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Conversations in Legal Education: Frank Engfelt, June 7, 2005

Frank Engfelt

University of San Diego School of Law

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CONVERSATIONS IN LEGAL EDUCATION:

ORAL HISTORIES OF THE FIRST HALF-CENTURY OF THE UNIVERSITY OF SAN DIEGO SCHOOL OF LAW

Narrator: Professor Frank Engfelt (Marci Engfelt was also present)

Interviewer: Ruth Levor

Recorder: Ruth Levor

Date: June 7, 2005

Accession No.:OH-LRC-Engfelt-2005-2a

TAPE 2a: SIDE A

RL: This is an interview of Professor Frank Engfelt for the project: Conversations in Legal Education: Oral Histories of the First Half-Century of the University of San Diego School of Law. The interview is being conducted by Ruth Levor at the Engfelt home on June 7, 2005. This is the second session of this set of interviews. Tapes and transcripts of this interview will be archived at the University of San Diego's Copley Library.

Let's go on with our discussion of the law school. There are a couple of things that you suggested that I ask you about, and one of them was the faux fireplace in the Legal Research Center, so tell me the story.

FE: Well, as I said before, the Legal Research Center was the law library, and I told you the story about how the law school was literally forced to occupy that building. I remember we had to build wooden ramps from the third floor, and we threw away, we didn't get paid for all the books that were up in the law library. They were all shoved down this ramp into this truck and just trucked away. We saved very few of the books.

RL: These were law books?

FE: Yeah, we saved very few of them. I told you that Kratter donated money. He was also in the publishing business at the time, and he was always trying to sell us reporting systems that Joe

Sinlitico didn't want, but in order to keep him happy, we would end up with Pennsylvania Sidebars and these kinds of things that nobody ever looked at.

I am trying to think of the name of the woman who was in charge of the art department, Terry ...

RL: Whitcomb.

FE: That's right. Terry Whitcomb insisted on quite a few things, and she had become a czar, literal czar, insofar as the style and decoration, and she is the one who caused all the buildings to be painted not one color but two colors, and of course, it's much harder to paint that way. In addition to other things, [laughter] even though she didn't like me for it because I made fun of her, she insisted on a false fireplace, which is just there for decoration. I call it the faux fireplace surrounded by marble. You can see it as you walk in the front door of the reading room in the library. It was expensive, unneeded, and I thought in my own way kind of a funny thing to have down there.

I've kiddingly told my students over the years that one day, it will have a use, that when I'm dead, that my body can be laid out in that faux fireplace. They can put a calla lily in my hand, and they can all march back and in sign language salute me and stick their middle finger in the air and say, "He was Number One." They think that's kind of funny. Actually, I don't think that's going to happen [laughter]. I can enjoy the concept and envision what it would look like.

Terry Whitcomb, she's the one that insisted on two tones on the outside. The other thing that's always been funny up there, the College for Women has been a repository of some very, very old stuff, including what they call tapestries, which to me are old moth-eaten rugs, and I think still, if you walk through some of the buildings up there, including the law library, you will find these things hanging. We didn't ask for those things. We were told these things will be hung, and I don't know, art, I guess, is in the eye of the beholder, but they never did much for me, these old ...

RL: You talked about what you told the students, and another thing that you had alluded to in our last session was weekends at Rosarito Beach with the students.

FE: One weekend, one weekend was enough. What I remember very vividly is that one of the students was Bob Baxley¹, and I'm sure Bob, oh, I don't know, will not take umbrage at this, because Bob has always been a seeker of the truth. Bob later on became a Superior Court judge. Bob had a room on one of the upper floors at the Rosarito Beach Hotel and decided to take a bath when he was too drunk to do anything, and before we knew it, there was a flood from the upper floor [laughter], and naturally, when we found him ... [laughter]

RL: How did you and the students come to go to Rosarito Beach?

FE: I forget. In those days, the entire class was twenty-four students, the class of '64. We not only had social relationships with each other on the faculty, but we also had relations with the students. I was talking with Marci the other night, I still remember that Joe Sinclitico used to have poker sessions at his house in Kensington, and the students would be invited, and we would sit outdoors in the back yard and play poker. I'll never forget, one day, we were out there, and Joe had a big Weimeraner dog who was in the house and decided he wanted to join us, and all of a sudden, there was this loud crash, and this dog came flying through the Venetian blinds and a closed window, and the window burst, and the blinds went flying, and all of a sudden, there's this dog there, Joe's response was, "Deal the cards! [laughter]" That's the kind of guy he was.

RL: Staying on task.

FE: Yeah, but I mean this kind of thing would never happen today. These were things that happened back in the sixties. Joe took over, as I told you, in '64 when the Bishop refused, I don't know what his reasons were, to make George Hickman the real dean as opposed to the acting dean. Joe was there, I think, until '72. He had an eight-year tenure as dean, and if nothing else, during that eight-year period, a lot of hiring went on insofar as getting people on the faculty.

Other things happened. When Joe took over, it was Joe and I believe her name was Roselle, is that right, Roselle Long?

¹ USD Law '64, winner of Distinguished Alumni Award 1983, retired Superior Court judge, author of THE LIFEGUARDS and A MISCELLANEOUS LAWYER

ME: Roselle something or other.

FE: Yeah, Long, Roselle Long was his secretary. That was the entire staff in the dean's office. She had a Thermofax machine. There was no such thing as an associate dean or an assistant deanship ever. One of the first hires that Joe made there was that he hired Doris Alspaugh, and I believe she was at California Western law school at the time, and he hired Doris to be his associate dean. That was a big step for us. We actually had a dean and an associate dean.

Roselle was a wonderful person. Unfortunately, she had breast cancer, and she died at a fairly young age. I remember she had a beautiful daughter who married one of the students there.

The student body grew, and as the student body grew, we had to get faculty, so we had a big spate of hiring in the late sixties, people like Dick Kelly was one of the first people hired. Dick's office was right next to mine. Doris was hired as an associate dean, and Bert Lazerow was hired during that period of time. Bill and Sarah Velman were hired during that time.

RL: I imagine the hiring was a lot less formal than it is now. How was someone hired?

FE: It was, and it wasn't. The first hires we made were fairly informal, and then we would invite these people to come out and visit with us. I remember when, what was Winters' first name, that's awful, I can't ...?

ME: John.

FE: When John Winters came out to be interviewed—he came out from, a law school in Nebraska, I'm having problems today ...

ME: Creighton.

FE: I'm glad she said that. She tells me she can't remember things.

The main thing bothering John Winters at the time, he was afraid that, as far as Catholic politics were concerned, that we were too liberal here in southern California. I remember he insisted on interviewing a priest who was in charge of that old church down in Old Town, and I took him down there and left him with that priest for about, I don't know, fifteen to twenty minutes, and he had an interview with this priest, and then I went to lunch with him at one of the Mexican restaurants down there. I guess he decided that the political views of the Diocese of San Diego would fit in well enough with him, and he accepted our offer.

Later on, not too much later on, we're talking early seventies, there would always be somebody delegated to go to what we called the "slave market" or "flesh market," which was the Annual Meeting of the American Association of Law Schools, which always took place in Chicago during the Christmas break, and since I had spent a year in Chicago, I knew that it would be bitterly cold. One time I remember very vividly is when I went back with Ed Philbin, who was later hired. That was another big spat on the faculty, hiring somebody that graduated from the University of San Diego. It was called "academic incest," and I said that was ridiculous, that if the person was qualified, and the person could teach, it shouldn't make any difference where the person graduated.

Anyway, Ed Philbin was on the faculty. Ed Philbin and John Roche were hired about the same time, both from the University of San Diego.

RL: They were law graduates?

FE: Yeah, and Ed and John and I sort of formed a Friday club, and we would, after school on Friday afternoon, go down and hit a number of watering holes in downtown San Diego and would end up at various places depending upon what took place, and Ed might even play his guitar. This is again before Ed got political and got involved with the Reagan administration and had his bypass operation, and I tried to tell him, "They didn't just give you a bypass operation, they stuck a yardstick up your you-know-what."

RL: What was his position in the Reagan administration? Do you know?

FE: He had several positions. He was the Secretary of Defense for Reserve Affairs. He later on became the Head of the Immigration and Naturalization Service. I don't know where he is now. John stayed on the faculty, and John just recently retired.

I remember one year Ed and I went back to Chicago, and we would literally sit in this hotel room and interview candidates on the hour and half hour. There would be a steady stream of people coming through for a twelve-hour period, so we would interview twenty-four people during the day.

RL: Was there a switch from USD trying to lure people to people trying to convince us to hire them?

FE: Both. I think those people who thought that they were really, really good deigned to be interviewed by us and deigned to spend thirty minutes with us. A lot of people who didn't feel that way wanted to come out here. We were a young school. We didn't have this big scholarly reputation which all the law schools tried to build up. I remember trying to interview people like Eric Sevareid's² son, who wanted to be a law teacher. Both Ed and I agreed, and gee, I hope Eric Sevareid's son never sees this, we agreed that he wouldn't really fit in with our faculty.

I remember interviewing a young man named Jeremiah Healy, and if you're a mystery fan and read mystery literature, you'll know that Jeremiah Healy ended up at Boston law school and ended up writing an awful lot of mystery books. I just reread one of his books not too long ago. I liked him. Ed put his thumbs down, because he said he'd be spending too much time writing his mystery books and wouldn't be spending enough time keeping his nose to the grindstone as far as the law school was concerned.

RL: So you decided whether they would actually come on campus.

FE: We would make the recommendation as to whether or not they would come out and be interviewed by the full faculty and would spend days back there literally cloistered in that hotel room, and then we would escape at night and go out and have dinner and start over again the

² CBS foreign correspondent in the sixties and seventies

next day. That's what we called the "meat market" or the "slave market." They still have these meetings, but I don't think it's the same time of year anymore, and I don't believe that it's in the same city every year. They used to always be in Chicago. I don't know because I eventually convinced a dean that I had had enough of this, that I had put in my time. I had, as Lou Kerig said, soldiered enough.

RL: When people were hired early on, what was the discussion about tenure and what level you were hired in at?

FE: I don't know.

One of the names I've left out, which I apologize for was Joe Darby. Joe Darby was one of our first hires, and Joe may still be teaching up there part time. We have known Joe and Ursula ever since they came here. I'll never forget that when Marci came home with ...

ME: Ann Marie.

FE: ... our baby daughter, Ursula ...

ME: 1966.

FE: 1966, she was born at Grossmont Hospital, and that morning, Ursula showed up at our doorstep ...

ME: With her baby.

FE: ... with her own baby ...

ME: Four months old.

FE: ... four-month-old baby, dressed in a nurse's uniform. She was a nurse, she was a nurse in Germany, starched whites, and came in and kind of took over ...

ME: For three days.

FE: ... for three days ...

RL: At home or at the hospital?

ME: At home!

FE: At home.

RL: Wonderful.

ME: Yeah!

FE: It was a big surprise to us. Ursula didn't act like it was a big deal, but I've always thought it was a big deal, and I've always thought an awful lot about Ursula. Ursula and Joe have a big family. What do they have?

ME: They have four kids.

FE: Four kids, and as is true, I guess, of most families, they've had their good times and their bad times. That's another person who should be on your list. Is Joe on your list?

RL: Yes, we've already spoken.

FE: I always got a big kick out of Joe because I always felt like he was reporting to me as the head of the SS or something. I mean, I've known him for years, but he'd come to my house and

stand at attention. As you know, Joe's a linguist. He's fluent in German and Russian. I know when Russian dignitaries have come on the scene in San Diego, Joe has been the one who has ushered them around. He's also kept his ties to the Navy, so he's some sort of a . . . , as opposed to me, I was happy when I got defrocked, because I didn't want to have anything to do with the military. Joe's always liked it, and his son went to the Naval Academy. I'll never forget Ursula Darby showing up with her baby and all dressed in white, ready to take care of Marci and Ann Marie.

RL: That's wonderful. Joe's name came up because we were talking about how people were hired, at what level they were hired.

FE: If you were hired as someone who, back then and even now, . . . I got a Master's degree in Law. I had visions that one day I might be a big shot lawyer planning estates for people, because I had a Master's degree from Georgetown in Taxation and Estate Planning. When I started practicing law, and here I found out that that would never happen, because all of the banks and trust companies were doing all this, you might say illegally, they were in violation of the state laws in regard to practicing law without a license, but what happened was that lawyers would allow these people to do this business. The lawyers would get a kickback from the trust companies, and nobody would say anything about it.

I was a member of the East County Bar Association, and I got up at the monthly meeting or whatever and said, "How long are we going to allow this unauthorized practice of law to continue?," and I was almost booted out of the hall, because I was cutting into their profits, so that was it there. But if you had an advanced degree in law, a big entrée into law teaching is to have been a clerk for somebody. Of course, you start at the Supreme Court of the United States and then maybe a clerk for a circuit court judge, that was the big entrée. Sometimes, you would hire someone because they had not done those things but had published a lot of so-called scholarly papers while working for a law firm and had decided they wanted to teach. We have a person on the faculty right now who's a great guy, Frank Partnoy, I don't know if you've met Frank . . .

RL: Yes, I have.

FE: Frank was quite famous for his book³, and he was on national television and everything else in addition to being, I would imagine, a fine teacher. I've never been in his class, but you can usually tell by talking to people.

The only time we would ever consider hiring someone and give to them a title higher than Assistant Professor is if there was what we call a lateral transfer, where someone would decide to come from some other law school to our law school, and then they might be given the position of Associate Professor. In certain cases, depending upon who they were, they would come as a full Professor, and later on, if they were famous in their field, they would come on as a Distinguished full Professor. I think Herb Peterfreund was given that title when he came on campus. I don't know if Homer Kripke got that title at the time. The two of them came pretty close together. Some people have been given that name who have been on the faculty without coming with that title. I think Bernie Siegan enjoys that title now. Bernie, by the way, if you don't know it, is married to a former student of mine, Shelley. Bernie also lives in a home which was owned by Raymond Chandler, since you're a mystery fan. I thought you might like to know that.

RL: Yes, I have heard that.

FE: It's been remodeled extensively, I think, not through Bernie's wishes as much as Shelley's wishes, but anyway, I remember seeing the place.

The other way to get a full professorship and tenure was to be hired as dean. That comes with being a dean. Insofar as tenure was concerned, that is something which has evolved over the years. I've had tenure since 1965.

RL: And that was very soon after you began teaching. You began teaching in '63.

³ F.I.A.S.C.O.: BLOOD ON THE WATER IN WALL STREET (1997).

FE: '63, so that was two years afterwards, and at the time, Full Professor automatically came with the tenure designation. I'm the first to admit that today I would not have a chance in hell of getting tenure, but in those days, things were different.

RL: And you say that because the criteria have changed?

FE: Yeah, I mean, I just looked at this *Advocate*⁴ thing, and it was, I think, sixty-four pages long or eighty-four pages long, and about twenty of those pages were just lists of publications that people on the faculty had published over the time. I take nothing away from those people. If they enjoy doing that, and they want to write all that stuff, that's fine. I never had an inclination to do it. As a matter of fact, Joe Sinclitico would discourage me from getting involved with scholarly publications, because he was fearful that someone might try to hire me away from USD.

RL: What about your contemporaries at the time back when you started?

FE: Again, the emphasis at the beginning was not, it was not, ... teaching, it was not on writing, and when the load was twelve hours a week, that didn't give you much time to be a scholar. We started getting into the scholarly endeavors, I think, when Larry Alexander was hired from Yale, and Larry, if you go into Larry's office, he's always got something he's working on. His list of publications is long.

Roy Brooks has written an awful lot in the area of civil rights, and in fact, he made a career out of that. Roy can dispute that, that he made his career out of that. Jorge Vargas has written an awful lot, but you can't read it unless you speak Spanish. Other people—Grant Morris has published an awful lot, particularly in the field of mental health and the law.

Paul Horton, I think Paul Horton, again, Paul Horton has been married for many years to a former student of mine, a very, very bright student, I might add, but from what I can see, he spends twenty-four hours a day at the law school. He denies this, but I've talked to him late at night, and he's still there. I've talked to him early in the morning, and he's there, and he just seems to live there. He's got his classical music playing. He's got his botanical gardens outside

⁴ The School of Law's alumni magazine

of his window. He's got these huge, he calls them bookcases or whatever that he built, and you know, Paul is a little bit different, but he wrote an awful lot.

The ones who write now are writing for the sole purpose of getting tenure. You will not be considered for promotion and tenure unless you write something. Over the many years that I've been up there, I have been on a lot of committees. There will be a tenure committee appointed for an individual where you will sit in on that person's class and critique what he does in class. You will read all of his publications and report back.

Most of the writing I've done in the field of legal writing has been writing about other people's writing, or as in the case of some of my colleagues, rewriting stuff that they wrote because they couldn't write. Writing's always been easy for me, but I've never had a desire to do it. I've always thought it was kind of a time-consuming, not very worthwhile investment of my time, but again, see, I'm different from most of my colleagues. When I get home from the law school, I would not spend my time writing or spend my time reading law books. I would spend my time pouring concrete. If you look at my patio in the back, I did that all by myself. If you look at that big barbecue pit out there, I did that all by myself. If you look at my woodturning shop, I built that shop myself. If you look around this house, you'll see furniture that I built myself. If you look hard enough, you'll find oil paintings that I painted; you'll find macramé that I've done; you'll find latch hook works that I have made. You just look over there, and you will see woodturnings that I have done, and they're sitting on top of a piece of furniture which I made. I mean, I always had to be doing something, but it had nothing whatsoever to do with the law. So in that respect, I guess I'm different.

The only other person I knew who was interested in woodworking was, I'm trying to think of his name, he was from Alaska. He was the former partner of Adlai Stevenson, who was a visiting professor. Marci.

ME: What?

FE: What was the name of the guy from Alaska who, I think he was the governor in Alaska, who was the former partner of Adlai Stevenson?

ME: What?

FE: There was a man, he used to come to USD and teach on a part time basis, who was from Alaska. I got the name Pickle on my mind, and it's not Pickle.

ME: I don't know.

FE: He practiced law with Adlai Stevenson.

ME: I don't know.

FE: He was the Secretary of the Interior in the Carter administration, I believe.⁵

ME: That's Stans.

FE: No, Maurice Stans got indicted in the Watergate thing and served time in jail.⁶ He was Director of the Bureau of Budget. We at USD have given honorary degrees to a lot of people who were indicted and convicted, including Richard Nixon. Stans was another one.

ME: I don't know who he is.

FE: Anyway, I was just trying to think of the only other person I've known at the law school who was interested in these kinds of things.

RL: Working with his hands?

FE: Yeah, most people up there, you put a screwdriver in their hands, they'd be dangerous. Changing a light bulb would be a challenge for them.

⁵ Walter J. Hickel was Secretary of the Interior under President Nixon from 1969 to 1970.

⁶ Stans was actually acquitted of the Watergate charges but later pleaded guilty to campaign contribution violations.

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TAPE 2a: SIDE B

RL: Well, I want to switch from questions of hiring faculty and tenure and things like that to questions about teaching. When you first came to the law school what were the classrooms like?

FE: Oh, they were a lot different than they are right now. I told you earlier that the bottom floor, which some people refer to as the basement or the hall, the foyer you come into from the parking lot, was completely different. That was designed originally, the whole building was designed to be a science building, it was not supposed to be a law school. Supposedly, on the bottom floor were all the labs, and they had to take out all the little connections from the Bunsen burners and all that kind of stuff. They had one large room down there that would seat about a hundred and twenty-five students, and I've had classes of over a hundred and twenty students. And they had another large classroom directly opposite that classroom on the west side of the building that's now full of offices and the alumni office, no, not the alumni office, well, maybe, yeah, the alumni office ...

RL: Career Services?

FE: Career Services, whatever they call it. They give titles to these things, the money-grubbing, what do they call it?

RL: That's Development.

FE: Development, okay. I can't find the name of it. The name will come to me at maybe three thirty tomorrow morning.

So they had two big rooms down there. They had that big More Hall, which was never used except once in a while, we would have some sort of a function down there. Joe Sinclitico, when he was hired to be the first dean of the brand new University of Puget Sound, I think I told you he talked me into going up there with him, they had a big going away function for me in More Hall. My entire family was there, and my mother was involved with it. They had the magic lanterns and baby pictures of me. They had skits where students would impersonate me, and the old quiz show about "Will the real blah-blah-blah stand up?," To Tell the Truth, or whatever it was. "Will the real Frank Engfelt stand up?" and dinner and the whole thing and drinks, and a good time was had by all. This was 1974, so Ann Marie was eight years old, I guess, at the time, and Andy was, oh, two or three years younger. That was a good time, and after they imitated me, then I got to go up there and do an imitation of myself, a caricature of myself.

I remember they gave me an umbrella, which I still have, because I was going up to the Pacific Northwest, where you pushed the magical button and the umbrella opened up. They gave me a big raincoat with a zipper liner that would zip in, a wool liner or fur liner, that I took up there with me, and then I found out when I got up to the State of Washington that those people just don't bother. They don't, they walk around in the rain. They don't use umbrellas. They don't use raincoats. That's why they call them mossbacks, I guess. They just ignore it, and it rains so often, I guess it's easier to ignore it than to get into it.

That was the first floor. The other floor we had classrooms. We had one classroom, I think it was 2B, where we had our faculty meetings, and they had tables put together in there. There were a couple fairly large classrooms there. The third floor in the beginning was the library, so there was nothing up there. The so-called faculty lounge was about maybe, oh, one-half to two-thirds the size of what it is now, because, I told you before, my office and Dick Kelly's office, and later on, after Dick retired, Ed Philbin moved into that office, were on the northwest corner on the western side of that room.

We had large classes. We didn't have sections as we do now in the day class. That decision was made so that we could get larger enrollments, the section business, which meant larger income and more tuition. I don't know what the tuition was in those days. I know, of

course, it was nothing close to what it is now. I know that the big mission of Joe Sinclitico during his administration was to get the faculty salaries up to twelve thousand dollars. That was his goal, to get us up to twelve thousand dollars.

RL: Did he succeed?

FE: Yeah, he did.

I remember we had Ron Maudsley visit us from England, and he was quite a famous scholar from England and a great guy, and he would live on campus, apartments, there were, a couple of apartments, I think, down on the main floor, too, and Ron lived there. Ron was quite an athlete, I remember. Joe and Ron and I would go out to play golf. I never could play golf very well, but the two of them were very good at it. I can still picture Ron Maudsley refusing to pick his ball up out of a lake out at Singing Hills and instead take off his shoes and roll up his pants and keep thrashing at this ball. Finally, after about ten strokes, he got it out. And then, we would drive back to my house afterwards. We lived in a little house over in San Carlos, not too far from here. And then, the next time I saw Ron, they had a party for him, and he had been diagnosed with leukemia, and he was on his way out. They had a dinner party for him over at school.

RL: Had he come here to teach?

FE: Yes.

RL: And he remained here? He wasn't just a visitor?

FE: Yeah, he was at that time. He was kind of like a full time visitor. He would be here for a year at a time and would teach. His field was Equity and Property, and he had written some books, and they were about these subjects. He was no lightweight. He went to Oxford. I forget what they call them, he took certain honors as being an athlete. Lovely guy, except the night he drove us to a party after we had had him over for dinner, and all of a sudden, we were going up to Mount Helix, to a home of, what's her name? She later on became a judge, some young gal

who's now [laughter] an old judge. What was that woman's name, Marci? She became a judge. We went to that party with Ron Maudsley up on Mount Helix.

ME: Oh, God!

FE: You know, she was a ...

ME: I know who she was.

FE: She was a big domestic relations lawyer, and she was appointed to the bench.

ME: Her name was Nancy something. No, it wasn't Nancy.

FE: Well, okay, you're not going to help me on this one. Anyway, Ron ends up driving on the wrong side of the ...

ME: Fink? No, it wasn't Fink.

FE: Sweeney, I've got on my mind. I've got some idea.

ME: No.

FE: ... on the wrong side of the road, the same as back in England. These are the kinds of things that flash through your mind when you're reminiscing about the so-called good old days. They were good days, too.

ME: Yeah, I'm trying to think of that gal's name.

FE: We had a good time. I remember when Sheldon Krantz was hired as the dean, he was convinced at the time by, I think, Ed Ursin and Ginny Nolan, I think they're still teaching up there, aren't they?

RL: Yes.

FE: I won't tell you what my nickname is for them. I don't want that on record. Can you shut it off for a minute, and I'll tell you.

[recording paused]

RL: About teaching, every dramatization that you see about law school nowadays, they show the Socratic method. Was that used much by the faculty when you started teaching?

FE: Oh, yeah, yeah. I used it all the time. I found it to be a very successful way of teaching people. I mentioned the other day that Larry Garrett said that he had gone through the crucible of fire, because I had had him on the pan for forty-five minutes over one section of the Uniform Commercial Code, but he now knows that at that time at least, he knew more about that section of the Uniform Commercial Code than anyone else in the world, because I had put him through that.

RL: So you taught UCC; you taught Contracts?

FE: I started out teaching Contracts. I always taught Contracts until the very end. I ended up teaching Negotiable Instruments, what we then called Bills and Notes, which later on became the UCC, then became UCC One and UCC Two, which was split up into those portions of the UCC dealing with Sales and those dealing with Negotiable Instruments. I taught both of those. I was called upon one year to teach Criminal Procedure and Criminal Law, which I had never taught before. I already told the dean, "It doesn't make much difference to me unless it's Tax. If you need somebody to teach something, I'll teach it."

I have always felt lucky, some people would say blessed, that I was able to do what I did for so many years, because I can honestly say I really enjoyed it. I was the happiest in the classroom.

I did continue to use the Socratic method, but towards the latter part of my career, you could not do what you could do in the earlier days. If you asked students questions and kept after them until you could finally force them to come up with the right answer, before you knew it, you were called into the dean's office and being accused of intimidation. You were intimidating them. On more than one occasion, I was accused of being opinionated, and I would say, "What the hell do you think I'm supposed to be? That's what I'm hired for is to have my opinions, and if you want to challenge my opinions and convince me that it's wrong, good. We'll talk about it"

Students got the impression about, I don't know, ten, fifteen years ago, that they're paying the money, damn it, I should be allowed to sit in this room and listen to somebody tell me what it is, and I shouldn't be bothered by you. Where do you get the effrontery to ask me a question, not only ask a question, but to force an answer out of me? That's kind of the resistance you would get, and I must admit, after a while, I said, "To hell with it. I'm not going to fight this any more. I will give them more of what is called spoon-feeding as opposed to a strictly Socratic approach."

The Socratic approach does not work well at all unless you have a student working with you. If they're fighting you, then it's bad. If they're working with you, it's good not only for that individual student, but the rest of the students if they're listening, they learn something.

And again, an awful lot of this business about teaching is quite a bit unreal with these students for many years now, I call them filling out report cards, student evaluations on their teachers. Depending on the individual class and what happened during that time, you were either the best person and the best teacher in the entire world, or they hated you. I've always said that if they all loved you, you're not doing your job right. There has to be a certain percentage there that don't like what you're doing, but I've had classes that gave me presents, expensive presents. Marci's got a camera she still uses, which was given to me by one of my classes. And then I've had other people that, you know, you would read the student evaluations, and I said or did something wrong at a certain time, and they never got over it, and you can't change that, but let's just say it's not a very objective thing. It's purely subjective, and we all know you don't change

overnight from one thing into another, but on the student evaluation thing, you wouldn't know. I finally got to the point in my career where I would be delivered the student evaluations, and I wouldn't even open them. I'd just put them in my desk drawer.

Sometimes, I'd get criticisms which were actually funny. I still remember the most scathing criticism I got was way, way early in my career when we all wore suite and ties, including the students. We also opened every class with a prayer, and I'm not the praying type of guy, and I finally went to Father Geimer, not Father Geimer, George Hickman, General Hickman, and I said, "I know the rules require that we open class with a prayer. It started with Father McManus,¹ formerly known as Black Mac, who was the former dean, who had his office wallpapered with so-called degrees and diplomas from whatever magazine was sending one. That's another story, but I was convinced the man had problems. He's dead now, so I guess I can be accused of blaspheming the dead, but anyway ...

I finally went to General Hickman, and I said, "I understand, someone informed me the other day I've been breaking the rules."

He says, "Why is that?"

I said, "I was informed by one the students that I do not open and close the class with a prayer."

And he says, "Well, as I understand it, if you have not been doing that, technically, you've been breaking the rules."

I said, "Would it be alright if I allowed my students to vote, not on whether or not they pray or not pray, but whether or not they can pray to each other, to themselves, silently?," which, of course, was a ploy, and we both knew it.

He said, "That sounds reasonable to me," so I put it up to my students that would it be alright if from now on, instead of doing what we had not been doing, because it was my fault, I didn't know about that rule, those of you who wish can pray to yourselves? And unanimously they agreed to that, and that was the end of prayer in the classroom at USD. If I want to be blamed for anything of which I'm kind of proud, it's the fact that I got rid of that.

All the rooms used to have crucifixes in them, including the offices, and for some reason, I ended up with the best crucifix of anybody. It was a hand carved, wooden crucifix, and it was a

¹ Dean of the School of Law 1961 - 1963

nice piece of woodwork. I noticed that John Winters had ended up with a little crummy crucifix. It wasn't made out of plastic, but it wasn't very good, so I asked him if he would like my crucifix, and he, of course, accepted, and that's how I got rid of my crucifix. Again, no one ever bothered me about whether or not I had a crucifix, and eventually, all the crucifixes came down, but now even in the law library and so forth, if you look at the walls, you can see there's sort of an impressionistic painting of a little tiny crucifix, which is fine. I mean, after all, it is a Catholic institution.

The prayers stopped. The coats and ties stopped.

RL: Do you remember when that stopped?

FE: Oh, I think it was probably during Joe Sinclitico's deanship. I know that each professor had the discretion to allow the students to lower their tie and unbutton the top button and take their jackets off if it was a very hot day. We had no air conditioning, but situated where the school is, it was not very often that one was uncomfortable because of hot weather, but now we have central air throughout the whole place, so that's another thing that changed.

We never had an elevator in More Hall. We had an elevator shaft, but there was nothing in it, and I still remember, why I got these jobs I don't know. I was handy, and the dean knew that I had some passing acquaintance with things of a mechanical nature, and I remember going with the elevator guy to the roof of More Hall to see if the shaft went all the way up to the top or if it was a phony shaft, and whether or not we could actually put in an elevator that actually worked. We were forced to do this because of federal law in regard to handicapped students. They had to have a way of getting up and down. For years there was the shaft and nothing in it, and that elevator to this day is not a very good elevator. It's a very cranky, slow elevator, but that's the one we finally put in to satisfy, I think it was OSHA required that.

RL: In your classroom, in teaching, do you have any favorite stories that you used to like to tell, maybe to illustrate a point or just to kind of break the ice?

FE: Oh, I don't know. I was always telling stories, typically on myself, I would tell stories. I would sometimes digress. I know one of the favorite questions I would ask my students, to which I never got an affirmative reply from anyone, was, "Do you ever feel like you're too damn dumb to be alive?" [laughter]

RL: Would you ask that in frustration?

FE: No, I'd just say, you know, "Here we are, we're in a school of law. Supposedly, you have been almost anointed, because you've been allowed to enter these so-called hallowed halls and become a law student and then become a lawyer, but we must admit that I think we all have our days when things don't go right, or we do really stupid things, or what I've always called 'You're too damn dumb to be alive,'" and I would tell them certain things that have occurred in my life where I said to myself, "Frank, you're too damn dumb to be alive," and I'd say, "does anyone here feel that they've had a day like that?," but I never got an affirmative response. They wouldn't admit to that.

A good example of that is that I still remember the day I installed the ceiling fan over the table in the kitchen, the dinette or whatever, was the day that Ann Marie called me up from medical school, the first year of medical school, to inform me that she had decided that she wanted to be independent, and she wanted to borrow money to support herself while she was in medical school and pay her tuition and so forth, and I had a conversation with her that day and convinced her that that was stupid, that we had the money, and it would be much easier for me, and I especially didn't want to fill out all the stupid forms that had been sent to me from the University of California. I said, "I'm not going to do this, and I'm not going to send them copies of my ten forty income tax returns. It's none of their business."

So she agreed, so she ended up not having any student loans. One, she took out one loan.

After this conversation, I finished installing the fan and turned the switch on, and it didn't work. It was one of those days where I said, "What's your problem here, Frank? It's all color coded. Any idiot could wire that."

Anyway, I got that fixed, but years later, after they were married, we were playing, oh, some game in there around that table. Oh, I like that game, and I can't think of the name of it. I

liked it because I always won, but anyway, it wasn't Trivial Pursuit, it was something else. And it was really hot, and I said, "Wait a minute," and they said, "Okay, where are you going, Frank?"

I said, "I'll be right back."

So I went to the hall closet and dragged out this big fan that sits on the floor so I could plug in this fan, so we'd have a fan, at which point Bill points to the fan, and he says, "What's that for?"

That's one of those days when, you know ...[laughter] I don't think I'm the only one who does things like that. I think most people do.

Yeah, I would tell stories to my classes. I always felt that I was there to have a good time. It was enjoyable for me to teach.

It was enjoyable for me to point out to students various things which to me were obvious. One, putting on a black robe doesn't make you smart. Adulation of judges just because they were judges is stupid to believe in that. Whatever you do, if you're ever a litigator, don't go in there and try to tell the judge what the law is. You have to be very, very careful. Your main function as a litigator and a lawyer is to educate the judge, but by all means, don't let the judge know that you're doing this, or at least, don't make it obvious so that he or she will think other people know you're doing that. But that's your function, to educate that person.

These people are appointed to be judges because of the political process. They don't take examinations. They're not picked because they were Number One in their law school class. They weren't picked because they were the valedictorian in their high school class. It's a political thing, and most of them come out of the D.A.'s office. And if they know anything, they're still thinking about criminal law, but they won't necessarily know anything about civil law.

Learn to be critical. Read these casebooks and these cases with a jaundiced eye. Do not accept it just because somebody from the Supreme Court of the United States has written it, and that means anybody. You will find things in this casebook written by certain people who have been honored, and rightly so, for having been some of the best minds we've had, but they still screw up once in a while, and you should get to the point where you should be able to find the things which are wrong and say to yourself, "That doesn't seem quite right."

And use your head. Think about these things. The awful thing I went through for the last ten or fifteen years since, you know, the advent of computers and all this business about our students don't read anymore. They don't have a literary background. Most of them, if it happened before they were dead [*sic*], they don't care about it. It's prehistoric insofar as they're concerned. And I would spend time trying to explain things to them, so on and so forth, and obviously, they didn't know something, but the horrible thing is, they don't care. That's what gets me. They know they don't know something, but they don't care. It is not important to them. It is not important insofar as their life is concerned.

JFK, that's old to them. Even Reagan is old stuff to them. All this stuff that's been in the papers about Watergate. None of them had been around for that, and of course, I've lived through all that, and a lot of it is my fault, expecting them to know things that they don't know, but when I went to school, we took history courses. At least, we knew that there was World War I and that there was a guy named Wilson and that there was a guy, you know, the Kaiser, and so on and so forth, and we knew about trench warfare and mustard gas and so forth. But the students today, I don't know, what they want is to get through, get a degree, get out there, and make some money. Now, that's changed considerably.

I lived through various eras. I lived through the eras where students would come to class with nothing on but bib overalls and bare feet. I lived through the women's liberation thing, where I got so sick of looking at hairy armpits I could vomit! They would raise their hand, and you know, they would refuse to shave. They would refuse to wear brassieres. For some of them, it was kind of funny, because they never needed a brassiere in their life, because there was nothing there they had to hold in, and others, they really needed a big brassiere, and they wouldn't wear one.

That was an awful period as a law teacher, because you had some crazy people running around. Any time someone decides to become a follower of a cause, whether it's to save a flea or to save a whale or whatever, they become fanatic. I had this one woman, she actually ended up in a mental institution. I tried to tell the dean she's crazy. She accused me of many things, including sexism and also racism. That's because I told her that it was standard practice in the lending industry to use codes to refer to certain races. I knew this to be true because my brother-in-law

was in the business. I was only reporting to the students what was true and trying to tell them that this isn't necessarily right, just because it's true, the racism.

When I went up to UPS,² I was accused of being anti-feminist, and then when I got pneumonia, I got this huge bouquet of flowers from all of my female students, and I told my wife with a little grin on my face, "See, I'm not a sexist. I'm just sexy."

And they all loved me, you see.

But this period of burning the draft ... Do you remember when they were doing those marches?

RL: Absolutely.

FE: ... and burned their draft cards. We had them coming to school barefooted. We had some sympathizers on the faculty who would come to school dressed in bib overalls to identify with these groups, and I always thought they were phony as hell.

I had an awful lot of those kids who came to school in bare feet and bib overalls, after they passed the bar, come into my office dressed in double-breasted suits and black Oxford polished shoes and ask me if I knew of any clients that I might have or that I could recommend to them. Those I sent away saying, "Get out of here."

There was one, his name was Alex Landon, and to this day, he still wears a ponytail. He's practicing law. He's always been a defender of the underdog, and I respect him for that. At least, he's been true to what he believed in. He led the parades for burning the draft cards and so forth.

² The University of Puget Sound

CONVERSATIONS IN LEGAL EDUCATION:

ORAL HISTORIES OF THE FIRST HALF-CENTURY OF THE UNIVERSITY OF SAN DIEGO SCHOOL OF LAW

Narrator: Professor Frank Engfelt (Marci Engfelt was also present)

Interviewer: Ruth Levor

Recorder: Ruth Levor

Date: June 7, 2005

Accession No.:OH-LRC-Engfelt-2005-2b

TAPE 2b: SIDE A

RL: Tell me about Milton Friedman at the University of San Diego.

FE: Well, Milton Friedman is endemic of, if you stay at a place long enough, particularly an academic institution, we're talking about the University of San Diego, you get a good indication of what's going on, if not in the entire world, what's going on in the United States. The first time Milton Friedman appeared on campus to give a speech, he was boycotted, and people were making speeches and so forth and son on, and he was a no-good, rotten capitalist, blah-blah-blah-blah-blah.

RL: That would have been in the 60s?

FE: Yeah, during the draft card burning, before we got into this whole mess in Vietnam or during the time we were in Vietnam, during the time when the students petitioned the faculty that they wouldn't have to take final examinations anymore, and instead they would go door-to-door and get petitions signed to end the war in Vietnam, and they would all get passing grades. They would get a pass on their transcripts.

RL: These were the law students?

FE: The law students, and I, of course, have always had a certain kind of wit, which may or may not be enjoyed by certain people, but I said at a faculty meeting, “The students think we should all pee on their transcripts now.”

But they were serious, and there were certain people on the faculty who thought it was a good idea. John Winters proposed once that it would be a good idea if we imported some guy from the University of California, who was some sort of a shrink or psychologist, and we would have a faculty meeting where we all stood around naked, because we would be better able to express ourselves. You know, these things come up, which to me have always been kind of insane.

We went for five years without hiring anybody on the faculty at the University of San Diego, because we were told by certain members of the faculty we were not fulfilling our requirements insofar as diversity was concerned. I fought those battles, and I lost. I had to get up, and I’d just leave. I couldn’t convince people the most important thing was can this person teach?

One year, we hired a fellow only because he was Mexican. I was given the job of sitting in on his classes. The man was supposedly teaching Contracts. He didn’t know a contract from a tort. He was horrible. I reported this back. They finally accepted my word, although I’m sure a couple of my colleagues felt Frank is being a racist, because he reports that this fellow, whom we hired solely for the purpose that he was Mexican, can’t teach Contracts.

We hired a very nice guy from Puerto Rico by the name of Jota Jota Santa Pinter, Jota Jota standing for J-J. Nice guy, but he couldn’t teach. He was awful in the classroom.

But you go through these things. You go through things where one time, Milton Friedman comes on campus, and he is booed, he is boycotted, and then we go through the Reagan administration, and all of a sudden, the clothing changes, the haircuts change—all of a sudden, you see the crew cuts and brush cuts on the men. The clothes on women change—I mean, they’re wearing underclothes again, particularly brassieres—and people are sitting in the aisles on their bottoms in order to slavishly adore Milton Friedman during the Reagan administration.

All of a sudden, the most important thing in the world was—it was called in the Bible “manna”—you know, money was the all important thing, get out of here so I can make some money. And they do now, second- or third-year students are working as clerks for firms

downtown that are making more money in a week than lawyers used to make in an entire month, and not twenty years ago.

RL: So you've seen a lot of change.

FE: I've seen a lot of change, and I don't know if it's good change or bad change, but there have been big changes, changes in our so-called culture. I must admit that at some times in my life, I've decided that what they call the pop culture in the United States is actually what I consider to be the opposite of anything which has anything to do with culture. I'm sorry, but I don't get excited when I see somebody, tattoos up and down both arms and pieces of metal hanging out of ears, noses, etc., etc. Maybe I'm an old fogy. The same thing with what they call music—I mean, it's noise.

I watch Jeopardy.¹ I've been a Jeopardy fan for a long time. One of my heroes is Ken Jennings.² I think he missed the question he missed on purpose.

RL: I think so, too.

FE: The answer, to me, was obvious. It was H & R Block. But he just recently got beat by Brad Rutter,³ who happens to be a high school dropout. Did you know that?

But I always watch Jeopardy. When they have the category about what they call "popular music," forget it. I don't know what they're talking about. I have no idea.

RL: No, I don't either.

FE: I used to make my mother mad, because my mother always insisted that we go to church as kids. She'd say, "Which church did you go to, Frank?"

And I'd say, "The one that was within walking distance."

¹ Popular television quiz show

² Jeopardy contestant who established a record by winning 74 consecutive games

³ Jeopardy contestant who defeated Ken Jennings in the 2005 Ultimate Tournament of Champions

I have a Bible over here, which was given to me for perfect attendance--it's dated by my Sunday school teacher--in 1942. But I do these acrostic puzzles, and there are a lot of the answers that come out of the Bible. And I'm one of those guys that, you know, they say, "Curious minds want to know." It used to get my mother. She would be sitting here watching Jeopardy with us, and there would be a category on the Bible, and I'd know all the answers, and she knew that, at a certain point in my life, I had given up on religion. I had given up on going to church.

One of the better reads in the world to me is the Book of Esther. It's a wonderful story. In one sentence, they went out and slew 70,000 people—one little sentence. Instead of the Jews being wiped out, that they were allowed to go out and take over from their enemies, and in one sentence, 70,000. Where could you find a more salacious, violent mystery story? I mean, Esther's got it all! Besides, it's short [laughter]!

I get interested in things like this.

RL: You talked about getting an award for perfect attendance. When you were teaching, was attendance required, or was it up to the individual student?

FE: It's never been up to the individual student. We, as a faculty, were told to take attendance at some point. Keep in mind that if you're starting out, as Joe Sinclitico did, a brand new law school, you are going after acceptance in the law school community. You get that by being accredited by accrediting agencies. Almost any outfit can be accredited by the State Bar of California. I could start a law school in my den, and I could probably get accreditation from the State Bar, so that didn't mean anything. What meant something was accreditation by the American Bar Association and, most importantly, the Association of American Law Schools.

Joe Sinclitico probably got U.P.S.⁴ accredited by those agencies faster than any other law school in the history of the United States.

RL: U.P.S. or USD?

⁴ The University of Puget Sound

FE: U.P.S., which is no longer U.P.S. Now, I think it's called Seattle University.

RL: I think that's correct.

FE: He started that. If you want to read about Joe Sinclitico, if you look up Seattle University on the Internet, you'll find more about Joe Sinclitico than anything which is in reference to USD. He's virtually ignored when it comes to USD.

But anyway, the American Bar Association required that we take attendance, that at least a certain percentage of students were always there. For a while, we were passing around an attendance sheet. Well, it doesn't take a genius to figure out that if you don't want to be there, somebody can put your name down [inaudible]. It takes too much time to call the role. The only time I would call role is when Marge would ask me to take role for purposes of the registrar's office to see if all the people showed up who were supposed to show up.

I would tell my students at the beginning, "I'm going to do something now that's going to take some time. I'm going to call out your names. At least, it's a good time for you to correct me if I don't pronounce your name correctly."

And that's the only time, because otherwise, you don't take roll. After a while, I think it was just assumed—well, after you're accredited, you don't care. Even then, it was sort of assumed that, whether you took roll or not, a sufficient percentage were there.

I've always been a stickler when it comes to the pronunciation of names. For, oh, about 35 years, I was the person who always called out the names of the graduates, and I would get a list of the graduates the night before graduation and would go through and would check off every name where I had a doubt as to how to pronounce that name. Before they marched into wherever they were marching into, and that varied over the years, but now it's the football field. I understand it's the football field.

RL: Now it's the Jenny Craig Center.

FE: It's all passed me by. The only thing I've ever done at the Jenny Craig Center was to use their plumbing facilities. I checked it out, and I don't like those hand blowers, never have, never will.

I would go through and check off the names, and then I would catch these students in line, most of whom would be drinking champagne already ahead of time, and say to them simply, "Say your name for me."

And then I would spell it out phonetically on my sheet. What I would put there would look nothing like their name, but it told me how to say their name. I've always thought that was important, because graduation is, I think, mostly important for the people who attend the ceremony as opposed to the students themselves, the grandmothers, the grandfathers, the parents, this type of thing. That's why I thought it was so nice of Art Hughes to say, "Yes, of course, I could attend the undergraduate ceremonies," and to wear a cap and gown and to get up and personally present to my daughter her diploma. I don't know what's going on now, who's calling out names at the graduation. I don't know if they go to the trouble I went to, but I thought that was important.

RL: In your teaching, do you remember which materials you used, which casebooks?

FE: Oh, yeah. The casebook I used in Contracts was the casebook I had when I was a Contracts student. I still remember my Contracts professor. His name was Kimball. Professor Kimball eventually ended up at the University of Michigan Law School. Kimball is a big name in Utah in the halls of the Latter Day Saints. Spence Kimball would read the Book of Mormon while he was proctoring our examinations. He was, as they say, very devout in his religion. He had a younger brother, Ed Kimball, who was teaching at Montana, the University of Montana, the last I checked, which was probably 30 or 40 years ago.

I had a certain casebook that Kimball taught from, so I used it, because I was familiar with it. Over the years, it changed. Again, it's a business. If you and two or three other people get together, or you by yourself get together with one other guy or gal and publish a casebook, you make money from royalties, and you make money when you force all the law students to buy a new edition. What I found over the years is that the editions changed, quite often because one of

the co-authors died, but they always changed within two or three years, because they had to have a new edition, so that the students couldn't go to the bookstore and buy a used book.

Patterson, Goble, and Jones was the name of the casebook I used first, which was the casebook I had in law school. Later on, it became Farnsworth and Young, but it was still basically the same casebook. I have yet to see a new edition of a casebook which was any better than the old edition as a casebook. The only thing which was better is that they might include newer cases.

One of the things I've learned as a law professor, and this is not something which has just occurred to me, and that is a lot of the stuff that the United States Supreme Court writes is complete BS, awful. I remember once Rosemary thought that Darrell Bratton had had a heart attack, because he yelled and screamed so loudly, and it was because he had just finished reading an opinion by John Paul Stevens in the area of conflict of laws, which is just horrible. It was so bad that when John Paul Stevens, I mention him because he was prominently displayed in this *Advocate* thing, when he was on campus, I was invited to have breakfast with him along with some other people, and I told the dean, "No, thanks, I must not be close to John Paul Stevens, because if I start discussing some of his cases that he's written, particularly Washington Gas Light,"⁵ which was the name of the case which caused Darrell to scream, I said, "I'm going to say some unkind things to this person."

I get back to think just because it's written by, doesn't necessarily mean, or because it's in a book, doesn't necessarily mean it's right. John Scalia has written some of the, Antonin Scalia, excuse me, I'm sorry, to me, some of the most horrible things in the world, particularly his diatribes on God, that's bad enough, but for him to spend almost 40 pages to tell us that a certain service of process was constitutional, because that's the way we've been doing it for 200 years, and he could have said that in that one sentence, the legal scholar is supposedly forced to read 40 pages to come to this conclusion, even though for 50 years, we have been basing this particular decision on whether or not it's fair, due process. His answer was it's okay, because we've been doing it this way for 200 years.

I'm talking about tag jurisdiction—tag, you're it. If I happen to spot your body braising itself on the beach in Maui, even though you're from New York City, and slap a piece of paper

⁵ Thomas v. Washington Gas Light, 448 U.S. 261 (1980)

on you, you've been served, and hence, it's fair for Hawaii to try the lawsuit between two New Yorkers. And of course, that's crazy, but not to Scalia, you see. Scalia's one of these people, I'm sure, who's revered by our present president, especially when it comes to the God thing. Now, I'm taking on the Supreme Court of the United States, but it's part of what you do as a teacher if you're going to be a decent teacher. You point these things out to the students.

Darrell Bratton was one of the nicest guys you'll ever meet. Darrell Bratton also, I don't know what happened to him, but all of a sudden, Darrell Bratton was one of the most religious people you'd ever meet. He had birds on his cars flying upside down, you know what I mean, the dying bird, the symbol of, alright. He had tie clasps with fish on them, you know, I mean. He spent time at the Donovan. I always thought that's kind of funny too, because I knew Donovan. Donovan was an ex-cop who got appointed to the bench, who was drunk all the time on the bench and committed suicide in his own shower, and they named a correctional facility for him. Don't ask me how these things happen, but the prison is named after him.

ME: May I interrupt you for a minute?

[tape paused]

RL: Did you find that the students were very competitive with one another?

FE: Yes and no. Those who might be in the line for honors, particularly in later times, are very competitive, because their standing in class is what's going to determine whether or not they're going to be interviewed by the big firms that will pay them big money. At the same time, they may have to spend 80 hours a week down there, and quite often, if they're paid \$150,000 a year to start, that firm wants to get that money out of them within at least the first six months, and the rest of what they make is gravy. Yes, very competitive when you talk about the top ten to twenty percent. For the rest of them, they're not that competitive, because they know they're not very good students, and they don't have a chance of graduating in the top ten percent of the class.

That's one of the things I've always found ironic insofar as law school is concerned. Certain things are brought up all the time, and there's old news for someone who has been

around, but they think it's a brand new idea, *i.e.*, change the grading system. For many, many years, we had a grading system where if you got an 86, it was an A--it was the lowest A, but it was still an A—and the students supposedly complained, because insofar as the hiring people were concerned, their grade point average wasn't that good, because our grade scale wasn't that good. My response to that is that's a bunch of malarkey, because the law firm doesn't care if you average 86 or 76 or 96. They want to know what was your standing in class. But they keep bringing that up all the time.

Switching to a Pass-Fail system, whether it be throughout the entire curriculum or just for certain courses, is something which is brought up all the time. Revision of the curriculum is something which is brought up all the time, and you can tell from the way I'm looking at you and the way I'm saying these things, these things are brought up *ad nauseum* to the point where I feel like screaming, "I don't care about this kind of thing."

The same way when Charles Wiggins, I thought, you know, if looks would kill, I would be dead when we were talking about affirmative action and hiring people and so forth and so on, and I said, "Charles, I'm not a basketball fan, but last night, I happened to be flipping through the channels, and I came upon a professional basketball game, and guess what, Charles. I didn't see a bunch of little, short, white guys running around on that court."

And I said, "The reason was that little, short, white guys can't play basketball, and what we should be interested in is whether or not these people can teach."

This particular discussion was brought up due to the fact that I raised the question as to whether or not an applicant for our faculty, who had submitted his writings, was or was not gay. I was interested because all of his writings were about gay rights, and he huffed, and he said, "That's not relevant at all."

And I said, "Well, I think it is relevant. We want to know what his interests are and so forth and so on, and I'm not suggesting he's going to be hitting on me, but it's just a thing you like to know."

He huffed and looked at me like, you know, I should be a dead person. Two instances, one with the gay thing and one with "I didn't see any little white guys running around playing basketball," which earned me with him, and I'm sure he hates me, intense dislike—probably true of the more liberal members of the faculty. To me, it's only reasonable, and I'm speaking of

things which I think are reasonable, but as I told my wife over and over again, the problem is she keeps looking for reason in this world, and we do not live in a reasonable world. There are no answers to the question which is asked of me, “Why?”

I don’t have answers for those questions “Why?”

I happen to think that things are crazier every day. I mentioned when you came over this afternoon, you caught me at a bad time. I’d just finished reading the newspaper, and I started feeling like that guy on “Network,”⁶ Peter Finch. Remember that? “I’m madder than hell, and I’m not going to put up with it anymore.”

That was what, the 70s, when that movie was made? I still remember going in my back yard and screaming that out to my neighbors. Kind of a crazy thing to do, but every once in a while, you have to let off a little bit of steam.

I quit going to faculty meetings. I couldn’t take it anymore. When we would get a new dean--Dan Rodriguez is an example. When we hired Dan Rodriguez--Dan Rodriguez was born a few years after I started teaching up there--I went in to see him, and I said, “Look,” I said, “I’m going to teach my classes. Other than that, don’t expect anything out of me. I don’t want to be on any committees, and don’t expect me to come to faculty meetings. I may come to the first faculty meeting when you are welcomed to the faculty, but after that, I won’t be there.”

And I kept my word. I told old Kristine Strachan, “Leave me alone,” I said, “I don’t care what kind of money you pay me. If you give me a raise, I’m going to give it back immediately to the university,” which I’ve done.

They used to give these little solid brass blocks, like dominoes, that would fit into each other. For every thousand dollars you gave to the law school, you’d get one of these little things, and I had this little wooden walnut thing on my desk where you would build these things, almost like Legos™, and I was making a tower out of these things. I remember little Ben, my grandson, when he’d come to my office, he would like to play with these things. That’s what I did. I thought at the time, you know, “If you have any sense, you’ll give me a great big raise, because I’ll immediately turn it back to the university, and it’s a tax deduction for me.”

Again, never accuse anybody of having sense when they don’t.

⁶ 1976 movie about television news broadcasting

This whole thing with Kristine Strachan--I told you the other day I called her “la bruja con una sonrisa,”⁷ a very unflattering term. She’s one of the few people I’ve known in my life for whom it was easier to tell a lie than to tell the truth. I say that, and if you want to sue me, Kristine, go right ahead. Truth is still a defense. Later on, if she’ll ever find this in the archives of whatever—I don’t know. I don’t even know where she is now; I don’t care. The thing that dismayed me most about the whole Kristine Strachan thing was, one, they kept her on after they knew she was a crook, after they knew that she had been falsifying records, after they knew that she had forged a lot of records after she was caught, not only kept her on, but that Sally Furay, who I found out from looking at that *Advocate* thing is still alive, and Art Hughes came over to the law school, met with the entire faculty, and stonewalled the whole thing.

I always admired Art Hughes. I thought that Art Hughes was one of the best things that ever happened to the University of San Diego, but my respect for him went down a lot that day when he refused to answer my questions on the advice of their attorneys. Sally Furay continued to defend this woman when she was caught, as they say, *in flagrante delicto*, alright, to use a good old Latin term, which usually refers to being caught in bed with somebody else, but it can refer to other things. Her hands were red; the blood was dripping off of them. We had plenty of evidence that she had done what she was accused of doing, and Sally Furay still defended her, and then, she got Art Hughes to join in on this stonewalling effort. That dismayed me to a point where I felt like I’d almost quit the entire thing sometime.

When Sally Furay was hired, not Sally Furay but Kristine Strachan, the faculty had two candidates, and we were split 50-50. Kristine was one of them, and the other one was a male. Sally Furay broke the tie. That’s how we ended up with Kristine Strachan. Sally Furay wanted a female dean.

The other thing about Sally—Sally, I’ve got a lot of memories about you. I remember you from being a student in my class, but I was told—I don’t know if it’s true—that you always resented the fact that I had that great big office on the northwest corner of the building, and that when funds became available to make a great big faculty lounge, that you were delighted to kick me out, and that’s how I ended up in Father Geimer’s old apartment in what are now offices on the third floor.

⁷ Spanish for the witch with a smile

A lot of these things sound spiteful. I never did anything about them, but certain things have occurred in the life of the University of San Diego and the law school which are unsavory, let's face it, and they're swept under the rug, and you don't hear about them.

Maybe you can help me out. There was a lovely woman who worked as a secretary on the third floor where the office was. Her first name was Beth,⁸ I believe, and she died of cancer.

RL: Yes, she was Ken Davis's secretary.

FE: That's right, before she came up there, and they treated her miserably, and she put up with it.

RL: She was very devoted to him.

FE: Do you remember her last name?

RL: I can't right now.

FE: I loved that woman. She also, like I, was very interested in words and being grammatically correct. I told Marci the other night I have no interest in editing any transcription of what you and I are saying to each other during these sessions. If I would edit it, I would only edit because, God forbid, I would make some grammatical mistake, which I've probably made plenty of them, but that I would edit it for those purposes.

She was trying to get me to join a group that is an acronym for people who are in favor of the proper use of the English language or something. She was Ken Davis's secretary. No one else would have stayed with him as long as that woman did.

I still remember when they decided all of a sudden we would no longer be allowed to drive down through the center of campus, and they built that so-called park and that fountain down there. I went down to visit that fountain, and I said to Beth, "You know, I just had all this stuff done for my prostate, and I had all these [inaudible] in there."

⁸ Beth Goodman

And I said, "I just went down and saw that fountain. Hell, I pee better than that fountain does." [laughter]

I don't know if they've ever increased the pressure on that fountain, but it was a real dribbler at the time.

She was a nice woman.

RL: You have mentioned in our conversations off tape some of the other secretaries that you have fond memories of.

FE: Yeah, Julie, I can't remember her last name. Julie's since moved up to Vancouver, Washington, right on the Columbia River, right across from Portland. I remember that because of the going-away party we had for her.

The young woman who's been up there for quite some time, Sarah Moore, lovely gal. I've had other people for a secretary that I couldn't say nice things about.

CONVERSATIONS IN LEGAL EDUCATION:

ORAL HISTORIES OF THE FIRST HALF-CENTURY OF THE UNIVERSITY OF SAN DIEGO SCHOOL OF LAW

Narrator: Professor Frank Engfelt (Marci Engfelt was also present)

Interviewer: Ruth Levor

Recorder: Ruth Levor

Date: June 7, 2005

Accession No.:OH-LRC-Engfelt-2005-2b

TAPE 2b: SIDE B

RL: So Sarah Moore was another one.

FE: Yeah, she's still there. Sarah and her mother came up to see me when I was in the hospital, which I appreciated very much.

Certain things I don't discuss with certain people. I never discussed religion with Darrell Bratton for obvious reasons. I don't discuss the same thing with Sarah Moore, because I've caught her reading these paperback novels that are Christian-based. What's this stupid thing that's going on right now, "Left Behind"?

You haven't heard of it? These guys have made millions and millions of dollars in writing these books. The message they put out, and supposedly George Bush is a devotee of this, and most of the South, is that when the day of reckoning comes, only those who have been born again and have been saved and have accepted Jesus Christ as their own personal savior will go to heaven, and the rest of us will be left behind. They haven't figured out yet whether or not the good ones will leave behind also their prostheses and the gold and all this kind of ...

But, I mean, it's crazy stuff ... I read the other day that 71% of the American public believes the Bible literally. To me, that's crazy. Just think about Genesis, for instance. Where in the hell did all those people come from if we only started with Adam and Eve? They had two kids, and one killed the other, and there was no other female around. Are we all the product of incest between Eve and her surviving son? That's never explained in the Bible.

And when you raise these questions with people, they don't want to talk about it. That's why I've always had a hard time—I used to say, “I have a hard time with organized religion.”

Well, I've gone past that point now. I have a hard time with the whole thing. I was talking to Marci last night. I said, “If you think about it, when we are born as infants, we are what they say in Latin as a *tabula rasa*, and we are imprinted with these things. We don't know any better. And later on, you identify with a group, maybe Muslims, Christians, Jews, Tutsis, Hutus, down in Rwanda, but you don't know any better. As you get older, and you start thinking about these things, you say, ‘That's really not a very nice thing to do to little children, to tell them that, just because this is an old book, and we call it holy, it is necessarily holy.’”

It might be an interesting book, but if you take an interest, such as I have, in the Bible and how the Bible came to be, and how they took pieces from here and pieces from there, and the translations from one language to another, and so forth and so on, and I can point to parts of the New Testament where things are repeated exactly.

For instance, in Contracts, one thing says you don't drink new wine out of an old bottle, and they cite the Bible. Well, of course, they didn't have bottles in the time the Bible was written, and it would be drinking new wine out of an old goatskin. But you will find exactly the same quotation both in Matthew and Luke, which are supposedly the gospels of two different people. I don't think they're both saying the same thing as far as wine is concerned. The people with bumper stickers that say “It's in the Bible,” and that's the end of it, those are the kind of so-called minds that I can't deal with.

Little Ben, my grandson, has a playmate his own age whose mother happens to be—I like her; we get along very fine. She likes me, because she says every time she talks to me, she learns something, but I learn nothing from her, because she's one of these literalists, you see. But she's got an eight-year-old kid who, since the time he was six years old, when he goes to the bathroom, he talks to God. There's something bad about that, I think.

The other day, Bill, who's my son-in-law was talking to Ben and Jack, and Ben said, “Papa, the other day Jack asked me if I believe in God, and I said, ‘Well, no, I don't think so,’ and Jack said, ‘Well, you have to believe in God, because God created everything.’”

And Ben said to Jack, “Who created God?”

Of course, there's no answer to that question. How do you explain dinosaurs, for instance? How do you explain the Jewish calendar? You can't explain it. It's nice, but I think any thinking person of the Jewish religion knows that the earth did not start 3,000 and some years ago.

There's this thing now, this new thing—they're trying to sneak in creationism in the schools. They call it something else, creative science or something. There is a school where they're adding on because--Santa Fe Christian School. You drive by every day, and you don't see it, but it's a big enterprise. They're building on to it. They have in their Biology Department a course called Creationism, and they call it science. Well, that really makes Bill madder than hell, and it makes me madder than hell, because he says, "I don't care if they want to teach this in some other department, but it sure as hell isn't science."

But even scientists, you know, they don't know. Do we like to think that we've all evolved from some blob that somehow escaped from the sea so many billions of years ago? Forget about the monkey business and all this other kind of stuff.

I, for one, I've never been all that interested in astronomy. This is unknowable to me, and our universe itself is, I'm sure, not the limit of what's out there. It's never been surprising to me that people talk about people from outer space, aliens. I think it's quite conceivable that there might be life some other place.

I just looked up a good word the other night, "anthropocentric," that's it, anthropocentric, the belief that human beings are the center of everything.

ME: Do you want to eat? [laughter]

FE: I imagine worms feel the same way, right?

RL: And law professors.

FE: This last part has had nothing whatsoever to do with the University of San Diego.