

Yale Law School
Oral History Series

A CONVERSATION WITH
ELIAS CLARK

Interviewed by Bonnie Collier

New Haven: Lillian Goldman Law Library
Yale Law School, 2014

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S. Blair Kauffman • *Law Librarian* • *Yale Law School*

You are invited to eavesdrop on conversations with former deans and faculty of the Yale Law School as they recall the people, ideas, and events that helped shape this institution during their tenure. These conversations were held under the auspices of the Lillian Goldman Law Library as part of its oral history project.

The Law School's oral history project draws on the special skills of one of its long-time librarians, Bonnie Collier, who conducts the interviews. Bonnie has an academic background in history and a special interest in oral history. She also has a great talent for allowing people to talk freely, and she approaches each of her subjects with a relaxed, open-ended style. Bonnie is a respected and well-liked member of the Law School community and is the perfect person to lead these interviews. The overall project goal is to capture the unfiltered memory of key figures in the Law School's history and make these conversations accessible to a wider audience.

Most of the conversations in this series were conducted in two to three separate interview sessions, sometimes spread out over several weeks. They typically took place in the comfort of the subject's office. Each was recorded and later transcribed. The transcriptions were copy-edited for errors and the occasional indecipherable mumblings deleted.

Otherwise, the oral history appearing on these pages reads very much as a direct recording of the actual conversations. Thus, some odd phrasing and occasional dropped clauses are inevitable and have been maintained in the interest of authenticity. Our hope is that readers will welcome the lack of intrusion between editor and end product and be forgiving of the twists, turns, and repetitions these conversations sometimes take.

Oral history is a complement to traditional written history and can be read for an enriched understanding of past events. Those readers who are familiar with Yale Law School will recognize the participants in these conversations and many of the personalities and events they mention.

Those who are less familiar with Yale Law School or who simply want a fuller understanding of its past are encouraged to read some of the published accounts, particularly the *History of the Yale Law School: The Tercentennial Lectures*, edited by Anthony T. Kronman (2004), which offers a broad account of this law school from the time of its founding through the late 20th century. Written history provides an analytical and interpretive narrative, while oral history provides a personal perspective. Both have important roles in helping shape our understanding of the past. The former offers the historian's sense of reality based on the sources drawn upon and the author's own perspective, as shaped by culture, place and time. Oral history can serve as a primary source for written history. It provides emotional depth that written history does not and offers the reader a first-hand account of the events and personalities.

The oral history project fits into a tradition of Yale Law Library publishing projects dating from the early 20th century. The Yale Law Library Publications is a now-defunct series inaugurated in 1935, in cooperation with the Yale University Press. Notably, four of the publications in this series provide a history of the Yale Law School from its founding to 1915. More recently, the library teamed with Yale University Press to launch the Yale Law Library Series in Legal History and Reference, with titles beginning in 2007. Additionally, the library's online publishing ventures include the Avalon Project, which presents digital documents relevant to the fields of law, history, economics, politics, diplomacy, and government, and the Yale Law School Legal Scholarship Repository, which presents digital images of student prize papers and scholarly articles authored by Yale Law School faculty.

Our goal with the oral history project is to assist future researchers with gaining a better understanding of Yale Law School's past by offering them direct access to the words of its deans and faculty – the policy makers and participants. Perhaps some future written history will draw on these conversations as a source for gaining a clearer understanding of Yale Law School's past.

ELIAS CLARK (1921–2011), a member of both the Yale Law School and Yale University communities, served on the faculty of Yale Law School from 1949 to 2004, and as Master of Silliman College from 1962 to 1981. “Eli” Clark earned a B.A. from Yale College in 1943, an LL.B. from Yale Law School in 1947, and a Master of Arts degree from Yale University in 1958. From 1944 to 1945, he flew C-47s as a pilot in the Army Air Corps. As a faculty member of Yale Law School, he specialized in property, family law, and estate taxation. He was named a Professor of Law in 1958 and the Lafayette S. Foster Professor of Law in 1969. In 1991, he was named the Lafayette S. Foster Professor Emeritus and Myres S. McDougal Professorial Lecturer in Law. He retired from Yale Law School in 2004 after more than fifty-five years of service.

Elias Clark

January 15, 1997

BONNIE COLLIER: We've agreed that you will give me a brief biographical sketch to start off.

ELIAS CLARK: Well, I was born here in New Haven in August 1921 and went to public school here in New Haven. Of course my father was dean of the school. Professor all during the 1920s and then became dean in 1929. I went away to school. I guess it was 1933 or 1934, I went to Andover for four years, then came back and went to Yale College, in an accelerated program getting us ready to serve in World War II. We graduated in December of 1942. I started in 1939, fall of 1939.

I then had a very interesting – which I'll speak about later – two weeks at the Yale Law School and went into the Army Air Corps in February of 1943, and served as a pilot in Troop Carry Command, flying paratroopers and gliders in Europe from D-Day through to the end of the war. Came back and went to the Yale Law School, again an accelerated program. So I started in November of 1945 and we graduated in November of 1947.

I then worked a year and a half with Cleary Gottlieb, which was just a very young, new law firm in New York for two years. Got married and in 1949 Wes Sturges called me and said that Peyl Gulliver had had a lot of health problems, couldn't teach the estates courses, and would I come up and do the estates courses.

At that time we had a brand new baby and we lived at 39 75th Street, just off Central Park in a house that had been alleged to belong to Benjamin Cardozo. We were in the upper maid's quarters, I think, a little apartment. It was seventy-three steps up, and it was an awfully long way to take a baby carriage and new baby.

We loved it in New York. I really expected to make my life's career there. We had a lot of friends from my class at law school there with us, but basically it was a housing decision to move to New Haven, and I've

been there ever since. I've been on the faculty ever since, teaching mostly in the estates field and taxation.

Let's see, I became master of Silliman College in the undergraduate side of Yale in 1962 and stayed there until 1981. I have mixed feelings about that. I loved the job. I loved being with the undergraduates, but it certainly interrupted my law school career, so any extensive scholarship on my part I'm afraid never fully materialized. I became Emeritus in 1992, was it, and have stayed on under new arrangements, teaching a single course each year since then. That's about it, unless you can think of some more.

BC: No, that's good. Thank you. You have some early recollections, and some I'm particularly interested in having to do with the building of this building. Could you talk a little bit about the Law School at Hendrie Hall and the move to here and perhaps your early recollections of this building?

EC: Well, of course, I like to boast that I'm the only one around here that really goes back to Hendrie Hall, and I guess that's true, but I really should not misrepresent my situation. Of course, when my father became dean I was eight years old, and so my recollections are very superficial and then spotty, indeed. But I do remember Hendrie Hall.

My father used to bicycle to work, as you could do that in New Haven quite comfortably. We lived out just over the line in Hamden on Laurel Road, just above Armory Street, and my father used to bicycle in and out and come back for lunch, I remember. His office was right over the archway that goes in from Elm Street into the parking lot. I can remember that office. The building always seemed then to me, as it did to everybody else, to be quite dingy, I thought. Of course, the faculty – what was it? Probably only twelve people?

Arlene Hadley, the famous Arlene Hadley, was the registrar and she sat in a big office right outside my father's office and really was basically my father's secretary as well. The two of them really ran the school. My father during the 1930s did have a series of assistant deans, like Howard Marshall who became the great oil baron, who just recently died, and

people of that kind. Peyl Gulliver, and they assisted, but basically it was a one-man, -one-woman operation.

Of course, Arlene Hadley, there are a great many stories about Arlene. She was a powerful, powerful woman and you didn't ever want to cross Arlene Hadley. The students used to make a big deal of her – not fun of her certainly, because I think she was respected, but they were a little frightened of her as well.

I remember my father was very excited. The plans, of course, for the new building starting during Bob Hutchins' – and maybe before – term as dean, but my father really was the one that was I think most instrumental in being the client for the architects in the design of the building, to the extent the Yale authorities allowed individuals to have input.

You are aware of the issue of whether the building was to be built next to the Institute of Human Relations down next to the hospital complex. That's where Hutchins wanted it, and that was part of his scheme, that you would integrate the teaching of law into the social sciences like psychology and things of that kind. My father was really – as I understand it, although I didn't know it at the time – was never enthusiastic about that, and I think it's often said that he was the one that derailed that plan of having the law school down there. I don't believe that's really true. I believe the trustees of the Sterling estate, of course the donor of the money, was insisting that the Law School be located right next to the main library, and so that coincided of course with what my father wanted, as well, and so the building was built here.

I can remember the building in the very early days. Of course, again, the faculty was small. They did all sorts of personalized things to some of the offices. The office that Abe Goldstein is in now here was Arthur Corbin's office and Arthur Corbin really had a lot of input.

It was the biggest, as was quite understandable because of Arthur Corbin's towering position in the faculty.

You could go around the building and pick out the original. Where Edwin Borchard was, that's all been changed now, but that's down where

Jay Katz and some administrative assistants are. That was all one big office at the time. The librarian then was Fred Hicks, and his office is where Mike Reisman's office is now, which was my office for about twenty years.

So what I can remember is that the offices were sort of tailor made for the individuals who were going to be the first occupants. Of course, my father took great pride, as I think a lot of people did at that time, in all of the windows and the sculpture—of course, I've always loved the one over the main door into the Law School of the professor orating and the students all asleep and then the reverse of that, students all yacking and the professor asleep.

BC: Do you have a sense that your father was involved in the design process?

EC: Well, I can remember him speaking about the windows and those what do you call them? Reliefs or whatever it is. I think he did have some input on that.

BC: There might have been a committee, a law school building committee?

EC: I don't remember. I really don't. I did come down for the inauguration, but you see I was away at school then. What was it, 1932 or 1933, and I can't really remember. I remember my father spoke and Tom Swan, who was then on the Circuit Court of Appeals and who had been dean before Hutchins, spoke.

BC: Hutchins had left by then?

EC: Hutchins had left. He was not here at all. As far as I know, he was not even in attendance, but that seems unlikely. But anyway, I don't really remember. I think it was in the fall. It was a nice day, but I don't really remember beyond that.

Now, my recollections really are people during this time. I think my father's best friends were the Thurman Arnolds, Mr. and Mrs. Arnold. The Borchards, for sure, Edwin and Corrine Borchard. My father used to play tennis with Edwin Borchard all the time and actually they were playing tennis the day the Lawn Club burned down. Well, where we lived, just above where the Underhill Moores lived, and although my

father had a very sort of up and down relationship with Underhill, my mother and Eleanor were best of friends.

It is interesting. My father was a very interesting man. He really was. He was devoted to the law. He had been a lawyer here in town. He came from a farm family in Woodbridge and used to have to milk cows and all before coming in. He came to Hillhouse High School. This would be 1908–1909.

BC: He came in to Hillhouse High School from Woodbridge?

EC: On the trolley car.

BC: Hillhouse High School was on campus, I understand.

EC: It's where Stiles and Morse are now, right across from the gymnasium. Actually, I went there a year myself. When I first started high school, Hamden did not have a high school, and I came in and went to Hillhouse for one year.

But anyway, then he went to Yale College, lived on campus. Never liked farming and I think has been known to have said, "Those are the last cows I am ever going to milk again," when he left to go to college, and then went right into law school. But he loved the law, was a tremendously hard worker and a very fast worker, unlike his son, I'm afraid. His son unlike him.

I do remember that on his—I think what he always felt was one of the things that made the Law School great, was its smallness, the small size. He really was devoted to that and he was under tremendous pressure all during the 1930s to enlarge and get more tuitions. The pressure would come from the provost's office. My father had again a rather rocky relationship with Edgar Furniss who was the provost at that time, also dean of the graduate school. My father used to grumble a great deal. That was, of course, before there were any government grants to sciences and things like that, and my father use to grouse a great deal. I can remember distinctly about how the Law School was the only department in the university that made its way financially, but every year the university upped its fee payments that they required from the law school. So he felt that they always unbalanced his budget, and he used to grumble that the

law school was paying for the medical school. The medical school then was much smaller and was getting no grants.

BC: Reading about your father, smallness was kind of a theme with him because he believed in small classes. He was interested in pedagogy and believed that small classes were the best way to teach.

EC: Yes. Yes, he did. I think he felt that, and I think also the fact that we really did not have a required curriculum. We had the first term and property and criminal law required, but nothing else. He felt that the freedom of students, the content was not as important as contact with different professors and different ways of looking at the study of law and the understanding of law. I think he felt that very strongly.

It's interesting on teaching. I think he was much more interested in getting good scholars here than in popular teachers. As I understand it—of course, Bittker could tell you better than I—but he was not himself a popular teacher. He used to keep his head down and mumble a great deal, though he didn't really care about that. I think he felt that if a teacher became too popular then he probably wasn't...

BC: Rigorous enough?

EC: Rigorous enough, yes. So it depends I think really on what you mean by good teaching. Smallness, both in the classes and the total number of students, with a free and open curriculum I think were all parts of it, and the term course rather than the year-long course. Again, the idea being that the student could experience more professors that way, if you changed courses every term. The standard in those days, of course, was the first two years were prescribed and they were year-long courses. You were with the same person all year long.

My father really believed strongly in bringing in people who were not just lawyers. There were a number of them at the time who were other than just lawyers.

I can't remember really too much more. I can remember—I mean I certainly can remember all the stories. I don't think probably most of them are relevant.

BC: Oh, I'd like to hear some of them anyway. One in particular – I don't know if there is a story, but the relationship between your father and Hutchins has been made something of in some of the things I've read. Do you have any recollections about that?

EC: It's interesting. I can remember Bob Hutchins and his wife Maude. They were extraordinarily good-looking people, even to a boy's eye. He was tall, good-looking. He was really just an instant success at whatever he did, and it's quite interesting because I would have thought that because my father was older – he was then of course in his forties – but he was older than Bob Hutchins, but I never felt there was any jealousy there, and I felt that he really thought the world of Hutchins. I mean I think they differed some, and it is true that I think much of it being financial constraints, but my father wasn't, I think, able to carry through, although he certainly agreed with Hutchins in the general thinking about integrating law with the social sciences and all that and using empirical research and things of that kind. I think that a lot of that was not so much disagreement, philosophical disagreement, but more financial constraints. He just didn't have the money to do it.

So I don't remember any ill feeling on the part of my father. My father was thin-skinned. He'd take offense very quickly and very easily and certainly when he came in, I think he did a tremendous amount for the Law School, but it was not easy for him or the university. The then president, Mr. Angel, was very, very fond of Hutchins, liked him personally and all, and there never was that intimate sort of personal rapport between my father and Angel, or indeed between my father and the provost.

Hutchins just had that kind of easy-going way that everyone liked immediately, and my father did not have that same easy manner.

BC: I have a quotation about your father that seems to be somewhat contradictory and maybe you could just comment on it. This may be from Laura Kalman's book. I'm not sure exactly where I got it, but "rough crusty New England Yankee, a very warm and generous nature." I think

of a crusty New Englander as being distant, reserved and not necessarily having a “warm, generous nature.”

EC: Well, of course, I saw a lot of the warm, generous nature. He was a wonderful father. He was away a lot and he really did believe in work and he loved the law, but he was away a lot. I remember every year on Christmas afternoon he’d leave us. He’d go to the Law School Association meetings. They were always out at the Stevens Hotel in Chicago in those days. He was very big in it. He was one of the first presidents of the Law School Association. I don’t know of a Yale dean that’s been president since. My father believed in that sort of stuff, and so he would always go to those, for instance, and was away a lot.

But at home he was always wonderful to my sister and me. But it is true, if he felt disagreement, he took it very seriously with his approach towards any given subject. I can remember distinctly when we had Underhill Moore living just below us, I can remember a time when he wasn’t speaking to either of them.

BC: Oh, that’s awkward.

EC: It was very awkward for my mother who was very close to Nel Moore. Of course, the J.W. Moores were much younger, but J.W. came to the Law School as assistant to my father to work on the procedural material, and of course J.W. quite naturally matured and started taking positions of his own, and my father could never forgive that. He became an independent agent, of course, became a very distinguished scholar, teacher in civil procedure, bankruptcy and things of that type, as well.

But my father was interesting. He could be a softy. I mean he loved Yale in a kind of corny sense. We went to every football game. I can remember going to football games in the 1920s.

BC: Tell me a little bit about that.

EC: I think personally I’ve come to more Yale football games than anyone that’s living today. Well, he was very loyal and devoted.

BC: Did he get excited about the games?

EC: Oh, yes he did. And in those days the dean of the Law School got wonderful seats right in the back of the president, as the other deans did as well. So I can remember we sat right above the main tunnel there on the fifty-yard line where the players all came out. I can remember very well watching Albie Booth play. I can remember being there the day he played the military academy and a man named Sharden for the military was tackled and he broke his neck and they brought him out and he died the next day. I can remember that distinctly because I remember seeing them bringing him out on a stretcher right below us.

Anyway, it's hard for me to capture a sense of my father. I did write that little thing. I don't know whether you've had a chance to read it.

BC: Yes, I did.

EC: But what I tried to capture there was my feeling about him because part of his cantankerousness was his strength, really, that he never gave in on principle. So he became extremely respected and all, but he could be very difficult with people. But that's only partly responsive.

In a sense I can see to the outside world I think there was a lot of the rough, crusty New England Yankee there, but internally and to his close friend I think there was a warm, generous nature.

BC: Well, better that than the reverse.

EC: Right, right.

BC: I wonder if you could review some of the people as a young man you knew here at the Law School. Do you remember Arthur Corbin?

EC: Well, I do. I do but I think, as I read your outline, I've tried to think back and I really can't think of anything that's important. I can remember passing cookies at faculty teas that my mother and father would host and Arthur Corbin, of course, always just seemed so avuncular and all. He just was so kind and decent, but my memories are not of any real significance.

BC: Was there a lot of socializing?

EC: Quite a lot. You know, among the senior people there was quite a lot. There was a younger group, the Rodell group, they were known for their partying, their hard drinking and their partying. There are stories

of that kind, like Thurman Arnold had a great, big old Pierce Arrow and he was driving—so the story goes—Bill Douglas home from one of these parties here in New Haven and Douglas went to sleep. The story went that he woke up as dawn was coming up and saw the sign, “Providence, 15 miles.” But I don’t know those stories, how much truth there is—they’re probably all unreliable.

Thurman Arnold used to do a great deal of drinking, certainly, and he used to have a cigar that when it wasn’t lit would go back and forth in his mouth. I can remember as a kid being fascinated watching him as he talked, like he did endlessly. Of course, he was an amusing guy.

I have a little book of his letters, Thurman Arnold’s letters, that was privately printed, and one of them was to my mother about Thurman falling asleep at a big party that Mrs. Arnold had given. This was after they left and went to Washington, given for some Supreme Court Justice, I believe, and Thurman fell asleep. Well, my father was notorious for that. My father would get up at 5:00 in the morning, and at dinner parties he would frequently go to sleep. It’s a wonderful letter in which Thurman Arnold asks my mother for help. It goes on to say that Mrs. Arnold had locked Thurman out of the house in retaliation for this weakness on Thurman’s part of going to sleep, and he asked my mother to intercede with his wife to get her back, because she knew well that she had always excused Charlie’s (my father, they all called him Charlie) his weakness along these lines.

BC: Someone I talked to told me about dances here at the Law School where faculty and students would dance and sit and drink and have a good old time. Do you remember that?

EC: Well, I don’t, but again the younger group, which I think of Fred Rodell right away, Bill Douglas and those guys, I think they were great ones. *The Law Journal* banquet in those days was a big event. Big social event. Way too much drinking and all. Yes, I think there was a lot of that sort of partying. I mean the Law School, as now, I think was being famous for being social and most of the faculty being available all the time, around all the time.

BC: The early 1930s were a time when legal realism was building here at the Law School, and faculty were beginning to become involved in the New Deal. So it was also a very serious leadership institution.

EC: Well, yes. Of course, Douglas and Arnold went on to Washington. My father was asked to be the first head of the National Labor Relations Board. So it would have been about midway, 1936–1937, and he did not want to leave. He felt that he had only been dean for about half the time he thought was appropriate. Did not want to leave. He also felt that the National Labor Relations Act would probably be held to be unconstitutional, so he turned that down.

BC: But he was a New Dealer in spirit.

EC: Yes. He'd come from a very rock solid Republican family, but I don't know. There was a change there along the way. My father was a director of the Hamden Bank, which is out there at Dixwell Avenue just at that island as you come out of Putnam Avenue there, and he wanted to resign in the late 1920s, mostly because he had so much work to do and he was away so much, but they gave a big dinner for him, and they gave him a set of golf clubs. He later in life said those were the most expensive set of golf clubs he ever had because in 1932–1933 the bank failed, so it took all of our family savings with it. Everything wiped out, really in a sense.

I can remember—see, in those days what did a dean of the Law School make? Eight thousand dollars a year? When he became a judge he made twelve thousand five hundred. District Court judges made ten thousand dollars in those days. So it was different. So I can remember some hard times there, and he became I think really quite convinced that with Roosevelt and the New Deal, that you could through law—pardon the cliché—could through law make a better society. That you really could do things.

BC: Well, let's talk about your undergraduate years now just a little bit.

EC: Well, okay. I came in 1939. I started in September of 1939 and, of course, the war in Europe had started just about a week or two before we arrived here. Of course, being here I was a townie, but I lived on campus.

I lived in Bingham Hall my freshman year and then Timothy Dwight for my sophomore, junior, and senior years. When we started we had maid service in the rooms to make our beds.

BC: How great! Did you have a roommate?

EC: Yes, but we had a suite. We'd each have our own bedroom and a living room. It was a far different place, of course, than now. We'd always wear coats and ties to everything.

BC: Sit down meals.

EC: Sit down meals, waited on with waitresses and menus, and things of this kind. I don't remember the food being that good, but still fancily done. Of course, it was just so different in those days it seems hard to remember, really, in that sense. Almost all of the faculty had gotten their PhDs from Yale or Harvard, Princeton, Chicago occasionally. That's about it.

BC: A homogeneous place.

EC: Yes. Very few people with anything but a WASP background, you know. Things of that kind. But I loved Yale College. I majored in American history and enjoyed it tremendously. In fact, at one time I really thought I wanted to become a historian.

BC: That was my next question. Did you have your sights on law school at that point?

EC: Not particularly, although of course not only was there my father, but I had an uncle, Charles Gregory, who was a professor at Chicago Law School and then a very popular professor down at Virginia Law School. I had an uncle, my father's younger brother, Sam Clark, who became assistant attorney general in charge of tax and was a very prominent Washington lawyer. I had a lot of law in the back there.

But we went all year round at Yale then. We went all summers.

BC: Oh, that was the war time acceleration?

EC: Right and, of course, we had a somewhat mixed-up career because people started to drop out and join the services and things like that. I think it became clear that we were going to get involved eventually. There was this tremendous buoyancy, optimism, at that time. It never occurred to us that we wouldn't win the war.

But as I said, we gathered in December of 1942 and, by that time almost everyone immediately upon getting their diploma, who had not already left, went immediately into the service. It was a time in American history that I don't think will ever be repeated because — people were just gung ho to get into the most dangerous and glamorous of services. At that time it was known that the life expectancy of a Marine infantry lieutenant was about twenty minutes in combat, but people were signing up like mad. I had a lot of friends who went into the Navy, became Naval officers, and they would go off after their training — so they would go off say in May 1943, and they'd get married just beforehand. Have a week with their new bride, often leaving her pregnant and then would go off and be gone for a year and a half. When you think of that now...

BC: I'm a Vietnam War-era person. To think of the contrast, amazing.

EC: It certainly is that. Certainly is that. But I went in. Let's see. I was very much involved in the *Yale Daily News*. I knew Kingman Brewster very well. He was two years ahead of me, but he became a good friend during the brief two years as president and the time I was the master. We used to see the Brewsters all the time and indeed see Mrs. Brewster all the time.

It was a happy time, though, even though we knew this was coming. I think we all enjoyed it, you know. It was a great place. Wonderful. I won't dwell on that. There were some wonderful people here in the history department then.

BC: I'd like to ask you a little bit about the history department. Do you remember some of the people?

EC: Well, Ralph Gabriel was my favorite. I thought Ralph Gabriel, who really just died a few years ago in his late nineties, I thought he was a wonderful teacher, although his delivery wasn't terribly smooth. He taught a course in American political thought and culture that was a terrific course.

BC: He was a well-known person. What about Samuel Bemis?

EC: I didn't have Bemis. He was very — I don't know why I missed Bemis. I had Ken Labaree —

BC: Is that Leonard Labaree?

EC: Yes, George Pearson, Stanley Pargellis.

BC: Charles Andrews?

EC: No, he had gone. He had retired by that time.

BC: It was a good department, still is.

EC: Oh, it was a lovely department. The English department was terrific then, too. Wonderful. It was really a fun place to be, and exciting place to be. A good place to be.

It was interesting. Of course, Kingman became a principal figure in the America First group of the younger generation. The older generation was dominated by Charles Lindbergh and all. That was the big thing at the time here, whether or not you were sort of an Anglophile and believed in our obligation to help England out, or whether you felt more of an isolationist bent. Of course, that's all been documented and all that. Kingman had a change of heart and of course went on to become a Naval pilot, a pilot in the Navy.

Be that as it may, I graduated in, as I say, December 1942 and I was already enlisted to become an Air Cadet, but there was a great backlog of Air Cadets, and so we didn't know when we were actually going to be called to service. So I started in February for about two weeks.

BC: At the Law School?

EC: At the Law School and it really was—it was an experience. At the time the Army Air Corps had taken over Yale basically. There were some spots like Jonathan Edwards that remained an undergraduate college and so the Yale students from Jonathan Edwards and perhaps one other place, but the rest of the campus was taken over by the Air Corps. Now, it was training the ground officers, the people that were going, including the people that were going to run the servicing of the machines.

So that at the Law School here, down in the main hall, there were three great big airplane engines bolted to the floor.

BC: Is that right? I haven't heard this before.

EC: Absolutely. Absolutely. They were bolted to the floor. The Law School, I don't think there could have been more than thirty students here, and

the faculty was totally depleted. So you didn't have any choice of courses. You had to take what was available and none of the classrooms were available. The only classes I can remember – I was only here for a week – was Peyl Gulliver. Ashbel Gulliver was a terrific guy. He taught property. Not estates, but property, and Edwin Borchard in constitutional law. Edwin Borchard's class met in the end of the library where the Connecticut and California reports are.

BC: Oh, that little room.

EC: Yes, we met there. Downstairs was taken over totally by the Air Force.

BC: This was a small class then.

EC: Oh, yes, very small. Now, Borchard had a way of talking with his head down and very soft. I'm not making this up now. He'd start in and then they would turn on one of those engines down on the main floor and the whole building with the noise was horrendous, and the whole building shook.

BC: Why were they turning on the engines?

EC: Because they were demonstrating –

BC: Because they were working on them?

EC: Yes. They'd take them apart and then they'd turn it on. It made this incredible noise and Edwin Borchard never, he never stopped. Couldn't hear a thing. The engine would turn off, and he'd keep right on going. But I knew I was going to go and in about ten days' time, and then I got called and went into the Air Cadets and was off.

BC: Were there other people in that same situation who were sort of temporary?

EC: I didn't really know.

BC: You didn't have a chance to meet anybody.

EC: I didn't really have a chance to meet anybody. I really didn't. That was really something. I don't know how the Law School kept going.

BC: Well, you went off then and then you came back to the Law School when?

EC: I came back in – let’s see. I got out. I was flying my own plane back in August. This is true, too. I was between Greenland and what was called Goose Bay. It was up near Labrador because we couldn’t fly across. We had to do short hops. We’d go from Prestwick, Scotland to Iceland to Greenland to Labrador and then down to Bradley Field, which was then a military field here. I had a crew of a co-pilot and a crew chief and a radio operator and the radio operator came up and said, “They just dropped some strange bomb,” and we had no idea. We had no idea about the atomic bomb.

We landed and we then heard about it, and the next day we flew down to Bradley Field. That’s the last stop and landed at Bradley Field. We were flying 347s. That’s a little DC-3. We dropped paratroopers out of it. I was in about eleven engagements in Europe. Of course, they were shooting at us and all, but still it was like a house party. We had a wonderful time.

BC: Really?

EC: Well, I was twenty-one, twenty-two years old. Well, twenty-three by then maybe. We were getting more money than we’d ever known. We were getting first lieutenant’s pay. We were getting flight pay, extra flight pay, overseas pay and combat pay. More money than we ever knew existed.

BC: But there you were in the middle of a war.

EC: We hit England. We flew out of England until the spring of 1945, when we moved over to France because the lines got so attenuated we had to get close to them. We were then bringing in supplies to Patton’s Third Army. I arrived about ten days after D-Day as a replacement in England, and of course, all of the soldiers had left England. English and American soldiers had left England. So there we were alone with lots of dates, lots of everything, more money than we knew about.

[end of side 1, tape 1]

EC: There were times when we were scared to death. Scared to death. In Holland, when we came back, the plane I was in had bullet holes all in it, and we scrambled in the rear of the plane. The 347 is a remarkable

plane. It can withstand all sorts of abuse. We came on home and went back the next day.

BC: Can you describe a typical flight? How long would it be? What was it like? Did you hear when you were shot at? Did you feel it?

EC: Oh, sure.

BC: Could you feel the impact?

EC: Yes. I remember the first day of the drop in Holland. That's best known because the Second British Airborne went to [unclear] and they never joined up. Montgomery never got his tanks up there because they took tremendous losses. This is getting far afield.

BC: Yes, but it's interesting ...

EC: I'll tell you what we'd been doing before that. From D-Day on there were two or three still in England, two or three times that we were all set, lined up, planes all lined up ready to make para-drops. The idea of a para-drop is you drop paratroopers over the enemy lines and so then of course you had the enemy boxed in between your coming troops and the paratroopers in back of them. We were ready two or three times and one time even with the engines started, and they came on and waved us off because the Third Army was cutting across France. When we broke out of the beaches of Normandy and then the Gap, as they called it, then they went on to Paris and kept right on going. They were going so fast that the trucks couldn't keep up with them with supplies, and so what they did day after day was we would fly in because we could land the 347 in really almost cow fields, but we would land on sort of these grass strips that the Germans had been using. We would bring in food and gasoline, tank gas for the Third Army. Then we would have a nurse with us and we would bring back wounded to England, seriously wounded back to England. We could only take eighteen to twenty on cots.

BC: How many planes would fly together?

EC: Well, there were five troop carrier groups, all in the area of sixty miles west of London. In a group there'd be four squadrons and there would probably be between fifteen and twenty planes to a squadron that would

go up a day. So that would be seventy planes times five. There were a lot of them.

Now, we were really in no danger at that time from the Luftwaffe. The United States Air Force had blown them out. We never felt any threat from them at all. We were flying, of course, behind our own lines when we did this, but in August we were called off from supplying Patton's Third Army. There was nothing stopping them. They were really gung ho and they were just on the German border. Well, they came to a stop because they didn't have the gasoline. We did about a week's worth of training again in closed formation flying in preparation for the air drop in Holland.

BC: Still carrying paratroopers?

EC: We were going to bring in paratroops. So you talk to anyone of my generation and this, of course, as it turns out, was a sort of political compromise that Eisenhower had to make to placate Montgomery, the British commander. We were going to get Montgomery's tanks in the flat northern part of Europe, and the idea of this drop was that we would root out the German encampments and then – this is the fall of 1944 – and then Montgomery's tanks would swoop around and go right in Berlin.

So we started. It was a beautiful sunny day in September. I'll never forget it. We took off and there must have been about eight planes from our group. Then we had to join in with all of the other groups. So we circled while everyone fell into place, and we would operate with V's. Now, the idea is you had to be in close formation so the paratroopers, when they were dropped, were dropped as a unit, you see. So we'd fly in a V of V's, one plane on the wing like this and then like that.

So you had this long group of airplanes all bringing in like this. When we got over there, on my wall there's a map of that, a map where all the replacements were. We flew over, came in. Now, we had to fly very low. We dropped at 900 feet and we dropped very slow. This is again so the paratroopers would not be in the air very long. They wouldn't be in the air very long because they could be shot at. So we carried eighteen

paratroopers. Then we carried bundles underneath the plane that we could release from a switch in the cockpit.

So we started in and we went over – we could see everything. We could see Montgomery’s tanks all massed and ready to come on in. We went in.

BC: I’m getting nervous.

EC: And we went about seventy miles over enemy lines and the Germans knew we were coming. They didn’t know about D-Day, but they knew we were coming. I’m not kidding. You could see them. You could see them running around down there. In between we were about midway in this long line of airplanes. We were going to drop in the same field. In between groups there probably would be several miles. You could see the German gun emplacement down there. You could see them down there. You could see the flashes. Now machine guns, every third bullet is a tracer bullet and it makes a flame in back of it. We could see them down there wreaking havoc on the people up ahead of us.

A beautiful day and a P-38 – that’s a twin airplane, lovely looking airplane. It’s a fighter plane, but American. It came gliding down because it couldn’t come down steep, and so it came gliding down in between the group and dropped what must have been a bomb. Hit them.

BC: Oh, my!

EC: Well, we went on in.

BC: You saw that?

EC: Oh, yes. Right there in front of us.

BC: You weren’t aware that that was going to happen.

EC: No, but you could see also up above us the Luftwaffe did come up. You could see way up above us. We were at 900 feet and we slowed down to 110 miles an hour, which is almost stalling speed, in order to drop the paratroopers. Then we got over the field and we dropped the paratroopers, but you could see the Germans down there spraying with machine guns.

Then each day we'd have to come in and resupply them and bring in more troops. We went there five days in a row. I must say we were getting very scared by the end of that. We would go in and we'd go over Montgomery's tanks and see that they hadn't moved much at all.

So the whole thing was a failure, and we had to pull them out. Patton's Third Army had stalled, went in for the winter and then came back for the Battle of the Bulge when they made their counterattack around Christmastime. Of course, the only thing was it was so foggy that we couldn't fly in to resupply.

BC: The Battle of the Bulge?

EC: At the Battle of the Bulge. When we went in, it finally got semi-cleared enough, so we went in and dropped food. No troops. We dropped food and ammunition to everybody. Everybody, because we couldn't really see. We just dropped it all over. The Belgians, the Germans, everybody.

But anyway, we were doing what we loved doing. We got out in August. I remember getting out of Baer Field out of Fort Wayne, Indiana and the debate about the morality, the dropping of the atomic bomb. For people like myself, there is no issue at all. There may be secondary issues like whether the second bomb should have been dropped and things of that kind.

BC: In other words, you would say that it had to happen in order to end the war?

EC: See, we'd come in as replacements in England. Some of the people we were replacing had been there for a year and a half. They'd been there from just about the beginning of the war in December of 1941. We replaced them and we were all first lieutenants and we were going to become captains, go into a bigger airplane and we were the ones, really the only ones that had experience in large formation para-drops. So we were the only ones that in November of 1945 were to be the lead of the invasion of mainland Japan.

At one time we'd all been gung ho for this. But now, none of us wanted any part of that. So I know this sounds corn ball, but most people—I still

even talk to some of the people I flew with then – we feel that the atomic bomb saved our lives. We really did. We really do feel that way.

BC: Well, the argument has been that it saved many lives. It had to be done in order to conclude the war. Now, I've talked to a couple of people who were in the service during the war and then came back to the Law School, and some of them have said it seemed like child's play. Coming from that experience back to the Law School felt like being in junior high school.

EC: Well, I didn't feel that. I didn't feel that because now, let's see, I'd been away from the books for three years in all, and there was an incredible student body. People had been full colonels and things like that, you know, and the age group was people in their thirties.

BC: Well, everybody was a veteran.

EC: Everyone was a vet. Really, everyone was a veteran. We came in, there were as many as three classes a year then. It's quite interesting to go back because this year is my fiftieth reunion of the Law School, but you weren't just one class. We were really three classes. My class, there were ninety of us in it, including Nick Katzenbach and George Lindsay and people like that. George Lindsay was really great – he died last year – one of the great private lawyers.

Anyway, be that as it may, we came in. I remember being really quite overwhelmed by the Law School in a sense. You'd come in, of course, and the teaching technique has always been to make it clear to you that you don't know anything, and that law is the way you argue it, the way you present it and all that. So for people that liked to have certainties that they can write down in their notebooks, of course, it's always been frustrating.

By this time the faculty was back in full force, and it was a wonderful faculty. Let's see, I had Harry Shulman in torts. Peyl Gulliver in estates. Fleming James in civil procedure. Ad Mueller in contracts and it was a great place to be. I lived in the dormitories here.

BC: How was that?

EC: It was great because, you see, one thing we were no longer college kids, you know. There was a lot of socializing.

BC: You were twenty-five.

EC: Yes, I was twenty-five. And the people here were between twenty-five and thirty-five, basically.

BC: Do you think the faculty responded to that?

EC: I think so. The faculty always were very open. There was a lot of socializing even then. I mean people like Ad Mueller and Dick Donnelly who taught criminal law then, Vern Countryman. All the young guys themselves were very close to the students. It was a fun place to be then.

BC: Was there much talk of the war?

EC: Not much. Not much. We wanted to get on with it. You know, it was a time of great – how do you describe it without sounding ridiculous – but it was a time of great optimism. America was king of the hill, you know. We were the ones that really emerged out of the war. All the European countries were devastated.

BC: Well, there must have been confidence during that period. The optimism was well placed.

EC: It never occurred to us that we wouldn't be successes in life. All of my contemporaries had big families. My wife and I have seven children and having four or five children was just very common in those days. It was just the times. It is interesting to look back on now.

The Law School was an exciting place to be. Corbey Court was still very much in operation then and we had some of the feel of the old days, that comfortable kind of paternity. It never took itself seriously, but it was a special place. So it was a great place to eat because you got wonderful food very cheap, but it did have a little touch of exclusivity, and so I remember pretty much my friends were all Yale College, and then there was a large Princeton group. We used to play softball against each other and all that.

BC: So the Law School was pretty homogeneous.

EC: Well, some of the sense of traditions a little bit. Groups that were pretty identifiable—the men with white shoes, the old kind of Ivy League types.

BC: There was a small group of Jews.

EC: Oh, yes. In our class we had, let me see. There were three groups admitted, ninety to ninety-five in a group and we had five or six very strong women. Barbara Pascal, I remember. I mean I can't see how it must have been for them because there would be about five of them and ninety of us, but they were very much involved in everything we did. Oh, sure, they felt very much segregated, but we didn't discriminate.

The Law School was a great place then. We went through in two years and we went all summer with no air conditioning and it really was quite uncomfortable. I could never forget being in the room that I persist in calling room 113, which is the big room.

BC: 127?

EC: Yes, I think so. With Fritz Kessler and every seat was taken and we were all in coats and ties. I can remember that Fritz of course spoke with an accent and the subject matter was difficult. I can remember those days. That was a tough exercise.

BC: What was your sense of the Harvard Law School then?

EC: Well, there was great rivalry of course then, very much fueled by people like Fred Rodell and all. Harvard was a bastion of stuffiness and old-fashioned curriculum, structured curriculum, required courses and formal kinds of presentations and all, whereas this was a new wave here. This was it.

There was a lot of talk. I never heard it from the Harvard point of view. There was a lot of the sort of comment that we were number two in that sense, but very feisty. The word legal realism wasn't used so much, but it was a functional approach of doctrine. Doctrine was something to be manipulated so that you brought a more important goal.

BC: Legal realism snuck into the curriculum as well. It was not just a scholarly veneer. It was what happened in the classroom.

EC: Oh, yes. There was a lot of that happening. I can't say, I don't know how different it was from Harvard because I don't know what was going on at Harvard at that time. It was almost three times bigger, but this was an exciting, fun place to be. The faculty was fully back then, full of vigor. Most of them were all people in their forties, a few in their fifties. There was a lot of camaraderie among the students and faculty. It was a very enjoyable place to be, other than the physical discomfort of those rooms in the summertime.

BC: Did you have the sense that legal realism got both students and faculty in the Law School out into the rest of the university more? Was there more contact with the psychology department and the political science department?

EC: I don't think so. Not that it wasn't available because the faculty was the same faculty as went on to enhance the opportunities of the Law School with joint courses in other departments in the university and all, but we were a different crowd. We all wanted to get going. We really did. Most of us were just married or about to get married: and so there was a great sense of haste to it. So I don't think there was that sort of sense of reflection, and so it was more taking the course we thought we had to take to get on with it.

BC: And were your career expectations more directed to practice then?

EC: Yes, very definitely. Very definitely. Almost everyone went into practice. I mean, you know, Hamilton was here then as an economist. Northrup was here as a philosopher. So we were integrating a lot of the social sciences in those courses we were taking, but there still was a focus there of getting on with it toward working.

BC: It's an interesting paradox. I've always wanted to do a little study of the book collection to see how much more in social sciences we collected during that period than in other periods. I thought it would be an interesting thing to look at. There are two opposing forces, the practical nature of the student body, being a bit older and wanting to get out and earn a living and get started, and on the other hand, the kind of more

scholarly nature of the faculty. But of course, legal realism is a pretty practical approach itself.

EC: Right. Well, it's interesting to see. They are quite different, too. There was much more emphasis on private law. Constitutional laws would be one course, you know, really in a sense. Not that there weren't other people like Tommy Emerson coming back on the faculty and teaching things like discrimination, civil liberties, and things of this kind that were all constitutional based, but there was much more private law. The big courses were contracts, property, estates, procedure, much more than today. Quite different, really, when you think about it.

BC: But also public policy oriented?

EC: The law school prided itself then in its public policy orientation. I can remember Myres McDougal taught property, and at that time it used to be that there would be one teacher that dominated a field. Harry Shulman was torts. Fleming James was procedure. Peyl Gulliver was estates. Ad Mueller was contracts. Fritz Kessler was bills and notes and that. There wouldn't be so many people. Other people would teach it, but there would always be one person who dominated that area.

I've forgotten where I was going with that. Do you remember what your question was?

BC: I guess we were talking about practice and public policy.

EC: Yes, but even in those fields there was always a sense of trying to put contracts into a context, the economic situation around it. Property, the way Mac taught it, was of course that the whole future is in planning, bringing in all the social sciences to use those resources. So using land in an enlightened way to achieve goals and all. So, yes, at the same time it certainly wasn't rote teaching as such.

BC: What was the workload like? Did you lead a comfortable life and do everything you wanted to so and still do school work? Was it strenuous?

EC: Yes, but well managed. It's an interesting question to think back on. I enjoyed law school. I thought it was very exciting. I think we worked hard because, you see, everyone was pretty serious. I did room one year

with a fellow who remains a very good friend, and went on to become a partner of a major law firm and was from a very prominent family in Cleveland. I remember having great debates with him as to who was a greater man, George Humphrey or Myres McDougal, because of course Myres McDougal believed in planning, and all sorts of interesting insights. It was interesting. I remember one thing at the time was he felt very strongly about the future and possibilities of zoning.

BC: I was going to ask about that.

EC: That we could have much more rational communities in implementing basic values, shared respect and shared wealth, the kind of communities that could do this. Big on planning. Big on protection of zoning and all and now to think what has happened to zoning. Zoning, of course, has become the principal weapon for the privileged, the status quo in a way, and that's not the way Mac envisioned it at all. Mac was considered quite a radical in the sense that he wanted rational planning of resources.

BC: It must have been a somewhat controversial issue even then because planning has a sort of buzz word...

EC: More pejorative in those days. It was almost associated with the Soviet state and the Five Year Plan.

[tape ended]

BC: Today is January 17, 1997 and I'm talking with Elias Clark and we're continuing our conversation from a few days ago. We left off talking about your years as a student here at the Law School. Let's pick that up again. We can start with some of the faculty members you remember.

EC: Well, I can certainly speak about them. I've always thought that one of the things that is very distinct about the Yale Law School is that it's been so congenial. It has very, very strong powerful people who have the utmost confidence in themselves, to put it mildly, but still have really been able to be good colleagues, I think.

Now, at the time I was here and then when I came back on the faculty, there were sort of groups. Fred Rodell was on one side and Gene Rostow was on the other. People were very much in the "Avis" role, and

I don't know whether Harvard was caught up in it, but certainly Fred, for instance, was. He would have never, never voted for anyone that had been a Harvard Law School student to come onto our faculty.

BC: Is that right?

EC: Of course, Harry Shulman was the first one who would have been a Harvard Law School graduate and Fred took it very, very hard because he felt that any Harvard Law School graduate was contaminated by the old-fashioned view of things, too traditional. That you had to work closely with the text and doctrine and this kind of thing, rather than the prevailing legal realist approach and public policy and things of this kind.

Of course, Fred took it beyond the school. His great adversary was George Franklin and his great friend was Bill Douglas, and so there was rivalry. This dichotomy even appeared on the Supreme Court level, really. Naturally, no one ever looked at it this way, between the Yales and the Harvards. So Fred would, of course, just go out of his way to be ultra critical of everything, and without ever suggesting that they could do wrong, anything that Black and Douglas did was superb.

BC: Now was that divisive?

EC: Yes, Fred became increasingly divisive, particularly as you go on a little bit. When Gene became dean, Fred was extremely critical of Gene as being sort of a Yale reflection of the Harvard attitude, which wasn't true. So there was a considerable division along those lines, and it would appear every time a new dean was up for election, really, because sort of the Fred Rodell wing, which would include people like Tommy Emerson, people of this kind, the old school, Thurman Arnold. It's hard to bring reality to this, but they were people more on the liberal side, merely devoted to what Fred thought, that the Yale Law School of the 1930s was on the right side.

BC: Was there animosity between Rodell and Shulman?

EC: Harry Shulman was really a wonderful man. He was a great teacher, but certainly Fred opposed bitterly Harry's ascension to the deanship after Wes Sturges retired, but I don't know whether it was so much personal

as it was that he felt that Harry was a Harvard man and would try to change and make this more a miniature Harvard, and Fred just thought that would be the death of the school.

BC: Because of the opposing positions on legal interpretation?

EC: Well, you see, it seems so trivial today and so sort of unrealistic, but there was a background to this. My father certainly felt this strongly and Fred would over and over again sort of cite my father as an authority on this anti-Harvard kind of attitude, although my father was the one who brought Harry Shulman here, for instance. So my father wasn't as intractable as Fred was, but there was a background to this. A traditional Yale pattern – I'm talking about Yale College now – of the very successful. Yale undergraduates, very prominent undergraduates, who were in Skull and Bones, they would then go on to Harvard Law School and a particular group from Cleveland, a whole bunch of them, and then they became members of the Yale Corporation. So my father felt all the time that the Yale Trustees, Corporation members, were really quite suspicious of the Yale Law School as being too radical, and really there was some reality to the idea that powerful people around here thought that the proper way for the Yale Law School to succeed was to become a small Harvard.

There was a lot of pressure to increase the size, of course, to increase tuition and things of that kind. So my father felt embattled all the time against several of the most powerful people on the Yale Corporation. They were critical of the school. Of course, Fred was called Fred the Red and Tommy the Commie – that's Tommy Emerson. Really quite unjustified, but at the same time it was a very real sort of pressure on the school. I think that's what did shape my father and shaped Fred a lot. They did feel somewhat as though they were being challenged all the time by this rather conservative, traditional-minded group of people.

BC: Both in political and scholarly terms.

EC: Yes, I think so. Yes, very definitely. I don't think I've really captured that terribly well, but anyway, there was also a group during the 1930s like Wes Sturges and Thurman Arnold, that really thought of themselves as

the wave of the future in terms of legal education. Some of them thought the entrenched approach to teaching was something that they ridiculed and felt was not appropriate for this new more free-wheeling school.

BC: Sturges was in that traditional group?

EC: Yes, he was. Now it's hard to capture Fred. He was a bit of a Peter Pan type of person. He was immensely charming. He could be a vicious infighter, but he could be immensely charming. He was very popular with the students. He used to have big crowds back at his house all the time. Very quick. Fred did everything well. He just did everything with effortless ease. I was always very fond of Fred and he did a lot for me, actually. I think he was important in bringing me here.

But if you read my piece, I think you can get a better sense. I tried to raise some of Fred's idiosyncrasies, but mostly I was extremely complimentary.

Wes Sturges was the dean when I came, Peyl Gulliver was retiring and I might start with Gulliver. Gulliver was a sweet, wonderful man. I loved Gulliver, and I really replaced him. I became the basic estates teacher here, which had been Peyl—it had always been known as Peyl's field. He was a wonderful teacher, very popular classroom teacher. He was the kind to go back to history because so much of the stuff he was teaching was rooted in English history. He'd go back and analyze the family of the people that were the litigants in the case. The Duke of Norfolk's case was the start of the evolution, and he would go back so you knew everybody in the family, like they were neighbors. Wonderful in detail. A very kind, wonderful man who was bothered with problems because he never could make any progress. He also was beset by a lot of health problems so that he missed a lot of classes.

So Peyl, when he was on, was magnificent. Everyone liked him. I don't know whether he was considered a successful dean. I think that he was looked upon more as a caretaker, an interim sort. He started out as an acting dean when my father went into the court in 1939 and they never could settle on anybody else, so Peyl became the dean in fact and

kept the school going during the very difficult time when the faculty was all away during the war years.

I don't know whether you've heard the story. There's a story around here that the faculty got together to elect a dean. That, of course, is a bit misleading because the president of the university appoints somebody, but it is quite common that it's on the nomination of the faculty. So they all got together to vote, and they all voted for themselves, except for George Dessian, who was notoriously absent-minded. So the story goes that George Dessian forgot his name and voted for Gulliver. So, Gulliver became dean.

Anyway, Gulliver had increasing health problems. I think a lot of people felt they were more in his mind than in reality, but anyway I think the deanship was becoming more and more of a burden and he retired as dean and stayed on the faculty. He was a very, very popular teacher that everyone loved.

Wes Sturges became dean. He was really a very interesting guy. Wes had definitely two sides to him. In the classroom he was the greatest practitioner of the so-called Socratic method I've ever seen. He did classes in secure transactions –
[end of side 2, tape 1]

EC: I was speaking of Wes Sturges as a teacher and as a great practitioner of the Socratic method. He would spend the first half of the class, great big class, on one case. I think it was about three pages long and the name – I know I don't have it exactly right, but I think it was *Backus versus Beeks*, and it was an insignificant case.

I did not respond at all well to Wesley's teaching methods because he would ask a question, and you would try to make an answer to it and then he'd show what a darn fool you were. He was just a master at Socratic method, of picking it up. What he was doing, of course, was showing all sides of it, showing the way the law can be manipulated.

BC: Was that successful?

EC: There were some people, some people of my generation, thought he was the greatest teacher in the world. Just thought he was terrific. It was not uncommon for him to spend a lot of time on one case. Harry Shulman in torts would spend at least six weeks on one case, the Palsgraf case, Cardozo's opinion out of New York, but there was a lot more substance to that than there was in Wesley's case. Shulman would develop all sorts of things, clear public policy, different ways of approaching the same problem, alternatives, and the necessity to understand the facts clearly. I felt there was great substance to Harry Shulman's approach. I thought there was a lot of dazzle to Wesley's approach, but Wesley was a sweet, wonderful guy. He really was. He was a nice man and people liked him very much.

I think he was a successful dean and he started the development of the school you see, the faculty was then coming out of the war. You had to start replenishing, filling in. People like Boris came and Ralph Brown and others. Some, of course, did not stay like John Frank and Dave Haber and people of this kind.

BC: So it was a building time.

EC: But he did a lot for the school. I remember he wooed away the two brothers who were the chefs for Corbey Court, which was that little building that's now torn down two years ago to make way for the new big center, the Jewish Center down on Wall Street there.

BC: Could you talk about that a little bit?

EC: Well, I digress, but when I was in school it had been a legal fraternity, though it wasn't a serious fraternity. It didn't have any rigmarole and rituals or anything like that, but it did have still an element of snobbery to it, I think, an element of selectivity to it. Although I really think that after the war if anyone really wanted to belong, they could have.

There the two German brothers by the name of Hoffer – Max Hoffer. I can't remember the other fellow's name, and they were good cooks. So they had a wonderful menu, and we all ate there. There was no dining room at the Law School then. I knew a little bit about that, too, because

the great woman that was the director of Yale Dining halls during the 1930s, her name was Bower, Margaret Bower. She scared everyone to death, and she told my father, for instance, that the kitchen was too small at the Law School, and so she wouldn't allow her people to come in and cook there.

BC: This is in the new building?

EC: Yes, new building. So that there was no food here at all. No food at the Law School at that time, so you had to eat out in the town. So a lot of people ate at Corbey Court, and I don't think they really cared anything about Corbey Court, but they did care about the food. We'd have regular food contracts there. I remember Thursday night was steak night, and he had those wonderful New York strip steaks that were a dollar. It was terrific.

BC: So it was a private place?

EC: Private, yes. There were only law students there, but it had nothing to do with the school itself. But after Miss Bowers retired from the Yale system, Wesley wanted to open up the dining room here, and so he hired away the Hoffers from Corbey Court and they became the first chefs. So the Law School ran its dining room in the late 1940s and early 1950s really as a private Law School enterprise, not part of the larger Yale system.

BC: Does that mean that there was no dining room service between when the building opened in 1931 until 1946? Is that about right?

EC: 1947–1948, yes. But I think that was a wonderful thing he did. That meant that Corbey Court closed. By this time there was no fraternity aspect to it, anyway. I mean anyone who wanted to pay the minimal price to get in could do so, but that really meant Corbey Court became redundant. It was unnecessary, and it built up the sense of community at the Law School. That was very important, very well done move on Wes's part.

BC: Was it sit-down eating? Were you served?

EC: I think some, yes. The school was smaller then. That was the general style that the Hoffers used.

Wesley was a very kind man. Wesley, of course, divorced his wife of many years, Myra, who was my mother's generation of course – well, somewhat younger, but not too much – and his new wife Claire was here then. I've forgotten what was her role initially, but she was on the administrative staff. I think by this time Elsa Woolf had become the registrar, but you asked about placement and things like that. When I graduated, we got our own jobs. There was no placement really at all. I mean there was something of a network. The professors would know people at law firms and things like that, and almost all of us went into law offices clerking.

You see, there were nine justices, but I think at that time they all had one clerk, and the circuit court judges only had one clerk. Clerking was coming on to be a much more popular thing, but there just weren't that many openings then, and so most all of us went into law practice. Of course, Boris became Jerry Frank's clerk and Abe Goldstein, but that's getting a little later, became Bazelon's clerk, as did Joe. So it was coming on, but at the same time most of us just went to law firms and we had to get our own jobs.

So one thing Wes created was a placement office and Claire Sturges became the first administrator of that, and then Claire did a lot of the alumni work, which was calling up people all the time. They were starting to build up associations like the Law School Alumni Association, things like that. Those had been groups that were in existence during the 1930s but they became much bigger.

So I think Wes's was a successful time. So that's Wes Sturges.

BC: I wanted to ask you about the students during the time when you were a student. They were older, generally, and were either married or getting married. Is that right?

EC: Yes, it's true certainly. Although certainly the dormitories were full then. Only men. The married students took Quonset huts out where that big parking lot is just beyond the Peabody Museum, and the Quonset

huts were still in the playing fields out by the Yale Bowl, and a lot of married couples lived there.

BC: In the Quonset huts?

EC: In the Quonset huts, yes. I got married just before my last term here, for instance, and a lot of us did get married during that time. I remember George and Mary Lindsay got married at the end of our first year, for instance. There was a lot of that, but then people just got apartments in town or rented houses and things of that kind.

Let me just hit a few more people here. Myres McDougal. Mac, of course, had that huge class in property, and he was a great believer in that you should make clear, you should clearly describe what values you wanted to achieve by the use of law, like respect and shared wealth and things of that kind, and that you ought to plan law through intelligent people, not just lawyers, to maximize your resources and things like this. Well, the conservative bent thought that he was a wild planner. The rest of us thought he was magnificent, that he was the sage of the future. I enjoyed his class very much. It was a four-hour class.

I had Fleming James in procedure. Terrific man, wonderful fellow. Fowler Harper. These were terrific guys. I mean they were great scholars, and they were very accessible. They enjoyed students and you could really always walk in and talk to them.

BC: Let me ask you a question about McDougal? In the kind of split you were talking about earlier, the Harvard influence issue, where does McDougal fit into that?

EC: Well, I think that Mac certainly in the early days came from the Rodell wing more.

BC: So I guess he was not happy with too much Harvard intrusion. But, let's get back to your story.

EC: After I graduated, I was married, and I went down and I went into the firm of Cleary, Gottlieb, Friendly and Cox. It's now Cleary, Gottlieb, Steen and Hamilton. All of those original men are gone now, but it was a firm that had just started up about, oh, less than a year before I joined

in 1947. There was only about two or three of us in the New York office and about three or four in the Washington office. Now, of course, it's a huge firm and a very successful firm. It was a wonderful firm. I really enjoyed it. Those were terrific guys. Leo Gottlieb was just a splendid man and Henry Friendly, of course, was very impressive.

I was really quite content to stay there, until I got the invitation to come back here, but I spoke on that before a little bit. It was more or less a housing decision. I came back here and started teaching in the fall of 1949. By this time Boris, Grant Gilmore, Ralph Brown were all the younger generation. John Frank and people of that kind. George Brayden, Dave Haber. So there was quite a group of young people here.

It was interesting. I loved teaching, and I think for many of the years I was a successful teacher. I really was a great disappointment to myself as a scholar, particularly when I went off and became Master, I got so diverted. I've done very, very little for someone who's been in this job as long as I have, but I've taught great numbers of students. In fact, I was thinking the other day, I almost would put myself up as having taught more students, numerically speaking, than anyone else in the faculty. I taught the estates course, and I don't know anyone in this country that's taught one course as much as I've taught that course. I've taught that course forty to fifty times, and I used to have huge crowds. Then I taught property for a long time and had big crowds for that, too. So I had lots and lots of students, and I enjoyed it very much.

Our friends, when we first came on — over the years Boris Bittker has been my best friend here, but at that time Boris was very serious, working very hard writing books and everything else and being the great success he has been. We palled around in groups. It was Ad and Peg Miller, who were older, but still very much young in spirit. Dick Donnelly and his wife and Vern and Vera Countryman. I must say, we drank a lot, we partied a lot. We partied a lot, that group.

When I came on, John Thompson came on with me and Nick Katzenbach came on soon thereafter. John Thompson was a great favorite of

Wes Sturges's. I think Wes liked me, but I was never one of his favorites, and I think Wes had high hopes for John Thompson. John had been the chairman of the *Journal* and a very successful student here. He graduated about a year ahead of me, but he was greatly respected and all. It's an interesting thing. He never was comfortable teaching. I don't know what it was. I never talked to him about it, but he just had very great difficulty making himself face a class and he took to drinking and he had a real tough, tough time.

BC: Was he able to write?

EC: No, and finally did leave, although Wes did everything in the world to try and rehabilitate him. Wes was just wonderfully kind to him. John went on and got a job in New York City, but not anything of the significance of this man. He never realized his promise.

Nick, of course, was a different matter. I think that you could tell that Nick was going to go on to greater things, and I don't think Nick really – well, I don't know. I mean I just don't think he saw this as what he wanted particularly to do. So he was here a couple of years and it was great, but he didn't stay.

Then when the Countryman affair came on – well, Dick Donnelly got cancer of the throat. Dick was the successor to George Dessian in the criminal law field. Dick was a lovely, lovely fellow, but of course he died. He was sick for quite a long time, so was removed from the scene and died at a very young age, really.

Then Vern Countryman came on. Vern was a wonderful guy, but prickly. Very proud, and you've heard all this story.

BC: I'd like to hear more.

EC: Well, I mean I was not on the board, so that people like Boris and Ralph will have to tell you in more detail than I can certainly, but the way that I saw it at that time was, of course, we were getting promoted a lot faster than anybody else in the university was. Now, why that was important was because Whitney Griswold became president, he sort of said, "Well, why should folks get to be full professors within a couple of

years, when people in the history department and all have to go through an apprenticeship of many, many years and have to write a great deal?"

I was devoted to Whit. I knew him as an undergraduate here. I knew him in the 1930s. I knew him later as a friend. The Fred Rodell wing thought that the master in the background was Gene Rostow, and I don't know whether this is true or not.

Vern had written a book about the Washington state counterpart of the House Un-American Activities Committee. It was a committee of the Washington legislature that was looking into some persons in government and everything else in Washington state. Vern's book was extremely critical, so he was identified by the conservative elements on the Yale Corporation, the Trustees, as a dangerous radical. So there was that background.

Vern had written quite a lot. He was a very popular teacher, strict, but a popular teacher. He taught in the bankruptcy field, of course then dominated by J.W. Moore, but he taught a number of things. So Wes put him in to be promoted to full professor, and there was a lot of resistance to that. There were some on the faculty, I guess, but of course I wasn't on the board then so I can't detail that at all, but the upshot of it, as you know, was that Griswold came back and asked him to wait a year. He picked the wrong person in Vern for that, because Vern was very proud and felt that he was being singled out for treatment that had not been required by anyone else, and so Vern left. He left and of course Ad Mueller then, as a protest really to this, left as well. So you have then some very important central people here that were suddenly no longer available to teach.

BC: I'm assuming this all created a tremendous stir.

EC: It did, and it really divided the community terribly. Now, I have a long letter that Ad Mueller wrote. I think I'm the only one who has it. Ad Mueller left and went out to UCLA, and the regents out there raised a question about his appointment, associating him with Vern as a dangerous radical. Ad was not bad at all. Ad came from a business background.

Actually, he was running a lumber company out in Milwaukee, Wisconsin at the time he was a professor here. But anyway, Ad wrote a letter – it’s about a four or five page letter – and I’ll give you a copy of it, in which he explains why he took the positions he took and explains why he wasn’t a dangerous radical. He got the position out there. I’ll give you a copy of it. I’ll dig it out someplace, for whatever it’s worth to your records here.

But suddenly my wife and I found ourselves really personally affected, because our closest friends, the Muellers, the Countrymans, and the Donnellys had departed. I was still junior professor then. I did not have tenure then and we were sort of left. We saw the Bittkers some, but as I say, they weren’t too much of a partying crowd, and the Browns, too.

BC: Gilmore?

EC: I never was that close to Grant. I greatly admired Grant, but I never socialized with him at all.

BC: I would have thought Tom Emerson would have somehow been involved in the Countryman issue.

EC: Let’s see, Tom came out at the same time I did. Now, Tom’s role in this I can’t remember. Again, quickly adding I was not on the board then. Certainly Ruth could tell you, although Ruth was not married to Tom then. Interesting about Tom. Tom was a terrific guy, but very quiet spoken, you know, not a flame thrower by any matter of means at all. Tom was the national chairman of the *National Law Review*, which has later been exposed as being somewhat of a communist front. So Tom was really considered very, very radical: Tommy the Commie and all.

I had a friend, Robby O’Connor, who has been dead for many years. He became a New York lawyer, but he was really an old-line, conservative fellow and I remember him saying, “Golly, darn, I wish Emerson would inject some of that into his lectures because it would make it more interesting than it is now.” Tommy was very quiet spoken and the intimation was than it wasn’t lively enough. It would have been much more lively if it included some of this stuff. Of course, Tommy really wrote that casebook on civil rights. It is the cornerstone of all that. I still

refer to it and I don't know who keeps it up now, but he was wonderful. I mean really a terrific guy.

Of course Fred, who had been very instrumental in bringing Vern here—Vern Countryman had no Yale association. He was from Washington state, and he had been Bill Douglas's law clerk, and Fred, who had been very instrumental in helping get law clerks for Douglas, had become very fond of Vern and been very instrumental in getting him here. I mean Fred's critics will say, "Well, why didn't Fred quit the way Ad Mueller did?" I think that was one thing that added further fuel to those fires.

Fred more and more sort of removed himself from the central role in the faculty. He became more sort of marginalized, if you will, because he became more and more sort of extreme in one sense, and he stopped teaching tax and labor law, which he taught, and started teaching small seminars. Then there was the ascendancy of Gene Rostow and so Fred really kind of more and more pulled back. It wasn't the school separating itself from Fred, as Fred separating himself more and more from the school.

But there was a time there in the 1950s, 1958 or so, before Gene brought in a huge influx of people, that it seemed to me there was only about ten of us that were really doing much teaching. I mean there were Boris, Fritz Kessler, but our ranks were seriously depleted. It was a difficult time here. You see, you had to retire at sixty-eight then. It was mandatory and there was no hanging on then. You were out, really. So a lot of the big name people like Wesley were no longer around. Peyl Gulliver was gone and Wesley was gone and people like that, so that the ranks were terribly depleted.

I remember one time I think I had something like 300 students, which was unheard of. Not in one class. I taught the estates class twice, in order to accommodate the numbers, but it seemed to me that just a very few of us were teaching.

BC: And Shulman had died.

EC: And Shulman had died. We had a very bad series of breaks, really. So the school was really quite hurting for active teachers. You asked about Mac's role. He left the property field and went into international law and then started developing his policy science, as he calls it, approach to the law and ultimately developed his collaboration with Harold Laswell, who was not a lawyer, who was a psychologist or what have you. Lots of things Harold was.

Anyway, Mac started to build his own little empire. That's the way it was seen by a lot of people. He had his own little group of three or four people who did research with him and wrote books with him and all this. Mac had a way – he was tremendously respected of course, and was a powerful man. He'd come into faculty meetings, and he'd want to get these people promoted to full professors, and the faculty rebelled at that. They were looked upon as just shadows of Mac, not independent people themselves. Of course, this led ultimately to Grant Gilmore's leaving, you know.

You asked about Mac's role. I remember when I first got on the board – let's see I was promoted I guess in 1956 or so. Mac would come in – you probably have heard this already – and he'd say things like, "He's better than any man in this room." You know, that didn't really endear Mac to anyone and none of them really got by. Ultimately, Mike Reisman did, but that was really different. It was later and Mike had become an independent scholar and all.

BC: My sense is that McDougal and Rostow together had something of a powerful hold over decision making. Is that accurate?

EC: You make them sound as more of a partnership than I would have said, although I think Mac did. Then, of course, you get onto when Harry Shulman died. He was only dean for a year, and then there was an acting dean...didn't Fleming James act as dean one year, something like that? I've forgotten. Anyway, then we got into this real hassle, real tug of war. The Rodell wing really didn't have a candidate. What was that fellow's name? I really can't think of it right now. He was teaching down at the

University of Pennsylvania. He became dean down there. He was the candidate of the Rodell wing, and he was a good man and had excellent standing in the profession, but still and all our custom here was to pick one of our own, and a lot of people felt that Gene Rostow was the one. Gene was a great friend of President Griswold. Gene was very rooted in the Yale community and all, and Gene of course was a brilliant man. So there was a considerable wing that wanted Gene.

As I remember, Mac was the head of the faculty committee to screen people on this, and so Mac became a very important player in this regard.

BC: I had heard talk of Boris as a potential dean.

EC: That was starting then. Yes, but Boris always resisted it. Boris could have become dean at least three times, if he'd said that he'd be willing to do it, but he never wanted to do it. You'll have to ask him why, but I don't remember him really at this time. He was so young then. Not that this hadn't been considered a young person's school, but he was so young then that I don't remember him as being really a name at this point. All around, the faculty was badly split.

BC: Did McDougal seem to have a candidate?

EC: Well, I think in the end Mac took to Rostow, but I think there will be some that will tell you that on a straw vote of the faculty, Gene did not win. I better be careful about that, because I don't know that of my own. It was very close, but there was no question that Whitney Griswold wanted Gene.

BC: The other candidates or potential candidates would have been this fellow from the University of Pennsylvania that I need to find out about, and who else?

EC: He's the only one I can remember. You know, the years get jumbled together some. There was a man by the name of Forester, and he wasn't at Pennsylvania. I've really forgotten, but the point really was that the Rodell wing, which included I think Fowler and Fleming James, although Fleming was so sweet that I don't think he was a partisan fighter very

much. Well, the breakdown is hard for me to remember because I still—I don't know whether I was really on the board or not.

BC: But they were opposed, you think, to Rostow?

EC: I think that—how strongly opposed, I don't know, but I think they would have preferred somebody else, but they really didn't have any other candidate, you see. They didn't have a candidate that really fit into the tradition of bringing in someone from the school, from the faculty. So that was a bitter time. I think Fred became increasingly isolated after that.

BC: Do you think for Rodell, wanting someone other than Rostow, was a matter of tradition or was it the man?

EC: Both. I don't want to get into amateur psychologizing, because that's where we would be, but there were elements of jealousy there. You see, Gene and Fred had so much in common, in a sense. Fred graduated a few years before Gene. In terms of shared experiences, they both had been hot shots on the *Journal*, back when that was very important. That was very central. They had both been brilliant law students. They both were extremely articulate, good looking men. So that they were natural rivals.

Fred made more of it than Gene did. Gene ultimately got annoyed because Fred could be so nasty about Gene. It got so that I think Gene was certainly fed up with him, that's for sure, but it was sort of a natural rivalry. Then, of course, Gene was very friendly with Harry Shulman. Gene would be much more friendly, he'd have lots of friends on the Harvard faculty, things like that. Gene was much more politically savvy and certainly much more politically acceptable in the greater Yale community than Fred. So I think there was some rivalry, some jealousy, things of that kind as well. It wasn't all ideological.

BC: Let's talk about Rostow's deanship a little bit. Some people would say this is the flowering of the Yale Law School, the great growth and expansion.

EC: Well, he did right away bring in this group of people who then became the great strength of the school since. So that you've got to say that Gene was a very successful dean. That's a really remarkable sort of event, in

terms of the diversity of the people he brought in. He brought in a mixture of Harvards and Yales pretty much, but they were really a very, very strong group. I think of them as coming almost together. They didn't quite, but you take Joe Bishop and people like that, Dave Manning and Abe Goldstein and Frank Coker, Leon Lipson, they were a remarkable group. Of course, it was an instant infusion so that the teaching ranks all of a sudden were filled out, much more diversity. Of course, you shouldn't leave out Alex Bickel, that crowd either.

Now, bringing Bickel, that exacerbated the Rodell thing, because Alex had been a very successful law clerk to Felix Frankfurter and, as far as Fred was concerned, that made Alex just a typhoid Mary, of course. Alex was a very powerful fellow, but he was a lot younger and could take this in stride, but those separations continued in a sense.

BC: It must have been very exciting. With all these new people coming, there must have been intellectual excitement from it as well. A lot of positive ...

EC: A lot of positive, yes. A lot of positive, no question about it. It was a major turning point in the history of the Yale Law School, no question about it, because it brought in so many people. I shouldn't leave out Joe Goldstein, although he may have come in a little later. Did he come in with that group? It was an incredible group of people that became great scholars, great teachers and all. Lou Pollak had come in before that. Lou had been before them. When did Lou come on? He came on after I did, but sometime in the 1950s. Well, mid 1950s I guess.

BC: If we could just double back a little bit to the graduate program and international law and McDougal, and just if you could tell me a little bit about the tensions surrounding the controversy over the graduate program. Its size, its influence.

EC: When that really came on, as I say I became a Master in 1962, and I really just was here infrequently. Boris and Ralph would be much better on that. Mac was always an empire builder, and he always wanted to do things his way. I think these graduates would come in from all over.

He became a tremendous magnet, Mac did, and he would take care of his people, too. He helped them to get placed, but he'd come in and one of the requirements of a new graduate student was they'd have to go through Mac's policy science, I think some people would say attempted indoctrination. A lot of the faculty felt that that was pretty tough sledding, some people didn't have total command of the English language and things of this kind, and that gave them an unrealistic view.

Mac was very protective of his domain and built it up. It became very large and really helped to put the Law School on the international map. He brought in a lot of people who were extraordinary, who went on to great careers in their home nations. The infighting about it, I think there's no one that can tell you about the Grant Gilmore/McDougal issue better than Boris Bittker.

BC: Yes, he did tell me.

EC: And he can tell you it accurately and in depth, and I couldn't at all. Grant Gilmore – I remember when I tried to start doing some legal writing, using an article of Grant Gilmore's called "Good Faith Purchaser" – I remember it well – just to try to model my sentence structure along those lines. I don't think there was anyone that I've ever known that could write technical legal material as well as Grant Gilmore. I mean really it just flowed. He was just an extraordinary scholar, I always thought that, but then he left, of course, which was a terrible blow. I think Grant would have been a critic of Gene's as well, but I can't detail that. Boris and Grant were very close, so Boris would have an accurate view of that. But the influence of the new group was felt right away. The divisional program didn't come on quite then.

BC: Were you involved in that discussion?

EC: Well again after the fact I became involved because one of the divisions was the area that I was teaching.

[end of side 1, tape 2]

BC: We're back again. It's January 20th, 1997, and I wanted to ask if the Countryman controversy here at the Law School was an example, as Laura

Kalman says, of the intrusion of the university administration into Law School issues. Is that true and was it resented on the part of the faculty? **EC:** Well, it certainly is true and it was indeed resented. I gave you today the letter that Ad Mueller wrote to the chancellor of the California system discussing this whole affair. It's quite interesting because he says in his opinion politics had nothing to do with it. That is, national politics. The newspapers at that time had picked up the Countryman affair and were playing it: Countryman was denied tenure because of his radical political stances. Ad Mueller says that's just not true, as far as he's concerned. That he doesn't think it's what the university really had in mind, although it's my recollection that certainly a few conservative members of the Trustees looked upon Vern as too radical.

But, yes, Vern was originally in 1954 passed unanimously and moved on. I was not a member—I was not a full professor and so I was not a member of the board at that time. I was a very close friend of Vern's and Ad Mueller's so I heard about it all the time, certainly. Harry Shulman I don't think was here and didn't have to vote the first time, so the unanimity I don't think included him, but I don't really know that.

But then it was sent back by President Griswold with the statement that Vern had not sufficiently demonstrated his scholarly potential at that point, hadn't written enough. Maybe some questions were raised about his teaching, too, although he was a tremendously popular teacher. Vern had a very blunt style. He was a rugged individualist, too. We used to go to parties at his house and he'd pick up the phone and he'd call the local prosecuting attorney and say, "I want to be arrested. I want my wife and I to be arrested immediately. We've violated ..." and he'd give the Connecticut Statute. It was the use of contraceptives. He said, "We were in violation and we insist on being arrested." He did that as a regular matter. I think he drove the authorities crazy. One time I can remember them saying, "Oh, come on, Professor, leave us alone." They weren't about to arrest him for this, but he was that kind. He was very upfront.

Ad Mueller, for instance, felt that it was totally unwarranted intrusion by the administration, the broader university administration, into the affairs of the Law School, and that certainly on matters of judging Countryman's scholarly potential, the Law School should be followed, because they're the only one close enough and knowledgeable enough to make the judgment.

So, yes, there was deep resentment. Then, of course, it came back and several of the faculty members reversed their positions and now agreed with the administration. That certainly exacerbated the divisions of which Fred Rodell was on the side that this was a terrible invasion on Law School prerogatives by the broader university, and the other side that they were not. You can't ever divorce personalities or friendships and allegiances in these matters, particularly when they become challenged. I think there was a particular resentment that J.W. Moore was said to have shifted positions, and I think that people like Fred believed that Gene Rostow was very much involved in the Whitney Griswold view of this matter.

So, yes, it was a very tough time in the sense that these divisions – you hate to use the term because they're rather meaningless – between the so-called liberal wing of people like Fred and Fowler Harper and Tommy Emerson by this time. People like that on the one side and Gene and Harry Shulman and others on the other side. It's interesting, I just don't know or have any recollection of where Myres McDougal stood on the matter. I just don't recall.

But, yes, there was deep feeling that it was unwarranted invasion by the greater university authorities. No question about it, constitutionally, as I understand it, the president and the corporation do have the constitutional power to hold back on an appointment, although I don't remember them ever using it, except in this case.

BC: Is it fair to say that this controversy also had to do with the role of the dean in Law School decision-making? That there may have been some – Rodell, for instance – who believed that the role of the dean was

just as an agent for the faculty to carry the faculty's wishes to the administration, and that, in the case of Harry Shulman, he on his own did not recommend tenure?

EC: I think that's well said. I think that was the view, certainly of people like Fred. Yes, the dean, as you said it, was the agent and really couldn't have an independent role, and I think that does conform pretty much to the way I think deans have seen their responsibilities to the faculty. That the real authority rested with the board of permanent officers, the full professors, and that the dean was more or less a spokesman for them. So, yes, I think that was very much involved in it.

I do think that was very significant, even though as I say, I wasn't on the inside of it at all. Vern felt extremely put upon, hurt and left very soon. Ad left. As I say, Dick Donnelly became ill and John Thompson wasn't working out, and some of the older members of the faculty were shifting into new things, new fields and all, and it became a time when the Law School, I felt, that in 1956, when people like Ad Mueller taught big, big classes in contracts, that by 1956 through 1958, there was really a very substantial dearth of teaching staff here. The numbers were still here, but the people who were teaching big classes were really keeping the place going, and so the numbers reduced. So, yes, I think it had a major impact, really.

BC: Spirits were down?

EC: Yes, spirits were down, certainly among some. I mean, you know, when a faculty member like Ad Mueller says, "I can't stand it around here anymore. I'm leaving," that's very serious indeed. He was very popular with members of the faculty and with the students, and so that's a real body blow.

BC: Did the influx of new faculty members in the late 1950s begin to pick things up again?

EC: Yes. I mean it depends to whom you speak. People like Fred Rodell never became reconciled. As I say, he became increasingly marginal, a lot of it self-imposed. Gene took over as dean, which was clearly the result

that Whitney Griswold wanted. They were close personal friends and all, and Gene made those really dramatic and tremendously significant personnel moves. But the resentment of Gene on the part of the senior members of the faculty continued in many ways.

So I wouldn't say this was a totally harmonious place. Of course, with the influx of people who had not been involved in these battles, there were both people that could be identified as conservatives and those who could be considered liberals. So now the teaching faculty was replenished. These people had not been involved, so that you had a whole new era in that sense. They weren't so caught up in the old battles, these old struggles here.

BC: But then another controversy comes in, the divisional program.

EC: I've always thought of this as a great favorite of Abe Goldstein's. Abe became a very powerful member of the faculty. He's a strong leadership type. He's the type that people always stand back and listen to with admiration and respect and when he became dean, maybe this was before that, but he was already taking a real leadership role within the faculty.

This was the kind of program for specialization and, of course, to provide a vehicle for the students to really develop their writing skills. It was the hope, of course, that every student would produce a paper that would be really of publishable quality. This school could always talk that way because our students had been so incredibly outstanding, so that this was not just a pipe dream. So it was divided into, as you know, into certain types – as an attempt to divide the curricular offerings into sort of like subjects.

I ended up with one that I myself called Family Transactions. That was a play a little bit on business transactions, commercial transactions and the like. In those days I taught the estates field, as well as the trusts, gifts, things of that kind. I taught that exclusively by myself, and the problem was I'd get between fifteen and thirty people signing up for it each year, and I just could not cope with it. I couldn't offer them, I didn't think, that distinctive a program. Later, in the '80s, I started teaching a

little family law, but I didn't really teach family law then. I just taught in the estates field, and so I felt that mine was incomplete, and I felt also that I just could not handle that many papers. I couldn't edit them. I couldn't just find the topics for that number of people that had an original quality to them at all.

So I found the whole thing trying. That was also a time when I was Master of Silliman, so I felt that at least at my end, I wasn't keeping it up very well. I don't remember being involved in the debates at all. I just didn't have the time and didn't attend a lot of faculty meetings, but certainly the impact of this on me in a personal sense was very real, indeed, and I did have a sense that I just couldn't perform at the kind of high level that we hoped to get out of this program. It just was too much of a back-breaker for me.

I've forgotten how long it lasted, it seemed to me not very long, a few years and then faded out. Of course, some aspects of it continue. I think really that at that time the intensive first term program was started and the idea of a major writing requirement was continued, but this kind of field that some people thought was a specialization – it's interesting. Someone like my father would have been dead set against this. He felt that you didn't really learn a subject matter particularly; you learned how to think and work and talk the law. So whether you were taking property or constitutional law, whatever, the subject matter was not the important thing. It was the way of thinking. This did have an element of specialization to it that I think people like my father never would have approved of, but it was a noble attempt.

BC: Was it ever functional? I mean did you have a divisional program in your area?

EC: Oh, sure. For three or four years I tried to handle these huge numbers of people I got. See, most of the divisions had two, three, four people in them. So my judgment of the thing was colored by my own experience. I mean the idea of it was you'd get together as a group and there would be two, three, four faculty people batting around ideas and students would

get in and so there'd be a mix of ideas and all that. Well, I was alone. I couldn't provide that, and so that made me very uncomfortable in the sense that I just couldn't develop the kind of program that really had been contemplated by this. Of course, we never told students what they can take and what they can't take, so it was a volunteer matter. So students signed up and you couldn't do anything about the flow of students in that regard, the selection process.

Also, I really felt that because I couldn't do a very good job, those students who wanted sort of a void could sign up with me and they knew I just didn't have the time to really do much, except demand a paper out of them. I couldn't demand the discipline that this kind of program required.

BC: Let's move onto your time as Master at Silliman College, just sort of a couple of general comments and maybe then talk a little bit about the 1960s and early 1970s, the Bobby Seale trial and Kingman Brewster's role in all of that, and how you managed as Master during that time.

EC: Yes, I became Master in June of 1962. It's interesting, as I reflect from a Law School point of view, I continued to teach very, very big courses the whole time. I was a Master for nineteen years, really almost twenty years, and I continued to teach these great big courses, but my attention, my focus and most of my time became involved in the undergraduate college. In a way, you see I'd only started teaching twelve years before, and this was the time that should have been my most productive period, and that was a total distraction because momentous events occurred (not to me) in the time that I was the Master.

When I first went in, of course, it was all males. I went into the largest college, that is, in terms of numbers of students involved, well over 400. For instance, I prided myself on knowing everyone by name, knowing personally about everyone. When I went in, of course, everyone wore coats and ties, not only to class, but to all meals. It was still very formal. Women were not allowed in the dormitories, except under very close restricted hours on Saturday and the like.

But Yale College was changing tremendously. The heavy preponderance of prep school students, that was changing. This was a conscious effort started by Griswold, but certainly continued by Brewster to, if you will, broaden the base of Yale – not only of the Yale student body – but also the faculty as well. As I say, when I was a student here at Yale in the 1930s, all of the faculty were PhDs from Yale. A few from Harvard, but basically it was very inbred, very WASPish and all of that, as well. All of this was changing rapidly.

As we got more and more high school students in, I can remember the social programs very much. The vehicle was the so-called mixer, and it was really a terrible waffle, but busloads of women students would come in from all around, Connecticut College, Smith, Vassar, Wellesley, all over. Then there'd be an attempt to sort of pair people off, and it got so during the sixties that there were dances every Friday and Saturday night. My kids were all young then growing up in college, and I urged them to take up the guitar because the demand just for bands was tremendous. You know, it would be nothing to have fifteen dances going on on Friday and Saturday nights with these social programs.

Well, anyway, times were changing certainly. When I first went into college as Master, the college was very similar to what it was when I entered Yale in 1939, but it certainly started to change towards the end of the 1960s. You had the Vietnam War, the threat of military service. Certainly the student outlook was to be starkly contrasted with our attitude towards entering World War II. I mean it was something to be totally avoided, so the anti-war feeling was very strong on campus. You started, of course, to get the civil rights movement in full force and people like Bill Coffin, the chaplain of Yale who lived right across the street from us in the Master's house, so we saw a lot of Bill and Eva Coffin and their children. Their children really lived in our house. He was leading marches of faculty and students to the south and things of that kind.

That and of course the advent of the SDS, Students for a Democratic Society. Silliman, for reasons I don't know, ended up with the leadership

of SDS, the most well-known of all of them is Mark Zanger, who lives in Gary Trudeau's column as Zonker, entirely different from what he was then. So this was a real change from the old Yale.

Of course, at the same time of all of this was the civil rights movement, the black students, not really in the college, but certainly in the Law School, feeling their own way towards establishing themselves as a real force to get a different outlook upon their position here.

BC: Can I just interrupt a minute to ask about the SDS relationship with Silliman? What was your relationship with them?

EC: It's very, very curious indeed. I really think that the Yale College system, that is the residential colleges, is what really makes Yale College unique. Sure, it's got a wonderful faculty, but lots of places have wonderful faculties. This division of student life into twelve residential colleges, each college presenting its own set of programs, which run the gamut from elaborate sports programs to drama to social, to some educational – not as much as one would like – intellectual, things of this kind, I think is extremely important.

Kingman Brewster said that he could pick up the phone and talk to one person and that way get in contact with everybody on the Yale campus, and it was true. I mean Kingman himself knew many, many students, but through the college masters and then from 1963 on the college deans, he had close contact with every student on campus.

Mark Zanger used to come into my office, and he was a very smart fellow, but he would have some particular – something to challenge me with. We had beautiful rugs in the Common Room. There were six of them because the Silliman Common Room is huge. They were huge rugs, and of course they were machine made. They weren't authentic Persian rugs or anything, but he'd come in and he'd lecture to me about all the women who had been exploited sewing these rugs together. I used to sit there and write letters as he'd march in front of me baiting me with these things, but I got along pretty well with Mark. It was so interesting because at Christmastime, these kids were pretty alienated from their families,

and their families didn't particularly want them home, and they didn't want to go home. So they'd stay right in the dormitory for Christmas. By this time we had a big family. We had seven children. Our last child was born in 1963 in the college. See, my wife was still in her thirties when we went into the college. So we had seven children, ranging in age from about fifteen down to one or two, and my mother was still alive and my wife's mother was still alive, and we had a lot of family there. We'd have ten people, and the doorbell would ring Christmas morning and it would be Mark Zanger saying, "Could we come for lunch?" So eight of them would come to lunch. Happened to me two or three years there. They'd come in and Christmas at our house was a pretty big thing, and they'd be dressed to the nines. Can you imagine these guys in coats and ties? I remember Mark on the floor playing with little Willie, who was then two or three years old. I guess he was four or five, with a truck and they were playing. I said, "Mark, how can you ever be a real radical when there you are in a coat and tie playing trucks on the floor here?"

It was part of Kingman's genius in that he was always one jump ahead of them. So this campus, of course, really was not disrupted much at all by what was going on. At Harvard, for instance, they took over a building, six or seven students ended up about a year in jail for all those things.

BC: Not to mention Columbia.

EC: And Columbia, and of course Cornell had a terrible time. That's how it was going, but we really didn't here. Kingman, I thought—he was a very close personal friend, and I thought he was absolutely first rate. He had a way, of course. He and his wife with their two dogs would walk the campus all the time, so you never knew when the doorbell was going to ring and there would be the Brewsters. Not just with us, but with all twelve college Masters. Student parties, for instance, I remember distinctly arriving at a party at Silliman after a football game, finding Kingman and Mary Louise Brewster already there. He started these Halloween

parties which really got out of hand in the end. Six hundred students out in the yard out there.

He had a wonderful way with students and faculty, so people really wanted to work with him and for him. In those days there were no money constraints so the faculty was getting larger all the time.

Of course, now, concurrent with all of this was the advent of the women students and it was quite clear that it was indefensible not to open to everyone. But the whole college system was built really for men – well, it could have been built for women, too, but for one sex at that time. So the integration of women into this existing system was not all that easy, but it went surprisingly well. What was it, 1968?

BC: I think 1968 or 1969.

EC: In 1969, we had transfer students and a wonderful bunch came in, really, self-selected. No one was putting any pressure on them, so they had to want to come, but they were of course a tiny minority so it couldn't have been easy for them. I mean it was a real challenge.

Then we started the first full-year class. I remember the first woman student to enroll for the full four years was a woman named Amy Solomon, whom I still keep in touch with. But in the early days, I used to do a lot of alumni speaking, and the first question I always was asked was about the bathrooms, because the parents in those days – you're talking 1970 – they couldn't envision how it would work. I mean they had all sorts of visions of men and women students taking showers together and all this, you see.

Anyway, be that as it may. Then of course came the Bobby Seale trial, which was located in the county court house, which is on the corner of Elm and Church Streets there. That's only half a block from Silliman, for instance. So the plate was full with all these. Of course, Kent State occurred after May Day here. The spring of 1970 was just something I couldn't even begin to start describing ...

BC: Let me ask you about the perception of the Law School during that time.

EC: Of course, the Law School was having its own problems. The leader of the radical black movement in the Law School – although we didn’t have much trouble with the white radicals, it was really more the new nationalism among the black students. They were led by a guy named Otis Cochran. Otis now teaches down at the University of Tennessee Law School, I believe. I haven’t seen him in many, many years. You’ve heard from other members of the faculty, of course, when they demanded an audience in the faculty lounge, and they posted symbolic guards at the door to try to make it appear as though we were being locked in. I did attend that, and here to have Otis Cochran – I never was really terribly impressed by him, but be that as it may – making demands on the law faculty ... and you had in the room of course, Alex Bickel, Charlie Black, Lou Pollak. Three men right there whose names were on Supreme Court briefs, particularly Charlie Black of the big cases that were involving desegregation. I mean these people who had put their lives on the line, and to have these kids making demands on this group was really bizarre.

I think things got pretty chaotic. Yes, I think it was very hard. Lou Pollak was just a wonderful guy, but he was no Abe Goldstein in the terms of – Lou believed in mediation. Not that Abe didn’t, too, but I think there were some that felt that Lou got pushed around some. But everyone did. You look at the record from those times and they’re all full of incompletes and lost credits and all. Yale College records were the same way. So it was a difficult, difficult time. It really was.

Then, of course, May Day and it was probably the last time the Chicago Ten or Twelve were all together again. In the colleges we were scared to death about this because there had been a big confrontation up at Harvard Yard two weeks before and the battle cry was “Destroy Yale.” Yale had not really had any problems at all because May Day was going to be posted as the big event, you see. It was mostly the protest of the Bobby Seale trial and all. The battle cry was “Destroy Yale” and then about a week before May Day, an armory up in Chicopee, Mas-

sachusetts was raided and they got a lot of dynamite, for instance, and things escalated.

Predictions were we were going to have an influx of about one hundred thousand people for this event, it's really hard to recapture the feeling of that time. If you saw the New Haven Green, all the windows were all boarded up like a hurricane was coming, expecting rock throwing and guns going off and everything else.

We had to make the decision in the colleges as to whether to open them or try to close them, try to lock them up, and we finally made the decision. We, I mean the Council of Masters. We met every day with Kingman and Sam Chauncey, chief deputy, the head of the campus police, Lou Capiello. We met every day trying to plan sort of the physical aspects of this invasion that we expected. We finally decided—I mean the Council of Masters voted—but of course it was Kingman's decision really to open the colleges up. He opened all the gates up.

BC: It's that decision that's credited with having saved Yale from disaster.

EC: Well, I think a lot of us felt that way certainly. We brought in all sorts of food, like granola and things like that, to feed all these crowds.

BC: I know. I was there to eat it.

EC: Were you really?

BC: Yes.

EC: Well, then you know all of this. It's kind of interesting, of course, how things developed. Only about ten thousand people came, to begin with.

BC: It seemed like a lot though.

EC: In Silliman we really got nothing at all because by this time the SDS had decided on its own that they had to broaden their revolutionary base and so they were going to go out and make common cause with the workers, the union workers in New Haven. New Haven, of course, then had much more industry, much more business than it does now. So these young people got out and most of them, their hair was down around their shoulders, they hadn't shaved, they were in torn clothes. When they went into the neighborhoods, they really found that the average blue-collar

worker in New Haven was extremely conservative and threw them right out. They got no kind of audience from them at all. But they had really made common cause with the black students.

BC: Then, of course, the Black Panthers ...

EC: The national leadership with the big names, yes. A lot of them had come into town at that time. We had all those meetings in the Ingalls Rink where demands were being made on us of all sorts by the black leaders. They didn't want to make common cause with these—I think they looked upon them as rather unreliable by and large white—100 percent white—SDS people. So that in Silliman the SDS, there were about thirty or forty of them, they were in the corner of the courtyard. It was a beautiful weekend. The weather was lovely.

BC: It was May 1970?

EC: Yes. Really, we got almost no one. I don't know that they're still, twenty-five to thirty years later, eating granola down there now because no one ate these bags. Of course, all the action that took place really was up on High Street, the old campus, on High Street. And so Branford, Saybrook, those colleges got it much more than we did.

BC: And the old campus I think had stations of food there.

EC: Right, they did indeed. They did indeed. By Saturday night there were some confrontations and I remember going out. Some of the Silliman students had come back to protect the old Master. I was in my early fifties. The old Master and his family. We went out Saturday night. The event itself when all the guys spoke, Abbie Hoffman and all that crowd, there were people playing Frisbee and no one was listening. The whole thing turned into a carnival sort of thing.

Of course, a lot of credit has been given to the parents of black high school students in New Haven who wouldn't let their children come down. The high school kids, they stayed away and so what might have picked up, gathered some kind of momentum never did. There was, as I said, some confrontation Saturday night. Some tear gas was used. You could smell it in our bedroom, for instance, because we were only a block

away from the Green. As we came back to get back into our house, the National Guard was there running all the way from Temple Street all the way past the Law School, I think. They all had gas masks on, which of course makes everyone look as though they're from another world. They all had rifles. We never dreamed that those rifles might have anything in them, but they were in case there was a blow up. They were all at parade rest, but their legs were kind of locked, so we had to ask them to get out of our way so we could get in our front door.

They never were used. They were withdrawn. The police wearing riot gear with that plastic front and all, handled any problems that there were.

BC: Did you have any sense that, other than minor disagreements about how certain episodes should be handled, that there was any division in the Law School, political divisions over the issue?

EC: Well, I don't know. I was so busy. I was chairman of the Council of Masters, so I was very much involved in the planning of the overall campus. So that I really didn't get up here that much. I just don't on my own know that. It's interesting, I attended the famous faculty meeting where Kingman Brewster made his remark that was used against him, by Spiro Agnew and everyone, but also Yale alumni, too. It was his opinion that a black criminal defendant could not get a fair trial in the United States. Of course, what he was referring to was the difficulty of a jury that didn't have strong feelings on these subjects.

I sat, because I'm not a member of the Yale College faculty, but as a Master I was always invited. I sat with Alex Bickel and one or two Law School people up in the balcony. That meeting took place in Sprague Hall because there was such a huge crowd turning out for it. I remember we heard Kingman say this, but it was in the context of the overall speech, in which I thought he was very definitely reasserting the primacy of our educational responsibilities, and that we could not shut down. None of us, none of us noticed, gave significance to that remark by Kingman, which

as I say was part of a larger developed theme. It was quite interesting, none of us particularly noticed that as noteworthy.

Anyway, I think Kingman's leadership was demonstrated tremendously through all of those troublesome events, and also in the bringing on of the women and integration of women into the Yale College student body. Kingman was no radical. He was really quite conservative in a way, and unfortunately for Kingman, I think there was some material that Kingman was going to try to devise for special courses for women, that sort of thing, which of course is just ridiculous, but that's the way people thought a little bit then, you know. That the hard sciences they wouldn't go into, but they'd be interested in other things.

So Kingman wasn't 100 percent prophet, but at the same time he was greatly respected, indeed loved by his faculty and by students, and so he could accomplish really monumental changes.

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BC: You retired from the Master's job in 1981 and then came back and taught full time here in the Law School.

EC: Actually, during the 1970s I never really stopped teaching. At the time, it was well before Bob Ellickson had come on the faculty and Carol Rose and all, so I started teaching real property. Quintin was really the main person in real property, but I'd teach it one term and he'd teach it one term. I was doing all the estates work, and then in the 1980s I started taking on some family law. So I did a tremendous amount of teaching all during the 1970s in terms of numbers of students. I had huge classes. Huge classes, so I was very much involved. I loved to teach. I really enjoyed it, and so I was very much involved.

It's funny. I used to come up and teach my classes, which I used to schedule at 9:00 in the morning, and then I'd return to Silliman. So I had these huge classes and also had a lot of students who were doing writing with me, too. So I was very much involved in that part of the school, but not in much else, and during those critical years I really did nothing of

any significance in terms of scholarship. I did get my casebook out and things of that kind, but not very much.

I thought twenty years was really enough for me and the college ought to have a change, too. I had served under three presidents. I was originally appointed by A. Whitney Griswold. In fact, I was Griswold's last appointment and Griswold came down for my inauguration and I remember he was a very sick man.

Anyway, then I was all through Kingman's time and then I had been reappointed by Bart Giamatti, so that I really served under three presidents, and I thought it was time to get out. Then I also thought if I came back to the Law School, I might really begin to pick up and do some scholarly work. Alas, I never really realized that. I just was out of focus. I never could get back into focus and I'm the kind, I'm afraid, who's never satisfied with anything I do. So that therefore I got so hung up I really didn't realize that part of my ambition.

BC: Let's go back and talk a bit about the Goldstein deanship.

EC: Although I never saw myself as dean material, and I don't think many of the people in the Law School did either, but I got very much involved because at one of the deanship fights, after Boris would not do it, I was the candidate of some of the people here. I don't think Kingman saw me as dean, and it was at that time that Abe became dean, I guess.

BC: 1970?

EC: Yes, because I never saw myself in this role, but I think I did have quite a few votes, actually. As I say, I don't think Kingman ever saw me in this role, either, and I was very much involved in his administration on the other side. I was chairman of the Council of Masters and I was on all sorts of important committees on the undergraduate side.

Anyway, be that as it may, I thought Abe was a wonderful dean. I like Abe tremendously. He's been a very close friend. We had adjoining offices before, and I knew him very well and I liked him and greatly respected him. I think he was a powerful dean and he continued, of course, to build up the faculty.

It's interesting. We had some problems at that time in that we didn't give tenure to some very significant people who have gone on into teaching. So there was a lot of bitterness about that, and I do feel that again I don't think I was particularly centrally located in any of that, although we did have about five people that did not get tenure, and there was considerable bitterness, and there was considerable feeling throughout the country that the Law School had treated these people unfairly.

But I won't reflect on that, except to say that Abe was a strong, powerful kind of dean. Harry came in after Abe got out, and Abe had that very unfortunate brief period in which he was provost of the university. I think that the Goldsteins, Abe and Ruth, were very mistreated by the public on that. You know, there was a controversy about the house. I think that Bart Giamatti let the Goldsteins down some. That was the custom then, to renovate. When we went into Silliman, for instance, the house was totally renovated for us. That was the way Yale did things in those days, spent lots of money doing that. I think the Goldsteins were kind of misled on that.

I don't think that the partnership of Abe and Bart would have been a particularly satisfactory one, anyway. Abe is so strong, so powerful that I think Bart would have gotten very nervous with Abe very shortly.

Harry, of course, was very popular. Harry and Sheila were very well liked. It's interesting. I think those were years in which the Law School continued to grow. I think things went well but I can't think of anything distinctive. I'm sure there were some.

BC: I'm thinking of critical legal studies. Everyone I've talked to about it remarks that it really had no effect on the Yale Law School. Is that your view?

EC: That's certainly my view of it. When you think of how it divided the Harvard Law School, we had none of that. I think one of the things about this place that's been always so wonderful is the collegiality. I think the faculty have gotten along really well. There certainly can be divisions and all, but at the same time the faculty have always treated each other

with courtesy and respect, and there's a good deal of friendship, too. I think that's been wonderful.

BC: So you think of the Wellington years as quiet building years.

EC: Yes I really do. You know, you catch me a little off guard with it. I mean I think of them as very good years, but I can't give you a specific reason why. I think that congenial atmosphere, of course, is related to the fact that we have not got required courses so that the students operate on a term basis and can get multiple exposures in the faculty. And the fact that we continue to have a very small school with the doors open all the time.

That I think is the reason why, the base reason why the Yale Law School has been so tremendously successful. The word got out to the best and brightest of college seniors all over the country, so that our student body has just been magnificent. It really has and, of course, it continues. Even to this day I remain the faculty chair of the admissions committee. The reason for that is that no one else wants to do it, but I enjoy doing it and, of course, our prosperity in terms of our yield and the type of students we get is – well, it gives us real problems, our prosperity does. We have to turn down people that are absolutely magnificent. Just twenty years ago on a joint admission between Yale and Harvard, many if not most of them would go to Harvard. Not any more. We get almost everyone we admit, which makes it very difficult to predict the size of classes and all that, but that's another story.

We used to say when a student would come that had been a senior from someplace, say out west, had been admitted to both Yale and Harvard, "Why should I come to Yale?" I used to say, "Well, go on up and talk to the people at Harvard," because the people at Harvard, the students at Harvard would say, "Oh, go to Yale," every time, because it was just a much more pleasant place to be. A much more pleasant place to be and it always has been.

BC: I wanted to ask you, just by way of contrast since you have a number of years you can look back on, something you mentioned to me before.

The shift in the interests of the faculty from private law to public law. I wonder if you could just comment more on that?

EC: Well, it certainly is noticeable. When I was here as a student and then during my early days on the faculty, the major focus was on the private law field: business law, corporate law, property estates, taxation, things of that kind, and how dramatically it has changed now. Back in the 1930s constitutional law was taught by Edwin Borchard, and it was considered a bit of a joke, really. Well, I think in one sense, of course, every member of the faculty would say, “Well, we’re introducing constitutional principles into our private law courses,” but something that was described as constitutional law was taught by Edwin Borchard. He used to say that he’d give a true/false exam and all he’d do is change the answers. As the Supreme Court wrote new decisions every year, he’d change it from true to false and vice-versa.

I was trying to think who was teaching constitutional law as such when I was a student here. John Franks some. Certainly Tommy Emerson. Well, Tommy Emerson was not here when I was a student. I guess it was not a major thing. As a matter of fact, I went through—I regret it terribly—but I went through my two years here going all year long without a constitutional law course. Now, of course, what do we have? We have fifteen people at least on the faculty that say that their major effort was in the constitutional law field, and political theory has become a big thing now. That’s a vast difference. Indeed you look at our curriculum now, and there are only a few steadfast lawyers like John Langbein and Alan Schwartz and Roberta Romano and people like that who are teaching in the old line private law fields. We depend on outsiders to teach things like bankruptcy at all. You know, it’s really quite interesting this shift has taken place.

Of course, I think that’s the marketplace as well. I mean that’s what the students want and, of course, our ambition here is to create national world leaders.

BC: Another contrast I was going to ask about was formality and informality in relationships between students and between faculty and students. I suppose I would have expected to hear that things are much less formal now than they had been in prior years, but I don't have the sense that that's really true.

EC: Well, it depends on the individuals. Of course, we wore coats and ties and were dressed to the nines and women were all dressed as though they were going to a tea party, I guess. I mean that's the way it started, but there were people like Fred Rodell, he was always known as Fred to the students, for instance, who were on a first-name basis.

BC: And they seemed to be socializing.

EC: And there was a good deal of socializing. Today I guess there's even more contact in the classroom. The first-year program where ten to twelve members of the faculty have really close contact with a small group, provides a connection which will continue through their whole time here in the Law School. I think that's not only intellectual, but is also social.

People ask me whether I see any difference in the students now and fifty years ago—and not much really. We've always been very lucky here having an extraordinary group of students who really wanted to work hard, who were self starters, of course, who had a great many ideas of their own. We've also had the obvious big names like the Clintons, and Pat Robinson was here in the 1950s.

BC: Do you remember Pat Robinson?

EC: Well, I don't and of course, as they say, that was before he had found Christ. That was before that, and he says himself in his own biography, he was a hard drinking, card-playing guy. I did have him in class, but I don't remember him really. I remember Hillary Rodham. I don't remember Clinton and I don't believe I had him in class. I certainly remember Clarence Thomas. I remember lots of these people, of course. Arlen Specter. Lots of people that became famous. I'm not unique in that regard. That would be true with many of us on the faculty, but it shows the kind of people we've had. People with tremendous ability.

BC: I'm afraid I've kept you a long time. But, it was wonderful to talk to you. Thank you so much.

