Baha'i Faith. Our freshman class had approximately seventy-two students, including two women (Ann Mobley and me) and one Black student. A professional fraternity invited the entire

class to join. We all did. Six weeks later, we were informed by letter that no women or Blacks could join. This was 1950 (before *Brown*). The president of our class, Donald Barrett, called us all together and suggested that we all resign and form the UCLA Law Association. We all agreed.

I had known Donald as an undergraduate, a very bright and a successful campus political figure — after all, he was our class president — but I honestly didn't think this was something in which he was interested. I approached him and asked him why he did it. He replied that his whole life was changing because he was going to Baha'i meetings in Westwood Village. I said, "Oh, is that Buddhist or Hindu?," for I had never heard the word Baha'i before. He said, "No, it is the latest of the world's revealed religions. It teaches the abolition of racism and prejudice of all kinds and such principles as the equality of men and women. Basically, he said that the Baha'i Faith believes Messengers or Manifestations of God appear every 500 to 1000 years to renew the spiritual teachings of God (Power of Prayer, Golden Rule, Fatherhood of God) that remain constant, and to update the social teachings as mankind matures. He called this progressive revelation, each Messenger writing the latest chapter in one continuous book. The latest Messenger is called Baha'u'llah (Arabic for the "Glory of God") who proclaimed his Message in Persia in 1863. Then Don said that there were no clergy in the Faith for this is the era when all on the face of the earth will be educated so that they may seek out truth for themselves. He asked if my husband and I would like to attend a meeting in Westwood, called a "fireside," where someone would speak and then questions and answers were entertained. I respectfully declined due to my activity in my Episcopal Church, but thanked him for his courageous action. To make a long story shorter, Don became a Baha'i our second year of law school and we watched and listened to him intensely. In the next ten years, members of our class and their families, seventeen in number, became Baha'is. It materially affected my life because Baha'is resolve conflict in over 180 countries (6 million members) through "consultation," a form of mediation, hence my specialty in mediation and Alternative Dispute Resolution as an academic.

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UCLA LAW REMINISCENCES

STEVEN Z. PERREN*

If you want to keep your memories, you first have to live them.

— Bob Dylan

We did.

We revisit life's joys when we tell of them.

I recall Haines Hall 39: our orientation. We, the class of '67, were uneasy at what lay before us. Our anxiety was undisturbed when the assistant dean gave us an all too brief welcome informing us that the assignments were posted by the admissions office. My fear turned to terror. The level of my sophistication was evidenced by the fact that after I read the first assignment in Civil Procedure I wondered how could it be that nearly all the case authors had first names that began with "J"?

A digression: If there is a heaven, it will mirror UCLA in the '60s. My memory may fade, but my affection for the school and those three wonderful years only grows with time.

*Associate Justice, California Court of Appeal, Second Appellate District, Division Six. For further information, see the Editor-in-Chief's introduction on page 1 of this volume: 11 Cal. Legal Hist. 1 (2016).

From '64 to '67 the law school was in change and so was society. There were but three classrooms all opening into the main marble hallway extending from the school's entrance to a large glass wall at the opposing end. Also exiting into that hallway was one of the University's wonders: the men's room and its row of urinals that would make Rodin jealous. Since the class was nearly all male, few lamented that women would not be privy to the sculpture. The library was a comfy little place with a bank of study carrels in the stacks on the west.

End of digression.

Our class consisted of slightly in excess of 300 white young men from campuses across the country, three women, one Asian, one Hispanic and one African American.[1] Our senior citizen was a 55-year-old chicken farmer from Riverside who commuted daily to school. We, like Gaul, were divided into three parts — alphabetically. I was in the third section with men who became and remain dear friends. This womb would birth a law firm that would first violate then vindicate legal advertising, future chief counsel to Disney and Sony, the leading land developer of Orange County, an L.A. district attorney, a state senator, and a bevy of lawyers who would lead the major firms in Los Angeles, champion civil rights, and find fame in the courtroom; a few even became jurists. We had one classmate who, following midterms, dropped out only to become the president of the Canary Islands Surfers Association. Who knew?

Though we would help shape the law of the state and nation, our concerns lay with understanding what Bernie Jacobs was talking about when we were enfeoffed. Don Hagmann drew a flat line of chalk nearly across the greenboard which, like a rocket, vertically ascended to the ceiling to demonstrate the learning curve for Civil Procedure; Bill Cohen would dazzle us with his questions and genius while his colleague in Torts, Edgar Jones, fresh from T.V.'s *Day in Court,* would engage in an equal but very different obfuscation. Leon Letwin unleashed us on the library to look for "answers." Feverishly we would, like children on a scavenger hunt, search for the *precise case* only to discover that it was about the journey, not the destination.

[1] I have been privileged to greet the entering classes of the 21st Century. They reflect the ethnic, religious, gender and racial diversity of our country. We have come a long way.

Professor James (Sunny Jim) Sumner was special, he was physically imposing; a lieutenant in the Army during World War II, he was a South Carolina gentleman whose speech and manner were all Shelby Foote. He regaled us with his war stories, confused us with his drawl and kept us sweating during his questions. Contracts: the offer, the acceptance, consideration, hawk's beaks and "third party beneficiaries," which he pronounced with a Southern flair. I fell victim to him when the subject was "quantum meruit." He grilled me on fair value and quasi-contract. I replied while repeatedly mispronouncing "quantum mairuit." He took great delight in my torture of the word. Suddenly, he shot his steely glance at me asking, "Mistuh Perren, how do you spell that?" I rejoined, "Oh, something like thud potty beneficiuairy." A silence that seemed eternal was shattered by the roar of laughter coming from all quarters — including the lectern. I was silent. We learned and we had a great time doing so.

Many years later, following my appointment to the trial bench, I was watching the Bruins from the press box at the Rose Bowl. I was seated next to Professor Murray Schwartz who, for reasons I will never understand, remembered me. We started to chat; I started to sweat. Our conversation became informal and cordial. Never, however, was I able to address him as Murray. He was, and will forever remain, Professor Schwartz.

The reverence started with a discussion of intoxication, diminished capacity, and insanity. I was seated on the left of the classroom about midway up. His eyes caught mine. "What did they have in common?" he asked. I stammered but no words came out. He asked again. My memory is vague; all I recall is that my life and career were headed over a cliff. Somehow the word "choice" crept from my lips. A hush fell over the class. I recall the curve of a smile on the professor's lip as he pressed the issue. We were off and running: what is the role of the criminal law, what is its role in a free and ordered society, and why and how should we punish? At that moment I discovered myself and my calling.

Included in the first year was competition for moot court. I prided myself on my skill as a speaker. Teamed with a classmate who was very good, I knew we had this under control. We made our argument to a student panel from moot court. It was then I learned a lesson I carry to this day: there is a difference between the orator and the skilled lawyer: the former announces, the latter speaks and educates. I still see the presiding judge. The issue concerned

implied warranties on the private sale of a car. The judge asked why we would imply such warranties on a private transaction. A simple question. I blew it — but with style. It is about the power of your logic, not the power of your voice.

In 1964 Roger Traynor had become Chief Justice of California, succeeding Phil Gibson. The Court was considered the finest in the land and led the way in the burgeoning areas of products liability and criminal due process. The Warren Court was in full flower: *Gideon* had been decided the year before, *Miranda* was on the horizon and the Fourth Amendment would soon be in play while Douglas's "penumbra" lay just around the corner. The Freedom Rides had begun in '61, Schwerner, Chaney, and Goodman had been murdered that summer and the March to Selma would soon follow. "Civil Rights" was not just a classroom topic. We didn't know it then but, as Pete Seeger said, "Wasn't That a Time?"

The Law School Mantra: In the first year you were scared to death, in the second year you were worked to death and in the third year you were bored to death.

We pretty well knew after the first year those who were likely to make law review. There were few surprises. The reward: endless hours of writing and polishing notes and comments in addition to the studies that confronted the rest of us.

Our section was blessed with Professor Jesse Dukeminier. What a kind, gentle and wonderful man and teacher. Each class he would somehow squeeze himself into the intersection of the chalkboard and the wall only to emerge with a great question and a dusty suit. And then it happened:

> No interest in property is valid unless it vests not later than twenty-one years, plus the period of gestation, after some life or lives in being which exist at the time of the creation of the interest.

What? Metaphysical claptrap. Who needs to understand it?[2]

[2] I was appointed to the Bench in 1983. Shortly thereafter I was confronted with a dispute over title to a parking lot. The issues concerned "possibility of reverter," "fees on condition subsequent" and "the rule against perpetuities." I was so proud of how I resolved this that I sent my Memorandum of Opinion to the professor. He replied that I had done a nice job in articulating my reasoning over some twenty pages. He asked if counsel had thought to consider Civil Code § "xxxx." (They had not.) In a brief section it resolved the whole dispute. He was very kind in his letter noting that he was the author of that section.

He made it fun . . . kind of. Recall that Professor Dukeminier had written large portions of the property law of Kentucky and California.

Our final exam included the following question (I paraphrase): Assume you land on Mars and must develop a principle for inheritance and gifting, what would the core principles be? What a relief not to decide if A, B or C prevailed.

I recall that there was a series of performances at Schoenberg Hall nominally entitled, "The International Steamed Spring Vegetable Pie." They were very Man Ray and "Dada." I recall one in which an 8mm film was shown on the bare back of a woman. It was so very "'60s," an eponymous title for a generation. As I watched, my vision was slightly obscured by a man holding an open black umbrella from which hung pieces of fruit: "The Duke."

Professor David Mellinkoff taught us Commercial Transactions. The class was sandwiched between construction of the law school addition and the advent of "U.C.C. Bingo." It proved to be an insurmountable challenge even for the master of "The Language of the Law." The construction was immediately adjacent to the classroom. Jackhammers raged, heavy equipment roared and Professor Mellinkoff could not be heard. In desperation he attempted to write his portion of the Socratic dialogue on the chalkboard. Plato would not have learned under these circumstances. The subject consisted of a never-ending potpourri of code sections. The class was energized when Bingo cards bearing the code sections in the obligatory ranks and files were sold by some enterprising classmates. The rules: first, the code section had to be stated by the Professor. This led to some interesting responses by classmates who recited inappropriate sections in the hope that the professor would repeat them. Mellinkoff caught on. The second rule: whoever "won" had to stand and announce "Bingo," proceed to the lectern and show the card. A check made payable "To Order or to Bearer" was the prize and was presented to the winner with the tacit blessing of our teacher.

By the third year most of the class had found the jobs they would take upon graduation. I also had a job waiting: as an undergrad, I had been commissioned a lieutenant in the Army Reserve — accompanied by a three-year deferment to attend law school. My classmates were working part time. I was performing in the Musical Comedy Workshop at UCLA and had been cast in "The Short and Turbulent Reign of Roger Ginsberg,"

an original musical composed by John Rubenstein, a student, who would receive a Tony for "Pippin" five years later.

We graduated June 14, 1967. There were two ceremonies: the first was at Royce Hall solely for the law school graduates; the second was a combined graduation at Pauley Pavilion — for the professional schools. Our irreverence persisted. Prior to declaring us doctors, dentists, and lawyers we had been asked not to throw our mortar boards in the air; to no one's surprise we did not heed the admonition. Our Bar Review courses commenced the next day. We adjourned to El Toril.

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SPECIAL SECTION

WRITING COMPETITION WINNER

A MODEL FOR JUVENILE PAROLE REFORM:

California's Youth Offender Parole Hearings Challenge the Modern Parole System and Apply the Fundamental Principles in Graham *and* Miller *to the Release Decision-Making Process*

COURTNEY B. LAHAIE[1]

INTRODUCTION

Juvenile sentencing has experienced a number of significant changes in the past decade resulting from both judicial decisions and legislation. In 2005, in *Roper v. Simmons,*[2] the U.S. Supreme Court abolished the imposition of the death penalty for juvenile offenders who committed the crime of conviction while under the age of eighteen.[3] Five years later, in *Graham v. Florida,*[4] the Supreme Court created a categorical ban on life without parole sentences for juvenile offenders convicted of non-homicide offenses.[5] Included in its decision in *Graham,* the Supreme Court established a mandate holding that while a state is not required to guarantee release of a juvenile offender, it must provide the offender "some meaningful

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[1] J.D. Candidate 2017, Washington University in St. Louis School of Law.

[2] 543 U.S. 551 (2005).

[3] *Id.* at 578. *See also infra* text accompanying note 29.

[4] 560 U.S. 48 (2010).

[5] *Id.* at 61, 82.

opportunity to obtain release."[6] Two years later, in *Miller v. Alabama,*[7] the Supreme Court considered the constitutionality of life without parole sentences for juvenile homicide offenders. In *Miller,* the Court held that "children are constitutionally different from adults for the purposes of sentencing."[8] Accordingly, juvenile offenders require individualized sentencing, and mandatory life without parole sentencing schemes for juvenile offenders violate the Eighth Amendment.[9] *Roper, Graham,* and *Miller* activated a new era of sentencing reform for juvenile offenders by recognizing the physiological and psychological differences between adult and juvenile offenders and setting forth guidelines for acknowledging these differences during sentencing.

In addition to sentencing reform, the decisions in *Graham* and *Miller* compel parole reform for juvenile offenders, based on the mandate that states must provide juvenile offenders with a meaningful opportunity to obtain release. In the modern American Parole System, policies and procedures vary greatly between states. Additionally, parole boards have traditionally operated with little oversight from the criminal justice system, resulting in arbitrary decision-making by parole boards and a lack of due process.[10] Furthermore, the parole decision-making process is deeply discretionary with boards permitted great flexibility in evaluating and weighing factors during the release decision-making process.[11] The mandate in *Graham,* to provide juvenile offenders with a meaningful opportunity to obtain release, implicates several challenges under the modern American Parole System.[12] For instance, the findings in *Roper, Graham,* and *Miller* demonstrate that age is a mitigating factor in juvenile sentencing decisions and juvenile offenders are less culpable than adults and more capable of change.[13] In contrast, youthful age is calculated as a factor for increased risk in the risk assessment tools used by parole boards during the

6 *Id.* at 75.

7 132 S. Ct. 2455 (2012).

8 *Id.* at 2464.

9 *Id.* at 2466.

10 *See infra* Part II.b.

11 *See infra* Part II.c.

12 *See infra* Part III.

13 Roper v. Simmons, 543 U.S. 551, 569 (2005); Graham v. Florida, 560 U.S. 48, 68 (2010); Miller v. Alabama, 132 S. Ct. 2455, 2464–2465 (2012).

decision-making process.[14] Additionally, low release rates and the current criteria emphasized by parole boards in release decision-making hinder the opportunity for realistic release.[15] Ultimately, the modern parole system functions antagonistically to the fundamental principles set forth in *Roper, Graham,* and *Miller.*

Courts and legislatures have initiated a number of changes following the decisions in *Roper, Graham,* and *Miller.* These reforms, however, have primarily focused on juvenile sentencing schemes and only recently have begun to consider the parole process. In 2000, more than 100,000 juvenile offenders were incarcerated nationwide.[16] As a result of numerous policy changes following the recent court decisions, the number of incarcerated juvenile offenders has decreased approximately forty percent.[17] In 2013, several states — Arkansas, California, Louisiana, Texas, Wyoming, and Utah — enacted policy changes modifying the parole review process for juvenile offenders.[18] Most notably, California enacted Senate Bill 260, which requires the parole review board to conduct specialized Youth Offender Parole Hearings for juvenile offenders.[19] Following these changes, two states — Hawaii and West Virginia — enacted juvenile parole reforms in 2014.[20] Finally, in 2015, California expanded its Youth Offender Parole

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14 *See infra* Part III.c.

15 *See infra* Part III.b.

16 Nicole D. Porter, The Sentencing Project, *The State of Sentencing 2013: Developments in Policy and Practice* (Jan. 2014), *available at* http://sentencingproject.org/doc/publications/sen_State%20of%20Sentencing%202013.pdf.

17 *Id.* at 17.

18 *Id.* at 15. The following reforms were made in each state. Arkansas, through House Bill 1993, enacted a measure that allows juvenile homicide offenders to gain parole eligibility after twenty-eight years. In Louisiana, House Bill 152 permits juvenile homicide offenders to become eligible for parole after thirty-five years. Senate Bill 2, in Texas, extended the sentence of forty years to life for a capital felony from defendants aged seventeen to those eighteen years of age. Wyoming, pursuant to House Bill 23, authorized parole review for juvenile offenders convicted of first-degree murder after twenty-five years. In Utah, Senate Bill 228 permits parole eligibility for juvenile offenders convicted of aggravated first-degree murder after twenty-five years. *Id.*

19 *See infra* Part IV.c.

20 Nicole D. Porter, The Sentencing Project, *The State of Sentencing 2014: Developments in Policy and Practice* (Jan. 2015), *available at* http://sentencingproject.org/doc/publications/sen_State_of_Sentencing_2014.pdf. Hawaii, under House Bill 2490, enacted comprehensive juvenile justice reform, including House Bill 2116, which

Hearings to include offenders who were under twenty-three years of age when convicted of the eligible controlling offense.[21] Parole reform for juvenile offenders is ripe for examination following the Supreme Court's recent decision in *Montgomery v. Louisiana,*[22] which held that the decision in *Miller* must be applied retroactively to state collateral review and specifically acknowledged the significant function of the parole system for juvenile offenders following the decisions in *Roper, Graham,* and *Miller.*[23]

This article focuses primarily on the parole system and the release of juvenile offenders.[24] The principal goal is to explain the implications and rationale set forth in *Roper, Graham,* and *Miller* and consider the application of those principles to parole hearings. Part I provides a brief account

non-retroactively abolished all LWOP sentencing for juvenile offenders. Additionally inmates in Hawaii receive parole review every year once eligible. In West Virginia, House Bill 4210 banned LWOP for juvenile offenders. Furthermore, all juvenile offenders are eligible for parole after serving fifteen years and West Virginia requires parole boards to consider age as a factor in the decision-making process. *Id.* at 11.

21 S.B. 261, 2015 Leg., 2015–2016 Reg. Sess. (Ca. 2015). *See also infra* note 167.

22 ___ S. Ct. ___, 2016 WL 280758 (2016).

23 *Id.* at 15–16. The Court first determined that *Miller* set forth a "substantive rule of constitutional law" giving it a "retroactive effect." *Id.* Additionally, such an effect does not require re-sentencing, but can be remedied by permitting juvenile offenders to be considered for parole. *Id.* at 16. "Extending parole eligibility to juvenile offenders does not impose an onerous burden on the States . . . . The opportunity for release will be afforded to those who demonstrate the truth of *Miller's* central intuition — that children who commit even heinous crimes are capable of change." *Id.* The Court concluded by stating,

> In light of what this Court has said in *Roper, Graham,* and *Miller* about how children are constitutionally different from adults in their level of culpability, . . . prisoners like Montgomery must be given the opportunity to show their crime did not reflect irreparable corruption; and, if it did not, their hope for some years of life outside prison walls must be restored.

Id.

24 In this article, the term "juvenile offender" is used to describe an offender who, at the time the relevant offense was committed, was under the age of eighteen. A juvenile offender has often reached the age of majority at the time of sentencing and almost certainly is eighteen or older at the potential time of parole. This does not, however, remove their status as a "juvenile offender." Furthermore, following the Court's decision in *Miller,* a juvenile offender may be sentenced to life without parole for a homicide offense; so long as the sentencing decision and scheme were not mandatorily imposed. This article focuses only on juvenile offenders who receive a sentence, regardless of offense or length, which includes the opportunity or possibility for parole release.

of *Roper, Graham,* and *Miller,* focusing on the proportionality analysis employed by the Court and the distinct characteristics identified in the rationale. This section emphasizes the scientifically supported differences between juveniles and adults that compelled the decision in each case. Part II provides an overview of the parole system in America, beginning with a brief history of the genesis of parole in the United States. This section evaluates the existing procedures utilized by parole boards and assesses the impact that minimal oversight and maximum flexibility have had on parole board functions, including the discretion permitted in selecting and weighing criteria for release. Part III evaluates how *Graham*'s mandate requiring states to provide juvenile offenders with a "meaningful opportunity to obtain release" implicates several challenges in the modern parole system. Some of the challenges considered are: when, during incarceration, a state is required to provide a meaningful opportunity; whether the current system actually provides a realistic opportunity to obtain release; and how the current assessment of age is contrary to the findings in *Roper, Graham,* and *Miller.* Part IV examines recent legislation passed in California that targets parole hearings for youthful offenders. This section then suggests that the California legislation can be used as a viable model by other states to develop standards for juvenile offender parole hearings that adhere to the fundamental principles set forth in *Roper, Graham,* and *Miller* and provide juvenile offenders with an actual, realistic opportunity for release.

I. A DECADE OF CHANGE: THE LEGACY OF *ROPER, GRAHAM,* AND *MILLER*

Over the past decade, juvenile sentencing has been dramatically altered through the historic decisions in *Roper v. Simmons, Graham v. Florida,* and *Miller v. Alabama.*[25] These decisions created a special status of diminished

[25] Roper v. Simmons, 543 U.S. 551 (2005) (abolishing the death penalty for juvenile offenders as a violation of the Eighth Amendment); Graham v. Florida, 560 U.S. 48 (2010) (creating a categorical ban on life without parole sentences for juvenile nonhomicide offenders as a violation of the Eighth Amendment); Miller v. Alabama, 132 S. Ct. 2455 (2012) (requiring individualized sentencing for juvenile homicide offenders, finding that mandatory life without parole sentencing schemes violate the Eighth Amendment).

culpability for juvenile offenders, through the acknowledgment that juveniles exhibit distinct differences from adults in maturity, susceptibility, and character.[26] Relying on neurological, psychological, and social scientific evidence, the Supreme Court recognized that juvenile offenders are not only less culpable than adults, but are also more capable of change and therefore require distinct, individualized sentencing schemes.[27]

a. Roper v. Simmons

In 2005, the United States Supreme Court dramatically altered precedent in *Roper v. Simmons* by re-evaluating the Eighth Amendment's cruel and unusual punishment jurisprudence as applied to juvenile sentencing.[28] In *Roper,* the Court held that "the Eighth and Fourteenth Amendments forbid imposition of the death penalty on offenders who were under the age of eighteen when their crimes were committed."[29] The decision and analysis used in *Roper* followed directly from *Atkins v. Virginia*[30] and set the foundation for the developments in juvenile sentencing moving forward.[31]

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[26] *See Roper,* 543 U.S. at 569–570; *Graham,* 560 U.S. at 68; *Miller,* 132 S. Ct. at 2464.

[27] *See Roper,* 543 U.S. at 569; *Graham,* 560 U.S. at 68; *Miller,* 132 S. Ct. at 2464–2465.

[28] 543 U.S. 551 (2005). The decision in *Roper* upended the holding in *Stanford v. Kentucky,* 492 U.S. 361 (1989), which previously controlled in the area of juvenile capital punishment jurisprudence. The Court in *Stanford* found the Eighth and Fourteenth Amendments did not bar the execution of juvenile offenders older than fifteen and younger than eighteen. *Id.* at 380.

[29] 543 U.S. at 578. The Court's decision to clearly define "juvenile offenders" as those under the age of eighteen is significant in that it creates a strict nationwide definition that must be observed in each state. *But see* Atkins v. Virginia, 536 U.S. 304 (2002) (holding that the Eighth Amendment bans the use of the death penalty for mentally retarded offenders, but allows each state to set its own parameters for defining such an offender).

[30] 536 U.S. 304 (2002). In *Atkins,* the Court abolished the death penalty for mentally retarded offenders, finding that such individuals "do not act with the level of moral culpability that characterizes the most serious adult criminal conduct." *Id.* at 306. Furthermore, the execution of mentally retarded offenders would not satisfy the penological justifications of deterrence and retribution that are associated with the death penalty. *Id.* at 321.

[31] *Roper,* 543 U.S. at 559–560. Simmons was charged with burglary, kidnapping, stealing, and murder in the first degree and following a conviction at trial, the jury recommended the death penalty. *Id.* at 557–558. The Missouri Supreme Court affirmed the conviction, sentence, and denial of post conviction relief and the federal courts denied certiorari. *Id.* at 559. *See also* Simmons v. Bowersox, 235 F.3d 1124, *cert. denied,* 534 U.S.

In *Roper,* the Court conducted a proportionality analysis considering "evolving standards of decency" to evaluate the imposition of the death penalty as a punishment for juvenile offenders.[32] The Court found substantial evidence of a national consensus against the death penalty for juvenile offenders, citing that thirty states already prohibited the death penalty for juveniles.[33] Additionally, in the twenty states without formal prohibition, the practice was infrequent.[34] The Court thus concluded that society viewed juveniles as "categorically less culpable than the average criminal."[35] Furthermore, this diminished culpability would lessen, if not nullify, the penological justifications of retribution and deterrence, often cited as the "two distinct societal purposes served by the death penalty."[36] Ultimately, the Court concluded that the "death penalty is reserved for a narrow category of crimes and offenders" and, thus, is a disproportionate punishment for juvenile offenders.[37]

The crux of the Court's rationale rested on three normative characteristics of juvenile offenders: "a lack of maturity and an underdeveloped sense of responsibility," a greater "susceptib[ility] to negative influences," and a "character . . . [that] is not as well formed . . . ."[38] First, relying on scientific and sociological evidence, the Court acknowledged that a lack of maturity leads to impetuous and reckless behavior.[39] Second, juveniles

924 (2001); State v. Simmons, 944 S.W.2d 165 (en banc), *cert. denied,* 522 U.S. 953 (1997). Following the Supreme Court's decision in *Atkins,* 536 U.S. at 321, Simmons filed a new petition for post conviction relief based on the reasoning found therein. *Roper,* 543 U.S. at 559. The Missouri Supreme Court resentenced Simmons to life without the possibility of parole and the Supreme Court affirmed. *Id.* at 559–560. *See also* State *ex rel.* Simmons v. Roper, 112 S.W.3d 397 (2003).

32 *Roper,* 543 U.S. at 561 (quoting Trop v. Dulles, 356 U.S. 86, 101 (1958)).

33 *Roper,* 543 U.S. at 564.

34 *Id.*

35 *Id.* at 567 (quoting Atkins v. Virginia, 536 U.S. 304, 316 (2002)).

36 *Id.* at 571. The Court rationalized: "Retribution is not proportional if the law's most severe penalty is imposed on one whose culpability . . . is diminished . . . ." *Id.* Additionally, while the deterrent effect was unclear, the Court concluded that "the same characteristics that render juveniles less culpable than adults suggest . . . that juveniles will be less susceptible to deterrence." *Id.*

37 *Id.* at 569.

38 *Id.* at 569–570.

39 *Id.* at 569. Additionally, widespread recognition of a lack of maturity and responsibility has resulted in most states' limiting involvement in specified activities,

are more susceptible to negative influences, like peer pressure, and exhibit less control over their environment and autonomous decision-making functions.[40] Finally, the Court recognized that unlike an adult, a juvenile's character is "more transitory, less fixed" and has not yet fully formed.[41] Taken together, these three distinct characteristics indicate that juvenile offenders are less culpable, less morally reprehensible, and more capable of change. The rationale and analysis set forth in *Roper* laid the foundation for *Graham* and *Miller.*

b. Graham v. Florida

Five years after *Roper,* the Supreme Court considered, for the first time, a categorical ban on a term-of-years sentence for juveniles, ultimately holding that the Constitution prohibits a life without parole (LWOP) sentence for juvenile offenders convicted of a non-homicide offense.[42] In its analysis, the Court relied heavily on the categorical approach and proportionality review it previously used in *Roper.*[43] Furthermore, the holding in *Graham* continued to hinge on developmental and sociological science, along with the same rationale and characteristics identified in *Roper.*

As in *Roper,* the analysis in *Graham* began with an assessment of societal standards and values by considering indicia of a national consensus.[44] Unlike the clear consensus found in *Roper,* the Court discovered a mixed collection of statutes and thus turned its examination to the actual practice

such as voting and serving on a jury, to those aged eighteen and above. *Id. See generally* Jeffrey Arnett, *Reckless Behavior in Adolescence: A Developmental Perspective,* 12 Developmental Rev. 339 (1992).

40 *Roper,* 543 U.S. at 569.

41 *Id.* at 570.

42 Graham v. Florida, 560 U.S. 48, 61, 82 (2010). Graham pled guilty to armed burglary and attempted armed robbery. *Id.* at 53–54. The court initially withheld adjudication and sentenced Graham to probation. *Id.* at 54. Within six months, Graham was arrested for violating his probation on suspicion of participating in another robbery. *Id.* Following trial, the court imposed the maximum penalty for the earlier armed burglary and attempted robbery offenses — life imprisonment and fifteen years, respectively. *Id.* at 57.

43 *Id.* at 61–62.

44 *Id.* at 62. The Court began its analysis by acknowledging that a national consensus, as evidenced by legislation, is the "clearest and most reliable objective evidence of contemporary values." *Id.* (quoting Penry v. Lynaugh, 492 U.S. 302, 331 (1989)).

and application of the law in jurisdictions allowing for LWOP sentences for juveniles convicted of non-homicide offenses.[45] Upon examining application of the statutes, the Court determined that the practice of sentencing juveniles to LWOP for non-homicide offenses was infrequent and rarely imposed, noting that only 123 juveniles nationwide were serving LWOP sentences.[46] Satisfied that the application of the law in practice showed a national consensus in favor of a categorical ban, the Court then considered proportionality and culpability.

In assessing culpability, the Court turned to the characteristics of maturity, susceptibility, and character set forth in *Roper*.[47] Based on developments in the neurological and psychological sciences, the Court reasoned that the findings in *Roper* still accurately characterized the differences between juveniles and adults and appropriately demonstrated the diminished culpability of juvenile offenders.[48] Finding that juveniles, as a class, have a lessened culpability, the Court then considered the nature and severity of the offense committed and explained, "a juvenile offender who did not kill or intend to kill has a twice diminished moral culpability."[49] Precedent set forth that diminished culpability distinguished offenders from receiving the most severe punishments,[50] and following *Roper,* a sentence of life imprisonment without the possibility of parole was the most severe punishment permitted by law for juvenile offenders.[51]

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[45] *Graham,* 560 U.S. at 62. A census of state legislation found: six states prohibited LWOP for juvenile offenders, seven states allowed LWOP for juvenile offenders for homicide offenses only, and thirty-seven states plus the District of Columbia allowed LWOP for non-homicide juvenile offenders in specified circumstances. *Id. See also Id.* at 82–85 for an Appendix of the states in each category.

[46] *Id.* at 62–64. The Court further revealed that 77 of the 123 juvenile offenders serving LWOP sentences, or 63%, were located in Florida. Additionally, though thirty-seven states and the District of Columbia statutorily permitted LWOP sentences for juvenile non-homicide offenders, only eleven states actually imposed the sentence in practice. *Id.* at 64.

[47] *Id.* at 68.

[48] *Id.*

[49] *Id.* at 69.

[50] *See, e.g.,* Kennedy v. Louisiana, 554 U.S. 407, 439 (2008); Tison v. Arizona, 481 U.S. 137, 156 (1987); Enmund v. Florida, 458 U.S. 782, 798 (1982); Coker v. Georgia, 433 U.S. 584, 600 (1977).

[51] *Graham,* 560 U.S. at 69–70. *See, e.g.,* Roper v. Simmons, 543 U.S. 551, 569 (2005); Harmelin v. Michigan, 501 U.S. 957, 1001 (1990). *See also* Naovarath v. State, 105 Nev.

As a final step in the proportionality analysis, the Court again considered penological justifications, explaining that "a sentence lacking any . . . justification is by its nature disproportionate to the offense."[52] As in *Roper,* neither retribution nor deterrence would justify the imposition of LWOP for juvenile non-homicide offenders.[53] The Court further explained that the penological justifications of incapacitation and rehabilitation would also be inadequate to legitimize the sentence.[54] Therefore, the Court concluded that the Eighth Amendment prohibits a LWOP sentence for a juvenile non-homicide offender, thus creating the first categorical ban for a term-of-years sentence.[55] Perhaps the most significant and lasting implication of the decision in *Graham* is its allusion to the parole system with the assertion that a state is not required to guarantee release, but a state *must* provide the offender "some meaningful opportunity to obtain release."[56]

c. Miller v. Alabama

The Court in *Miller v. Alabama* extended the rationale adopted in *Roper* and *Graham* to invalidate the mandatory imposition of LWOP sentences for juvenile homicide offenders.[57] *Miller* enhances the proposition that

525, 526 (1989) (explaining that a life without parole sentence "means denial of hope; it means that good behavior and character improvement are immaterial; it means that whatever the future might hold in store for the mind and spirit of [the offender], he will remain in prison for the rest of his days").

[52] *Graham,* 560 U.S. at 71.

[53] *Id.* at 71–72. The Court explained that the retribution rationale would not apply as it relies on the proportionality of culpability and the sentence imposed. *Id.* at 71. Furthermore, the deterrence rationale applied in *Roper* would still pertain to the findings in *Graham* and would be amplified because the punishment was rarely imposed. *Id.* at 72.

[54] *Id.* at 72–74. The Court acknowledged that in many situations incapacitation is a legitimate penological justification, as recidivism is a serious risk, but in the context of juvenile non-homicide offenders, the justification is insufficient given the diminished culpability of the offender. *Id.* at 72. Finally, rehabilitation serves as a justification for parole, which is clearly absent in a life without parole sentence. *Id.* at 73.

[55] *Id.* at 82.

[56] *Id.* at 75.

[57] 132 S. Ct. 2455, 2463–2464 (2012). The rationale in *Roper* and *Graham* created two precedents. The first supported the categorical bans adopted in both cases based on the proportionality analysis. *Id.* at 2463. The second developed from *Graham,* when the Court analogized LWOP sentences for juveniles to the death penalty. *Id.* at 2463–2464.

"children are constitutionally different from adults for the purposes of sentencing" and established that the distinct differences between juveniles and adults require juvenile offenders to receive individualized sentencing, even for the most serious offenses.[58]

The Court began its analysis by acknowledging the characteristics of maturity, susceptibility, and character first defined in *Roper* and again found these differences between juveniles and adults to be controlling.[59] These differences in culpability, as the Court explains, are supported not only by neurological and social science,[60] but also by common sense.[61] Likewise, the Court reiterated its diminished culpability rationale from *Roper* and *Graham* to emphasize the lack of penological justifications for imposing the harshest, most severe punishments on juvenile offenders.[62]

The Court then shifted its rationale to apply the findings in *Graham* to the application of *Miller*. The Court explained that while *Graham* created a categorical ban on LWOP for non-homicide offenses, the rationale *Graham* applied regarding the "distinctive (and transitory) mental traits and environmental vulnerabilities" of juveniles was not crime-specific and is therefore implicated in *any* LWOP sentencing scheme enforced on a juvenile.[63] *Miller* further clarified that the distinct differences between juveniles and adults outlined in *Roper* and *Graham* require that sentencing authorities

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The Court then used the rationale in this comparison to consider the mandatory imposition of LWOP to juvenile offenders. *Id.*

[58] *Id.* at 2464. It is necessary to note that *Miller* does not invalidate LWOP sentences for juvenile homicide offenders, but only prohibits a sentencing scheme that applies such a punishment *mandatorily*.

[59] *Id.*

[60] *Id.* at 2464 n.5 (explaining that the science used to support the decisions in *Roper* and *Graham* has also developed to provide stronger support for the proposition).

[61] *Id.* at 2464 (emphasizing a proposition set forth in *Roper* that the differences between juveniles and adults defined by the Court are what "any parent knows"). *See also* Yarborough v. Alvarado, 541 U.S. 652, 674 (2004) (Breyer, J., dissenting) (explaining that "youth is an objective circumstance" and "a widely shared characteristic that generates commonsense conclusions about behavior and perception").

[62] *Miller,* 132 S. Ct. at 2465. The Court cited to its findings in *Graham* regarding the lack of penological justifications for retribution, deterrence, incapacitation, and rehabilitation. *Id. See also* Graham v. Florida, 560 U.S. 48, 71–74 (2010).

[63] *Miller,* 132 S. Ct. at 2465. The Court further explains that "youth matters in determining the appropriateness of a lifetime of incarceration without the possibility of parole." *Id.*

consider youthfulness in order to maintain proportionality and a mandatory sentencing scheme removes any such individualized consideration, thus violating the fundamental principle established by these precedents.[64]

Roper, Graham, and *Miller* established that "children are constitutionally different from adults for the purposes of sentencing."[65] In conceptualizing these differences — ultimately identified as a lack of maturity, a higher susceptibility to pressure, and a still developing character[66] — the Court relied heavily on neurological, psychological, and sociological data.[67] Additionally, since the Court's decision in *Roper,* empirical research studies have continued to identify and support the neurological and psychological developmental science relied on in each opinion.[68] Ultimately, the shift in Eighth Amendment jurisprudence developed by *Roper, Graham,* and *Miller* places the emphasis on the offender, rather than the offense, for any case

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64 *Id.* at 2466. The Court also acknowledged that the rules created for LWOP are distinct for juvenile offenders because precedent defines LWOP as akin to the death penalty. *Id. See also* State v. Lyle, 854 N.W.2d 378, 402, 404 (Iowa 2014) (The Supreme Court of Iowa further extended the rationale in *Miller* to invalidate any mandatory minimum sentencing scheme for juvenile offenders because such a scheme does not allow the courts to consider youth as a mitigating factor in sentencing).

65 *Miller,* 132 S. Ct. at 2464.

66 Roper v. Simmons, 543 U.S. 551, 569–570 (2005).

67 *Roper,* 543 U.S. at 569; *Graham,* 560 U.S. at 68; *Miller,* 132 S. Ct. at 2464, 2464 n.5.

68 *See, e.g.,* Dustin Albert & Laurence Steinberg, *Judgment and Decision Making in Adolescence,* 21 J. Res. on Adolescence 211, 212 (2011) (reviewing research and findings related to adolescent decision-making, including consideration of normative models, theoretical developments, and examination of the influence of social and emotional factors). *See also* Julia Dmitrieva et al., *Arrested Development: The Effects of Incarceration on the Development of Psychosocial Maturity,* 24 Dev. & Psychopathology 1073, 1073 (2012). Research has identified three measures of psychosocial maturity — temperance, perspective, and responsibility — that continue to explain the distinct differences between juveniles and adults. *Id.* Temperance is described as the "ability to curb impulsive and aggressive behavior," whereas perspective examines the "ability to see things from multiple temporal and social vantage points." *Id.* Finally, responsibility is the "ability to function autonomously." *Id.* Evidence indicates that the degree and rate of development among adolescents for each measure is highly variable. *Id.* For a more detailed explanation of each of the three measures, see Laura Cohen, *Freedom's Road: Youth, Parole, and the Promise of* Miller v. Alabama *and* Graham v. Florida, 35 Cardozo L. Rev. 1031, 1043–1046 (2014). Cohen also provides a physiological basis for the differences between juveniles and adults by exploring evidence of brain maturation through the use of magnetic resonance imaging (MRI). *Id.* at 1046–1048.

involving the conviction and sentencing of a juvenile.[69] Accordingly, as a means to provide the "meaningful opportunity for release" that the Court sought in *Graham,*[70] the established principles and jurisprudence should be applied to other areas of the justice system, namely the parole system.[71]

II. THE AMERICAN PAROLE SYSTEM: AN ANALYSIS OF PRACTICES AND POLICIES

a. History of the American Parole System

In 1876, New York became the first jurisdiction to implement what would become the modern American Parole System.[72] This system was predicated on an indeterminate sentencing scheme and a shifting focus to rehabilitation.[73] Interestingly, the system in New York was developed at a reformatory for youthful offenders.[74] By the early 1900s, most state and federal prisons were utilizing some form of a parole system,[75] and by the 1970s the established practice allowed over 70% of prisoners to obtain release through parole.[76]

A shift in ideology in the 1980s, and the rise of the "tough on crime" era, caused several changes in the American prison and parole systems.[77] Sentencing schemes changed in key ways, including: a reversion to determinate

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[69] *See* Cohen, *supra* note 68, at 1054.

[70] *Graham,* 560 U.S. at 75.

[71] *See infra* Part II.b.

[72] *See* Cohen, *supra* note 68, at 1067.

[73] *Id.*

[74] *See Elmira System,* Encyclopedia Britannica, http://www.britannica.com/topic/Elmira-system (last visited Nov. 14, 2015). In 1876, Zebulon Brockway established a parole system at Elmira Reformatory, which housed youthful offenders. Brockway was influenced by Alexander Maconochie and the mark system he implemented in Australia. The system classified prisoners, provided vocational training, and awarded marks for good behavior. Once a prisoner had acquired enough marks, he was eligible for release. *Id. See also Mark System,* Encyclopedia Britannica, http://www.britannica.com/topic/mark-system (last visited Nov. 14, 2015).

[75] *See* Cohen, *supra* note 68, at 1067.

[76] Joan Petersilia, When Prisoners Come Home: Parole and Prisoner Reentry 62 (2009). In this article, "parole" means the release of a prisoner from incarceration before the completion of the prisoner's sentence.

[77] *Id.* at 63.

sentencing, the introduction of mandatory minimums, and an escalation of LWOP sentences.[78] The enactment of "truth-in-sentencing" laws also affected the parole system through a significant decrease in release rates, with several states eliminating parole altogether.[79] These changes continue to plague the current parole system and, as a result, the release of eligible prisoners is rare in many states.[80]

b. Parole Boards: Existing Procedures and Due Process

Parole procedures and policies vary greatly by state, and the differences are so varied that a national consensus or trend cannot be determined.[81] The parole system has generally operated with little oversight from the courts, and the processes encounter less scrutiny than other aspects of the criminal

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[78] *Id.* at 65. *But see* Cohen, *supra* note 68, at 1068–1069 (noting that even with the trend toward retribution, indeterminate sentencing is still prevalent in the United States and is certainly contemplated as necessary regarding juvenile offenders, as evidenced by the decisions in *Graham* and *Miller*).

[79] *See* Petersilia, *supra* note 76, at 66–67 tbl. 3.1. *See also* Emily G. Owens, *Truthiness in Punishment: The Far Reach of Truth-in-Sentencing Laws in State Courts,* 8 J. Empirical Legal Stud. 239S (2011). In 1994, Congress passed the Violent Crime Control Act HR 3355 (VCCA) authorizing over $30 billion for law enforcement expenditures and projects and increasing the enactment of, what are commonly referred to as, truth-in-sentencing (TIS) laws. *Id.* at 239S. TIS laws affect the ability of a prisoner to obtain release via a parole board. *Id.* at 243S. Though statutes differ by state, the majority of states with TIS laws require an offender to serve at least 85% of his sentence before being eligible for release. *Id.* This is due, in large part, to the Truth-in-Sentencing incentive grants, 42 U.S.C. § 13704, which provide funding to states that require certain violent felons to serve at least 85% of a sentence without considering good behavior or other incentives.

[80] *See* Ohio Adult Parole Auth., Parole Board Report Calendar Year 2014 (2015), *available at* http://www.drc.ohio.gov/web/Reports/ParoleBoard/Calendar%20Year%202014%20Report.pdf (reporting in Ohio, in 2014, only 4.8% of eligible prisoners were released on parole after a hearing); Fla. Parole Comm'n, Florida Commission on Offender Review 2014 Annual Report, at 8, *available at* https://www.fcor.state.fl.us/docs/reports/FCORannualreport201314.pdf (reporting in Florida, in 2014, out of the 4,626 inmates eligible for release, decisions were made for 31%, or 1,437, of offenders, with only 1.6%, or 23, of those decisions resulting in parole).

[81] *See* Jeremy Travis & Sarah Lawrence, Urban Institute, Beyond the Prison Gates: The State of Parole in America 1 (2002), *available at* http://www.urban.org/sites/default/files/alfresco/publication-pdfs/310583-Beyond-the-Prison-Gates.PDF. *See also* Joan Petersilia, Reforming Probation and Parole: In the 21st Century 139 (2002) (explaining that the Federal parole release system was abolished following the TIS reform movement).

justice system.[82] Additionally, there is very little available scholarship on parole processes and procedures.[83] This lack of inquiry and oversight into the parole system has resulted in parole boards' receiving significant latitude in developing release procedures, often to the detriment of due process.[84]

In *Greenholtz v. Inmates of the Nebraska Penal & Correctional Complex*,[85] inmates in Nebraska filed a class action lawsuit against members of the parole board, claiming the state's parole statutes and procedures denied them procedural due process.[86] The Supreme Court rejected the finding of the lower courts that inmates have a constitutionally protected

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[82] *See* Sarah French Russell, *Review for Release: Juvenile Offenders, State Parole Practices, and the Eighth Amendment,* 89 IND. L.J. 373, 396 (2014); Laura Appleman, *Retributive Justice and Hidden Sentencing,* 68 OHIO ST. L.J. 1307, 1307 (2007).

[83] *See* Russell, *supra* note 82, at 399–400. In 2012, in an effort to address the lack of scholarship, Russell conducted a comprehensive, nationwide study of parole release procedures. *Id.* at 399. Forty-five states responded to the survey. *Id.* at 400. Findings from the survey examine the following aspects of state parole systems: the nature and type of interview or hearing utilized in each state, *Id.* at 400–401 & nn.176–187; the role and presence of an attorney during hearings, *Id.* at 402–403 & nn.188–196; the role and presence of the prosecutor during hearings, *Id.* at 403–404 & nn.197–202; input from the victim or a representative of the victim, *Id.* at 404–405 & n.203; consideration of other sources of input such as case history and criminal background, *Id.* at 405 & nn.204–210; and whether inmates are given access to such information, *Id.* at 405–406 & nn.211–213. The survey additionally inquired whether states applied special procedures when considering a juvenile offender for release. *Id.* at 400 n.175. At the time of the survey, some states would consider age among their criteria, but no board implemented separated procedures. *Id.* Since 2012, some states — California, CAL. PENAL CODE § 3051 (2014); Louisiana, LA. REV. STAT. ANN. § 15:574.4(D)(1) (Supp. 2013); and Nebraska, NEB. STAT. ANN. § 83-1, 110.04 (2013) — have enacted legislation that creates special procedures for juvenile offender hearings.

[84] *See* Russell, *supra* note 82, at 398 (explaining that the Constitution does not require parole procedures to meet minimal due process standards). *See also* Swarthout v. Cooke, 131 S. Ct. 859, 862 (2011) ("There is no right under the Federal Constitution to be conditionally released before the expiration of a valid sentence, and the States are under no duty to offer parole to their prisoners."). *But see* Russell, *supra* note 82, at 396 (further explaining that *Graham* challenges this proposition for juvenile offenders, because the mandate for a release mechanism is tied to constitutional jurisprudence).

[85] 442 U.S. 1 (1979).

[86] *Id.* at 3–4. Though statutes in Nebraska provided for both mandatory and discretionary parole, the issues in the case only addressed the discretionary parole practices. *Id.* at 4. The procedures implemented by the parole board in discretionary parole hearings were governed in part by the statutes and in part by the board's experience and prior practices. *Id.*

liberty interest in parole hearings,[87] and instead held, "there is no constitutional or inherent right of a convicted person to be conditionally released before the expiration of a valid sentence."[88] The Court further explained, "a state may . . . establish a parole system, but it has no duty to do so,"[89] and, "a state may be specific *or* general in defining the conditions for release and the factors that should be considered by the parole authority."[90] Likewise, state courts have also generally declined to extend more than minimum due process safeguards to parole hearings.[91] The freedom and flexibility granted to parole boards has not only affected due process protections, but is also apparent in the various factors and criteria relied upon for release.

c. Factors Considered in Parole Hearings

The Supreme Court has acknowledged that the parole process is discretionary in nature[92] and, as a result, very few restrictions have been placed

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87 *See* Inmates of the Nebraska Penal & Correctional Complex v. Greenholtz, 576 F.2d 1274, 1276–1277 (8th Cir. 1978).

88 *Greenholtz,* 442 U.S. at 7.

89 *Id.*

90 *Id.* at 8 (emphasis added) (explaining that the lack of restrictions imposed on parole boards allows the system to comply with the public interest in deterrence and rehabilitation).

91 *See, e.g.,* Burghart v. Carlin, 264 P.3d 71, 73 (Idaho 2011) (finding that there is no liberty interest and right to procedural due process in Idaho for parole hearings); Hill v. Walker, 948 N.E.2d 601, 605–606 (Ill. 2011) (holding that the Illinois parole statute does not create an expectation of parole and therefore, does not require procedural due process); *In re* Hill, 827 N.W.2d 407, 419–420 (Mich. Ct. App. 2012) (finding that the Michigan statute does not trigger a protected liberty interest and that the inmate was not entitled to appointed counsel). *See generally* Russell, *supra* note 82, at 400–406 (reporting survey results about parole board procedures by state). Data collected from the survey demonstrates the minimal due process safeguards applied by states in parole hearings. Notable findings include: in some states, an inmate is not present for the parole hearing, *Id.* at 401 & n.187 (explaining that in Florida a hearing will be held by the decision-makers and will include the prosecutor and victim, but not the inmate); fourteen states do not allow an inmate to have an attorney present during a hearing or interview and six do not consider input from an inmate's attorney during the decision-making process, *Id.* at 402 & nn.188, 191; sixteen states allow a prosecutor to present testimony at a hearing, but only one state allows cross-examination, *Id.* at 404 & nn.200–201; and twenty-eight states do not allow an inmate to have full access to information from the prosecutor's office, *Id.* at 405 & n.211.

92 *Greenholtz,* 442 U.S. at 9–10 (The Court explained that a release decision "depends on an amalgam of elements, some of which are factual but many of which are

on parole boards in selecting criteria for release.[93] In general, parole boards will consider the following factors: the seriousness of the offense committed; the prisoner's background and prior criminal history, including past experiences with probation and parole; educational background and vocational skills; prison disciplinary record; participation in prison programs; level of remorse; mental and physical health, including substance abuse and treatment; the views of the victim and prosecutor; and the potential danger to the community.[94] Many states additionally require prospective parolees to complete evaluations and assessments that purport to measure the likelihood of recidivism.[95]

As with other areas of the parole process, parole boards are allowed great flexibility in evaluating and weighing these factors during the release decision-making process.[96] Board members have the power to determine which factors will be considered, to evaluate those factors subjectively,[97] and to decide the weight accorded to each factor.[98] As a result, some factors have emerged as highly influential and determinative in the decision-making

purely subjective appraisals by the Board members based upon their experience . . . .").

93 *See* Russell, *supra* note 82, at 396.

94 *Id.* at 397 (citing to Richard A. Bierschbach, *Proportionality and Parole,* 160 U. Pa. L. Rev. 1745, 1750–1751 (2012)). *See also* Cohen, *supra* note 68, at 1074.

95 *See* Cohen, *supra* note 68, at 1070–1072 & nn.170–173 (providing a general overview of actuarial-based risk and needs assessments). The evaluations take into consideration both static and dynamic factors. *Id.* at 1070. Static factors are fixed and include: "age at sentencing or at first offense, offense of conviction, prior probation or parole history, employment history, substance abuse history, and gender." *Id.* at 1071. Dynamic factors, on the other hand, may alter over time to reflect the prisoner's current status. *Id*. Dynamic factors include: "present age, active gang affiliation, prison programming, prison disciplinary violations, current custody level, and ongoing ties to the community." *Id*.

96 *Id.* at 1074.

97 *See* Petersilia, *supra* note 81, at 133–134 (explaining that one of the criticisms of the parole system includes the arbitrariness of decision-making that is based on personal experience and intuition rather than facts and data).

98 *See, e.g.,* Bryant v. Warden, 776 F.2d 394, 397 (2d Cir. 1985) (concluding that the parole board has discretion throughout the process, including the ability to determine the weight of mitigating factors); Nunez-Guardado v. Hadden, 722 F.2d 618, 624 (10th Cir. 1983) (explaining that the parole commission has the discretion to define the weight assigned to prisoner conduct); Rodriguez v. Board of Parole, 953 N.Y.S.2d 740, 741 (N.Y. App. Div. 2012) (concluding that the parole board is "not required to articulate every factor considered or give equal weight to each factor").

process: the offense committed is traditionally considered the "most influential factor in parole release decisions."[99] Institutional behavior has also been shown to affect release decisions, but only insofar as prison misconduct will negatively impact release — evidence of prison program participation and good behavior is unlikely to influence a release decision in a significant way.[100] In recent years, the potential danger posed by release has become increasingly influential in the decision-making process.[101]

Accordingly, the broad discretionary nature of parole boards, and the parole system as a whole, has led to a highly subjective release system. Release decisions are often predicated on very few factors, with the most influential being the offense committed — a static factor that a prisoner is unable to change.[102] Additionally, truth-in-sentencing laws have disrupted the need for a parole system by requiring certain offenders to serve at least 85% of a sentence before becoming parole eligible.[103] The adult parole system is not required to provide a meaningful opportunity for release.[104] Therefore, in order to fulfill the mandate set forth in *Graham,*[105] the parole system must be scrutinized and altered to account for differences in juvenile offenders.

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99 *See* Carolyn Turpin-Petrosino, *Are Limiting Enactments Effective? An Experimental Test of Decision Making in a Presumptive Parole State,* 27 J. Crim. Just. 321, 331–332 (1999). *See also* Cohen, *supra* note 68, at 1040–1041 (noting that "courts have generally upheld Board decisions based solely on offense severity if the hearing transcript and decision reflect at least some consideration of [other factors]"); W. David Ball, *Heinous, Atrocious, and Cruel: Apprendi, Indeterminate Sentencing, and the Meaning of Punishment,* 109 Colum. L. Rev. 893, 896 (2009) (arguing that a parole denial based largely or solely on offense severity undermines the jury's verdict by extending the punitive sentence).

100 *See* Mary West-Smith et al., *Denial of Parole: An Inmate Perspective,* 64 Fed. Probation 3, 5 (2000). *See also* Cohen, *supra* note 68, at 1075 (explaining prison disciplinary infractions are "frequently-cited grounds for parole denials," but participation in programming rarely gives rise to release).

101 *See* Bierschbach, *supra* note 94, at 1751.

102 *See* Cohen, *supra* note 68, at 1076.

103 *See* Owens, *supra* note 79, at 243S and accompanying text.

104 *See* Ball, *supra* note 99, at 944.

105 Graham v. Florida, 560 U.S. 48, 75 (2010) (holding that a state does not have to guarantee release, but that a state must provide a "meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation").

III. A MEANINGFUL OPPORTUNITY FOR RELEASE: WHAT *GRAHAM*'S MANDATE MEANS FOR JUVENILE OFFENDERS AND THE PAROLE SYSTEM

In *Graham v. Florida,* the Supreme Court articulated a mandate that requires states to provide juvenile non-homicide offenders with "a meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation."[106] In contrast, there is no constitutional provision requiring states to provide any form of parole or early release for adult offenders.[107] As such, the mandate in *Graham* implicates several challenges under the modern American Parole System.

a. Timing: When Should a "Meaningful Opportunity" be Offered?

Following the decision in *Graham* a number of questions regarding compliance with the mandate were left unanswered, including — when, during incarceration, must a state provide a juvenile offender with a meaningful opportunity for release?[108] In the absence of a clear rule, jurisdictions have been mixed in their interpretation and response to the mandate.[109] At a

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106 *Id. See also* Miller v. Alabama, 132 S. Ct. 2455, 2469 (2012) (concluding, with regard to LWOP sentences for juvenile homicide offenders, "we require [the sentencer] to take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison").

107 *See supra* Part II.b–c.

108 *See* Russell, *supra* note 82, at 406. Another question implicated by the decision — whether one meaningful opportunity for release is sufficient or if periodic review is required. *Id.* at 411. Periodic review is typical in the parole system, but the length of time between reviews is becoming increasingly longer. *Id.* Additionally, periodic review is likely more beneficial for juvenile offenders, because it accounts for the differing rates of maturity and rehabilitation present in youthful offenders. *Id.* Furthermore, a single opportunity system means a state risks both that an offender will come up for review too early and be denied release and that review will come too late and a rehabilitated offender will remain incarcerated unnecessarily while waiting. *Id.*

109 The courts have been divided on whether a no-parole, term-of-years sentence that will exceed a juvenile's life expectancy violates the mandate, because the offender was not sentenced to "life." *Compare* Bunch v. Smith, 685 F.3d 546 (6th Cir. 2012) (an eighty-nine year sentence did not violate the mandate and require relief), *and* Smith v. State, 93 So.3d 371 (Fla. Dist. Ct. App. 2012) (affirming an eighty-year sentence), *with* People v. Mendez, 114 Cal. Rptr. 3d 870 (Cal. Ct. App. 2010) (reversing a sentence that was not parole eligible for eighty-four years).

minimum, the mandate would require an opportunity for release prior to the completion of the full sentence or death.[110] However, many argue that a "meaningful opportunity for release" is synonymous with a meaningful opportunity to live outside of prison.[111]

In assessing when to provide a "meaningful opportunity" for review and release, a state may consider any number of solutions — two are discussed below. First, a state can develop policies using the evidence and rationale the Court relied upon to support its decision in *Graham*.[112] For example, the Court utilized neurological and psychological science to reinforce its rationale that children differ from adults.[113] This data, along with the factors first defined in *Roper* — maturity, susceptibility, and character[114] — was critical to the ultimate decision in *Graham*.[115] Evidence shows that brain and character maturation and development occurs well into late adolescence.[116] Therefore, states may be able to provide a "meaningful opportunity for release" if parole review is set to coincide with late adolescence, or the anticipated time of brain and character maturation.[117]

The drafters of the Model Penal Code (MPC) have constructed an alternative reform solution known as "second look sentencing."[118] The

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110 *See* Russell, *supra* note 82, at 407.

111 *Id.* at 408. *See also* Alice Ristroph, *Hope, Imprisonment, and the Constitution,* 23 Fed. Sent'g Rep. 75 (2010). Ristroph argues that the mandate in *Graham* means "the juvenile defendant is not to be denied hope, and the state is not to abandon hope for the juvenile's eventual rehabilitation." *Id.*

112 *See* Russell, *supra* note 82, at 409.

113 Graham v. Florida, 560 U.S. 48, 68 (2010) (explaining that neurological differences in brain development and maturation are evident between juveniles and adults).

114 Roper v. Simmons, 543 U.S. 551, 560–570 (2005).

115 *Graham,* 560 U.S. at 68–69.

116 *See* Brief for the American Psychological Association et al., as Amici Curiae Supporting Petitioners, Graham v. Florida, 560 U.S. 48 (2010) (Nos. 08-7412, 08-7621), 2009 WL 2236778.

117 *See* Russell, *supra* note 82, at 409 (explaining that setting initial review at ten years from incarceration should allow for an offender's brain and character to have matured, making rehabilitation more likely).

118 Model Penal Code: Sentencing § 305.6 cmt. a (Tentative Draft No. 2, 2011). The American Law Institute (ALI) has been developing a model penal code for sentencing. Tentative Draft No. 2 was approved at the 2011 annual meeting. According to the website for the ALI, "the material [in Tentative Draft No. 2] may be cited as representing the Institute's position until the official text is published." *Model Penal*

proposal from the MPC alters the parole system by shifting the release mechanism to the judiciary.[119] "Second look sentencing" would allow a juvenile offender, after serving ten years, to petition the court for a "sentence modification."[120] Rather than a parole hearing to determine release, the "sentencing modification" would function as a re-sentencing, with the judiciary analyzing whether an offender's sentence should be altered.[121] The drafters of the MPC, consistent with the Court's holdings in *Roper, Graham,* and *Miller,* chose to create separate review standards for juvenile offenders, because research in psychology and criminology has continued to emphasize the differences between juvenile and adult offenders.[122]

The mandate in *Graham* specifies that a juvenile offender should be given a "meaningful opportunity to obtain release *based on* demonstrated maturity and rehabilitation."[123] Therefore, solutions adopted by the states should allow for a reasonable amount of time for an offender to demonstrate a change in maturity and character, but decision-makers should be wary of setting the timeframe both too early and too late.[124] Furthermore,

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Code: Sentencing, The American Law Institute, https://www.ali.org/publications/show/sentencing/#drafts (last visited Nov. 15, 2015).

[119] Model Penal Code: Sentencing § 305.6(1) (Tentative Draft No. 2, 2011).

[120] *Id.* § 6.11(A)(h). Additionally, the original sentencing court may allow an offender to become eligible for sentencing modification prior to the ten-year period. *Id. See also Id.* § 305.6 (creating a sentencing scheme for adult offenders, setting modification review at fifteen years).

[121] *Id.* § 305.6(4). A judiciary would determine "whether the purposes of sentencing . . . would better be served by a modified sentence than the prisoner's completion of the original sentence." *Id.*

[122] *Id.* § 6.11A cmt. c. The comment further explains that differences between juveniles and adults have been recognized and supported by evidence in the following areas: blameworthiness, potential for rehabilitation, harm prevention, number of serious violent offenders, and deterrence. *Id.* § 6.11A cmt. c(1)–(5). *See also Id.* § 6.11A cmt. h (explaining that evidence suggests juveniles are more likely to change, and often do so to a greater degree than adult offenders); *Id.* § 6.11A cmt. g (recommending caps on juvenile sentences that are below the current maximum sentences available to adult offenders).

[123] Graham v. Florida, 560 U.S. 48, 75 (2010) (emphasis added).

[124] *See* Russell, *supra* note 82, at 410 & n.241. Russell emphasizes that creating an opportunity for review that is too early can be detrimental to juvenile offenders. Juvenile offenders often encounter a number of disciplinary issues in the first years of imprisonment, particularly if placed in adult prison, which can negatively affect parole decisions. *Id.*

as demonstrated by the examples above, parole reform for juvenile offenders may be achieved through either the judiciary or the legislature.

b. A Realistic Opportunity for Release

Another challenge implicated by the mandate in *Graham* centers on the likelihood of release and the criteria currently utilized by parole boards to determine release.[125] Additionally, the Eighth Amendment proportionality analysis relied on in *Graham* considers the likelihood of release in the assessment of sentence severity.[126] "Thus, under *Graham,* a meaningful opportunity for release means a realistic one."[127]

The *Graham* mandate makes an assessment of an offender's maturity and rehabilitation crucial to the release analysis.[128] In contrast, the current parole system generally emphasizes offense severity and will often base decisions solely on the committed offense.[129] The fundamental principle behind *Graham* and *Miller* is that children are less culpable than adults and more capable of change, indicating that sentencing schemes should account for these differences in spite of the severity of the offense.[130] The mandate in *Graham* suggests that, in the case of juvenile offenders, offense severity should be afforded little to no weight in the release decision-making process.[131]

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125 *See supra* Part II.c.

126 *Graham,* 560 U.S. at 79 (explaining that the Eighth Amendment does not permit a state to deny Graham the opportunity to atone for his crimes and obtain release). *See also* Solem v. Helm, 463 U.S. 277, 303 (1983); Rummel v. Estelle, 445 U.S. 263, 280–281 (1980).

127 *See* Russell, *supra* note 82, at 412. Russell also explains that *Graham* rejects the idea of clemency as an alternative to a meaningful opportunity. *Id. See also Graham,* 560 U.S. at 82 (concluding with the assertion, "a State need not guarantee the offender eventual release, but if it imposes a sentence of life it must provide him or her with *some realistic opportunity* to obtain release before the end of that term") (emphasis added).

128 *Graham,* 560 U.S. at 75.

129 *See supra* Part II.c. *See also* sources cited *supra* note 99 and accompanying text.

130 *See, e.g., Graham,* 560 U.S. at 68; Miller v. Alabama, 132 S. Ct. 2455, 2464–2465 (2012). *See also* Russell, *supra* note 82, at 412–413 (explaining that the Court in *Graham* and *Miller* acknowledges and accepts offense severity, but nevertheless determines that a juvenile offender should be given a meaningful opportunity to obtain release).

131 *See* Russell, *supra* note 82, at 413 (arguing that offense severity is taken into account during the initial sentencing, which includes the eligibility parameters for parole). *See also* Ball, *supra* note 99, at 971–972. Ball asserts that a parole board should not

Given the low release rates,[132] and the emphasis on offense severity in release decisions,[133] the current parole system is unlikely to provide a meaningful and realistic opportunity for release for juvenile offenders.[134] To mitigate this, states, through courts and legislatures, should set forth specific guidelines for juvenile offender parole decisions, outlining criteria that should play a significant role in the decision-making process.[135]

c. Age as a Necessary Factor in Release Decisions for Juvenile Offenders

Under the current parole system, age is considered in various ways and can often be both a static and dynamic factor.[136] Additionally, age is a significant factor evaluated by the risk assessment instruments used by parole boards in their decision-making process.[137] Contrary to the fundamental premise in *Graham* and *Miller* that youth are more capable of change, the risk assessment instruments generally estimate youthfulness as an increased measure of risk.[138] For example, even though the Court has held that juveniles are less culpable,[139] the risk assessment will correlate "early

"consider the commitment offense in determining a prisoner's suitability for parole" and, particularly in the case of juvenile offenders, that parole should be based on rehabilitation. *Id.*

132 *See* sources cited *supra* note 80 and accompanying text.

133 *See supra* Part II.c. *See also* sources cited *supra* note 99 and accompanying text.

134 *See* Russell, *supra* note 82, at 414 (noting "one cannot conclude based on current parole release rates of prisoners convicted of violent crimes whether a particular state's parole board will provide a rehabilitated juvenile offender with a realistic chance for release").

135 *See infra* Part IV. *See also* Russell, *supra* note 82, at 413–414.

136 *See* Megan Annitto, Graham*'s Gatekeeper and Beyond: Juvenile Sentencing and Release Reform in the Wake of* Graham *and* Miller, 80 Brook. L. Rev. 119, 159 (2014). Age is a static factor when it remains fixed, as in age at the time of committed offense or age at first arrest. *Id.* Conversely, the current age of the offender is often considered as a dynamic factor, because risk of recidivism diminishes over time. *Id.* at 159–160.

137 *See* Christopher Slobogin, *Risk Assessment, in* The Oxford Handbook of Sentencing and Corrections, 196–197 (Joan Petersilia & Kevin R. Reitz, eds. 2012); James Austin, *The Proper and Improper Use of Risk Assessment in Corrections,* 16 Fed. Sent'g Rep. 194, 195 (2004).

138 *See* Slobogin, *supra* note 137, at 198–199 (explaining that youthfulness at the time of the offense committed will generally raise the level of risk associated with an offender).

139 *See, e.g.*, Miller v. Alabama, 132 S. Ct. 2455, 2464–2465 (2012).

onset of criminal or delinquent activity . . . with a greater likelihood of future criminal behavior."[140] So, under the modern parole system, an offender's youthfulness is more likely to increase his risk level, thus decreasing the likelihood of release.[141]

Under the current parole system, the consideration of age as a criterion for release is contrary to both the mandate set forth in *Graham*[142] and the fundamental principle behind the decisions in *Roper, Graham,* and *Miller*.[143] In order for the parole system to provide a meaningful opportunity for release for juvenile offenders, states must alter their current criteria to adequately reflect the premise that youthfulness indicates a higher likelihood of rehabilitation.[144] Furthermore, changes must be implemented throughout the system in order to comply with the mandate in *Graham* and provide an actual and realistic opportunity for release for juvenile offenders.[145]

IV: A MODEL FOR JUVENILE PAROLE REFORM: CALIFORNIA'S ENACTMENT OF YOUTH OFFENDER PAROLE HEARINGS

In 2011, in *Brown v. Plata,*[146] the Supreme Court affirmed an order to relieve overcrowding in California prisons and impose a population limit in response to grossly inadequate facilities and care which violated the

140 *See* Annitto, *supra* note 136, at 159; Austin, *supra* note 137, at 197.

141 *See* Annitto, *supra* note 136, at 159–160. For example, in Nevada, that an inmate's risk score is increased by two points if he was incarcerated as a juvenile, whereas completion of prison programs may only reduce a score by one point. *Id*. at 159–160 & n.294.

142 Graham v. Florida, 560 U.S. 48, 75 (2010).

143 *See* Roper v. Simmons, 543 U.S. 551, 569 (2005); Graham v. Florida, 560 U.S. 48, 68 (2010); Miller v. Alabama, 132 S. Ct. 2455, 2464–2465 (2012).

144 *See* Annitto, *supra* note 136, at 414.

145 *Id.* Annitto argues that under the modern parole system, parole boards are not required to provide realistic release for offenders. *Id.* Accordingly, "simply making juvenile offenders eligible for parole under existing practices will not guarantee compliance with Eighth Amendment requirements." *Id.* Furthermore, state legislatures and courts are key to the implementation of criteria that will provide juveniles with a meaningful opportunity to obtain release. *Id.*

146 131 S. Ct. 1910 (2011).

Eighth Amendment ban on cruel and unusual punishment.[147] To satisfy the court-mandated prison population reduction, California passed three laws from 2012 to 2013, two of which directly affect juvenile offenders.[148] In 2012, California contributed to nearly half of the reported nationwide decline in prison populations.[149] As a result of these measures, California has become a leader in juvenile sentencing reform and has passed legislation that should serve as a model for other states to amend their parole release process for juvenile offenders.

a. California Addresses de Facto LWOP Sentences Following Graham *and* Miller

Following *Graham* and *Miller,* states[150] were left to address a number of unanswered questions, including how to confront de facto LWOP

147 *Id.* at 1922–1923. The case arose from two class actions involving prisoners with mental disorders and medical disorders. *Id.* at 1922. The Court found that the prison populations were nearly double the capacity and had operated as such for eleven years. *Id.* at 1924. As a result, the mental health and medical care provided by the prisons did not meet constitutional minimums and had frequently caused serious harm and in some instances death. *Id.* at 1923.

148 Jesse Wegman, *Once Again, California Eases Harsh Sentencing Laws,* N.Y. Times (Sept. 25, 2013), *available at* http://takingnote.blogs.nytimes.com/2013/09/25/once-again-california-eases-harsh-sentencing-laws/?_r=0. The third law contributed to the release of prisoners serving sentences under California's Three Strikes Law. *Id.*

149 *See* Porter, *supra* note 16. In 2012, California's prison population was reduced by 15,035 prisoners. *Id.*

150 Along with California, Iowa also serves as a leader in juvenile sentencing reform and its courts have likewise reversed de facto LWOP sentences for juvenile offenders. In *State v. Ragland,* the Iowa Supreme Court established guidelines for applying *Miller.* 836 N.W.2d 107 (Iowa 2013). First, the court held that *Miller* applies retroactively in Iowa because it not only affects procedure, but also the substantive law. *Id.* at 117. Furthermore, the court reasoned that *Miller* must also apply to "sentences that are the functional equivalent of life without parole" given that the "spirit of the constitutional mandates of *Miller*" are based on the profound effect such sentences have on juveniles. *Id.* at 121. Finally, the court determined that the commutation provided by the governor for juvenile offenders currently serving LWOP sentences did not allow for the individualized sentencing required under *Miller. Id.* at 122. *See also* Mike Wiser, *Branstad commutes life sentences for 38 Iowa juvenile murderers,* The Gazette (July 16, 2012), http://thegazette.com/2012/07/16/branstad-commutes-life-sentences-for-38-iowa-juvenile-murderers/ (explaining that following the Court's decision in *Miller,* the governor of Iowa commuted the sentences of thirty-eight offenders, who were sentenced as juveniles to LWOP, to serve a mandatory sixty years in prison before being eligible for parole).

sentences.[151] California first considered a de facto LWOP sentence for a non-homicide juvenile offender in *People v. Caballero*.[152] The California Supreme Court held a term-of-years sentence for a juvenile non-homicide offender with a parole eligibility date that occurs outside of the life expectancy violates the Eighth Amendment.[153] Adhering to the rationale that juveniles are developmentally distinct from adults, the Court determined that the holding in *Graham* was not limited to a specific sentence, but rather requires that all juvenile non-homicide offenders be granted a realistic opportunity to obtain release.[154] The Court further explained that in order to receive a realistic opportunity to obtain release, offenders must be able to demonstrate a change in maturity and growth, which can only be achieved if the opportunity arises during an offender's lifetime.[155] Following the decision in *Caballero,* the California Legislature has enacted two significant reforms related to juvenile offenders.

b. The Fair Sentencing for Youth Act

Following the decisions in *Graham* and *Miller,* the California Legislature enacted the "Fair Sentencing for Youth Act" to address parole eligibility for juvenile offenders.[156] The Act allows juvenile offenders sentenced to LWOP to petition the court for re-sentencing after serving fifteen years.[157]

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151 A "de facto LWOP sentence" is a term-of-years sentence that will exceed, or in some instances more than likely exceed, a person's natural life, thus resulting in a virtual life sentence.

152 282 P.3d 291 (Cal. 2012). Caballero was sentenced on three counts — forty years to life, thirty-five years to life, and thirty-five years to life — to be served consecutively as 110 years to life. *Id.* at 293.

153 *Id.* at 295. The state argued that Caballero's sentences did not violate the categorical ban imposed by *Graham* because each sentence "was permissible individually because each included the possibility of parole within [Caballero's] lifetime." *Id.* at 294.

154 *Id.* at 295. The California Supreme Court reasoned that the Supreme Court's extension of *Graham*'s rationale in *Miller* to juvenile homicide cases supported the proposition that *Graham*'s ban on LWOP sentences for non-homicide offenses applied to all juvenile non-homicide cases. *Id.* at 294.

155 *Id.* at 295.

156 S.B. 9, 2012 Leg. (Ca. 2012), *available at* http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0001-0050/sb_9_bill_20120930_chaptered.pdf (codified at Cal. Penal Code § 1170 (West 2013)).

157 Cal. Penal Code § 1170(d)(2)(A)(i). Pursuant to Cal. Penal Code § 190.5(b) (West 2008), a juvenile offender age sixteen or seventeen in California may be sentenced

Upon consideration of specified factors,[158] if the offender's sentence is not recalled he may re-petition the court for review at a later date, allowing juvenile offenders serving a LWOP sentence multiple opportunities to obtain parole eligibility.[159] The "Fair Sentencing for Youth Act" does not address parole hearings, and likewise does not guarantee release through the parole system for juvenile offenders — the Act simply provides juvenile offenders serving LWOP sentences an opportunity to demonstrate rehabilitation, which in turn could provide a change in sentencing to possibly receive parole.[160]

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to LWOP or twenty-five years to life if convicted of murder in the first degree. Accordingly, under Cal. Penal Code § 1170(d)(2)(A)(i), the court may convert a LWOP sentence to life with the first possibility of parole after twenty-five years, meaning that an offender may petition the court for resentencing after fifteen years and, if granted, would become parole eligible after serving another ten years. *See also* People v. Gutierrez, 58 Cal. 4th 1354 (2014). In *Gutierrez,* the California Supreme Court held Cal. Penal Code § 190.5 constitutional following *Miller* because the statute provides courts with the discretion to sentence an individual to LWOP *or* twenty-five years to life and there is no "presumption in favor of life without parole." *Id.* at 1361.

158 Cal. Penal Code § 1170(d)(2)(F)(i)–(viii). Factors the court may consider include:

> The defendant was convicted pursuant to felony murder . . . does not have juvenile felony adjudications for assault . . . committed the offense with at least one adult codefendant . . . had insufficient adult support or supervision and had suffered from psychological or physical trauma . . . has performed acts that tend to indicate rehabilitation or the potential for rehabilitation, including, but not limited to, availing himself or herself of rehabilitative, educational, or vocational programs . . . has maintained family ties or connections with others . . . has eliminated contact with individuals outside of prison who are currently involved with crime . . . has had no disciplinary actions for violent activities in the last five years in which the defendant was determined to be the aggressor.

Id.

159 Cal. Penal Code § 1170(d)(2)(H). *See* Russell, *supra* note 82, at 392 n.126 (explaining that the Act applies retroactively to juvenile offenders currently serving LWOP sentences). *See also* Kelly Scavone, *How Long is Too Long? Conflicting State Responses to De Facto Life Without Parole Sentences after* Graham v. Florida *and* Miller v. Alabama, 82 Fordham L. Rev. 3439, 3474 (2014).

160 *See* Russell, *supra* note 82, at 392; Scavone, *supra* note 159, at 3475 (acknowledging that § 1170 may provide "juvenile offenders the opportunity for parole but may not actually be effective in providing any meaningful chance at rehabilitation and release for the majority of juvenile LWOP offenders").

c. California Provides a Realistic Opportunity to Obtain Release through Youth Offender Parole Hearings

In 2013, the California Legislature passed a bill creating special "Youth Offender Parole Hearings" for juvenile offenders in order to create a meaningful opportunity to obtain release consistent with *Graham*.[161] California Senate Bill 260 sets forth the intent of the state legislature, as follows:

> The purpose of this act is to establish a parole eligibility mechanism that provides a person serving a sentence for crimes that he or she committed as a juvenile the opportunity to obtain release when he or she has shown that he or she has been rehabilitated and gained maturity, in accordance with the decision of the California Supreme Court in *People v. Caballero* and the decisions of the United States Supreme Court in *Graham v. Florida* and *Miller v. Alabama*. . . . It is the intent of the Legislature to create a process by which growth and maturity of youthful offenders can be assessed and a meaningful opportunity for release established.[162]

The Youth Offender Parole Hearings differ from adult parole hearings in that the parole board is instructed to "give great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner in accordance with relevant case law."[163] Additionally, during its assessment, if the board uses risk assessment instruments,[164] such evaluations may only be administered by a licensed psychologist who must also

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[161] S.B. 260, 2013 Leg., 2013–2014 Reg. Sess. (Ca. 2013), *available at* http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0251-0300/sb_260_bill_20130916_chaptered.pdf (codified at Cal. Penal Code §§ 3051, 4801 (West 2013)). For more information on California Senate Bill 260 and the Youth Offender Parole Hearings, see Human Rights Watch, *California Youth Offender Parole: A Guide for Prisoners and Their Families and Friends* (2014), *available at* http://www.caresforyouth.org/YOPH_SB_260_Guide_5-1-14_v3.pdf

[162] S.B. 260 § 1 (citations omitted).

[163] Cal. Penal Code § 4801(c). Additionally, "Family members, friends, school personnel, faith leaders, and representatives from community-based organizations with knowledge about the individual before the crime or his or her growth and maturity since the time of the crime may submit statements for review by the board." Cal. Penal Code § 3051(f)(2).

[164] *See supra* Part III.c.

give great weight to the diminished culpability and hallmark features of youth.[165] Furthermore, the bill created parameters, based on the offender's sentence, detailing when an offender will become eligible for a Youth Offender Parole Hearing.[166] When originally drafted, the bill applied to offenders who were convicted of a controlling offense that was committed before the age of eighteen.[167] In 2015, however, the state legislature passed California Senate Bill 261 extending the applicability of Youth Offender Parole Hearings to offenders who were convicted of a controlling offense that was committed under the age of twenty-three.[168]

California's Youth Offender Parole Hearings, created by California Senate Bill 260, address issues that currently plague the parole system and impede compliance with *Graham*'s mandate that youth offenders should receive a realistic opportunity to obtain release.[169] First, the decisions in *Graham* and *Miller* failed to establish timing guidelines that would direct states when an opportunity for release should be made available to offenders, leading to inconsistent interpretations and responses from the states.[170] Neurological and developmental data from the American Psychological Association (APA) shows that brain development continues through late adolescence,[171] and the drafters of the MPC have recommended "second

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165 Cal. Penal Code § 3051(f)(1).

166 S.B. 260 § 4 (codified at Cal. Penal Code § 3051(b)(1)–(3)). Accordingly, a juvenile offender serving a determinate sentence for the controlling offense, meaning a sentence with a fixed length, will become parole eligible, and thus eligible for a youth offender parole hearing, during his fifteenth year. § 3051(b)(1). A juvenile offender sentenced to a life term of less than twenty-five years for the controlling offense will become eligible in his twentieth year of incarceration. § 3051(b)(2). Finally, a juvenile offender sentenced to a life term of twenty-five years or more for the controlling offense will become eligible during his twenty-fifth year. § 3051(b)(3). As defined in the statute, the controlling offense "means the offense or enhancement for which any sentencing court imposed the longest term of imprisonment." § 3051(a)(2)(B).

167 S.B. 260 § 4. The statute, as originally enacted and currently, does not apply to offenders sentenced under California's Three Strikes Law or "Jessica's Law," also known as the Sexual Predator Punishment and Control Act.

168 S.B. 261, 2015 Leg., 2015–2016 Reg. Sess. (Ca. 2015), *available at* http://www.leginfo.ca.gov/pub/15-16/bill/sen/sb_0251-0300/sb_261_bill_20151003_chaptered.pdf (codified at Cal. Penal Code §§ 3051, 4801 (West 2016)).

169 *See supra* Part III.

170 *See* cases cited *supra* note 109 and accompanying text.

171 *See supra* Part III.a. *See also supra* note 116 and accompanying text.

look sentencing" for juvenile offenders, which would allow youthful offenders to petition for resentencing after ten years.[172] Section 3051 of the California Penal Code addresses this timing issue by clearly setting forth parameters that detail when juvenile offenders are eligible for parole.[173] The guidelines developed under section 3051 exceed those recommended by the MPC, but effectively create a graduated scale based on sentence length that establishes set timeframes for parole eligibility. Additionally, section 1170 of the California Penal Code allows juvenile offenders sentenced to LWOP to petition the court for re-sentencing after fifteen years, which is supported by the data from the APA that juvenile brains continue to develop into late adolescence and suggests that California legislators are willing to provide even the most dangerous of juvenile offenders with the possibility of parole release upon a showing of growth and maturity.[174]

Another issue juvenile offenders face under the current parole system is the effect and weight of age as a factor in parole release decisions. Risk assessment instruments, used by many parole boards in release evaluations, consider age as a significant factor in the decision-making process.[175] Contrary to the evidence relied upon by the Court in *Roper, Graham,* and *Miller,* however, risk assessment tools generally conclude that a juvenile offender's age is an increased risk factor rather than an indication of susceptibility to rehabilitation.[176] In contrast, section 3051 requires that California parole boards choosing to utilize risk assessment tools must do so through a licensed psychologist and that the evaluation of those tools must "take into consideration the diminished culpability of juveniles."[177] Furthermore, while age need not be considered as a factor in other jurisdictions,[178] section 4801 of the California Penal Code mandates that the parole board

172 *See supra* notes 118–122 and accompanying text.

173 Cal. Penal Code § 3051(b)(1)–(3). *See supra* note 166 and accompanying text.

174 *See supra* notes 156–158 and accompanying text.

175 *See* sources cited *supra* note 137.

176 *See* sources cited *supra* notes 138, 140–141 and accompanying text.

177 Cal. Penal Code § 3051(f)(1).

178 *See* Cohen, *supra* note 68, at 1073–1076 (explaining the arbitrary nature of parole decision-making and the practice of giving different factors varying weight in the decision-making process); Annitto, *supra* note 136, at 144–145 (discussing the variations in state parole board decision-making and the arbitrariness associated with release decisions and the factors considered).

"shall give great weight to the diminished culpability of juveniles . . . [and] the hallmark features of youth."[179] Accordingly, the California legislation not only adequately considers age as a factor in its parole release decisions, but does so in a manner consistent with the fundamental principle behind the Court's decisions in *Roper, Graham,* and *Miller.*

Similarly, the current parole system's general emphasis on offense severity challenges *Graham's* mandate to provide a meaningful opportunity to obtain release.[180] Additionally, the prevalence of low release rates under the current system further decreases the opportunity for juvenile offenders to achieve a realistic chance of release consistent with *Graham*.[181] Under section 3051, juvenile offenders are still required to show significant rehabilitative improvements in order to obtain release, but the considerable weight afforded to youth under section 4801 increases the likelihood of parole suitability and the successful attainment of a realistic opportunity for release.[182] Early results from California "suggest that the effect of the specific criteria and rationale focused on development in the legislation, in tandem with a politically favorable environment, has been impactful."[183]

Though in its early stages, the Youth Offender Parole Hearings instituted under section 3051 of the California Penal Code demonstrate an effective juvenile sentencing and parole reform model that other states should consider adopting. The decisions in *Graham* and *Miller* addressed issues pertaining not only to the sentencing of juvenile offenders, but also to the parole of such offenders, by mandating a meaningful opportunity for release. The current parole system inadequately addresses this mandate and fails to provide a meaningful or realistic opportunity for release

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179 Cal. Penal Code § 4801(c).

180 *See supra* Part II.c. *See also* sources cited *supra* note 99 and accompanying text.

181 *See* sources cited *supra* note 80 and accompanying text.

182 *See* Human Rights Watch, *supra* note 161.

183 *See* Annitto, *supra* note 136, at 162 and n.308 (citing an interview the author conducted with Elizabeth Calvin from the Human Rights Watch). Annitto elaborates that in the initial months following the enactment of S.B. 260, "twelve out of twenty-one applicants were granted a parole release date," which illustrates a "stark contrast" with California's prior annual release rates, which at times were "zero percent." *Id. But see* Scavone, *supra* note 159, at 3478. Scavone notes that opponents to reforms like S.B. 260 will often argue that such mechanisms increase the risk of releasing dangerous offenders and place an undue burden on victims to participate in frequent or multiple parole hearings. *Id.*

for juvenile offenders. The reforms enacted in California through section 3051, section 4801, and section 1170 adhere to the fundamental principle in *Roper, Graham,* and *Miller* and provide an alternative mechanism for parole release for juvenile offenders, who have been shown to be constitutionally different from adult offenders.

CONCLUSION

Juvenile justice sentencing and reform policies have altered dramatically over the past decade. While the decisions in *Roper, Graham,* and *Miller* largely affected sentencing schemes for juvenile offenders, the Court additionally created a mandate in *Graham* that states must provide juvenile offenders with a meaningful and realistic opportunity to obtain release. This mandate directly affects the American Parole System, because it imposes a duty on the states regarding parole of juvenile offenders that does not exist for adult offenders. Currently, the modern parole system operates adversely to the fundamental principle that juveniles are constitutionally different than adults and must receive a meaningful opportunity to obtain release.

Since 2013, a number of states have begun to implement parole reforms for juvenile offenders in an effort to follow the mandate set forth in *Graham*. Most notably, California enacted Senate Bill 260 and implemented Youth Offender Parole Hearings for juvenile offenders. These hearings address the issues that exist in the current parole system by creating a clear timing component and requiring board members to afford great weight to the diminished culpability of juvenile offenders. This requirement significantly increases the likelihood that a juvenile offender will receive a meaningful and realistic opportunity to obtain release. The Supreme Court in *Roper, Graham,* and *Miller* declared that juveniles are constitutionally different from adults and instructed that states must provide juvenile offenders with a meaningful opportunity for release. In order to follow this mandate, states need to develop effective parole reform for juvenile offenders. California's Youth Offender Parole Hearings system offers other states a viable model of effective parole reform for juvenile offenders.

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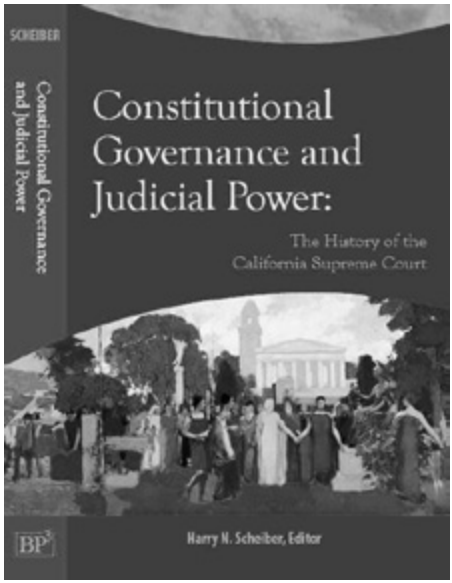

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