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C. Hugh Friedman

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University of San Diego

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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 C. Hugh Friedman

Interviewer: Ruth Levor

Recorder: Ruth Levor

Date: October 6, 2005

Accession No: OH-LRC-Friedman-2005-2a

TAPE 2a: SIDE A

RL: This is an interview of Professor Hugh Friedman 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 University of San Diego School of Law Legal Research Center on October 6, 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 start with how you came to join the USD faculty.

CHF: After two years in the state attorney general's office in San Francisco, my then wife and children moved, well, one child and another on the way, moved down to San Diego, and I looked up the only two lawyers I knew whom I had met previously. When I was at Stanford law school, they were at Boalt in Berkeley. We were the same vintage, same year, and we had done a joint project of some sort, I think law review or something—I don't remember the details. I remained in touch with them. They both were practicing here in San Diego when they graduated from Berkeley.

I looked them up the first week I was down here, and they took me to lunch. I'll never forget the conversation. They said, "Are you interested in teaching law at law school?"

And I said, "Well, gosh, I never thought about it."

They said, "Well, we're teaching up at the University of San Diego law school. It just started a year or two ago."

I think in fact it had started three years previously, perhaps four years—No, three years, because this was in the summer. It was May of 1958, and they were going to be teaching in the fall. I think they had already taught once prior.

I said, “Well, gee, I’ve never thought about it.”

They said, “Well, we’re all entirely part time. It’s a part time school, part time faculty, part time dean, part time facilities. We share the University High’s Quonset hut facilities, and we teach at night up on the hill.”

And I said, “Well, I’d be very interested.”

And so they said, “Well, why don’t we put you in touch with Howard Datton,” who was then the dean.

As I later learned, he was the second dean or the first permanent dean, albeit part time, because there was a founding dean, who had been very active in the church and close to Bishop Buddy. We honored him [Datton] right before he passed away here during our fiftieth. Anyway, I talked to Datton, and to make a long story short, I was engaged to teach Constitutional Law starting in the fall. I recall hauling out my constitutional law class notes from Stanford of two years prior or three years ago and trying to figure out how to update them and pick a course book.

I taught in the fall. I loved it. It was a struggle to keep up and stay ahead, but the students in those days were as old or older than I. I probably was the youngest in the classroom, because they were night students. Most of them were working. Some had just been laid off at Convair or were getting early or not early retirement in the military, the navy, marines, and wanted to stay here.

All were pursuing second careers in the law after having come out of engineering or the military or whatever, so they were quite a challenging group, because they were intelligent; they were mature; they were willing to engage verbally in class. What they lacked in preparation time or recent academic experience from having, many of them, some years separating college and now law school, they more than made up for in their maturity, their willingness to engage in discourse, and confidence. I think they had a certain sense of confidence in who they were. Maybe that’s maturity.

In any event, I enjoyed it immensely. We used to, after class, go have a beer sometimes. The classes were very small, maybe ten, fifteen students. That’s how I got involved.

Now, those two lawyers were Paul Peterson—Paul has had a very illustrious career here. He was on the board of governors. He was very active in our local bar. He was on the committee of bar examiners, chaired it for the state bar at one point. He is probably considered in his day the premier real estate and developer lawyer in the community. He's served on many boards and commissions. He's now on this airport commission. I'm happy to say we've been close friends for many years.

He headed his own firm. It's still called Peterson, Price, something.¹ The Price is Sol Price, who for many years was his partner and started the Price Club, and the rest is history. Paul was one of the early investors in that, so that certainly helped him.

The other was Charles Froehlich, who likewise has had a very distinguished legal and judicial career. He was a tax lawyer, a business lawyer. He went back and taught at Boalt for a while after leaving the firm, which was White, Price, Peterson, and Froehlich at one time in the early days. At any event, he came back after several years of teaching at Boalt in tax—full time academic, tenured—to practice again. He was kind of restless, I guess. He practiced for a while, and then, he was appointed to the superior court bench. I think he left that after some years as a trial judge, highly regarded, to go back into practice briefly, and then—I think it was from practice—he was then appointed to the appellate court, Court of Appeal, here. He served on the Court of Appeal, and then, he retired from that and became a kind of a rent-a-judge. He joined the JAMS² to do mediations and arbitrations.

All the while, he developed vineyards and avocados. He was very big in the avocado industry in North County. He and Mickey Fredman, a distinguished local lawyer, who just passed away recently, in partnership, founded a winery. They grew grapes out in the Temecula area. He's still a wine connoisseur.

I still see Froehlich and Peterson frequently. They're good friends.

RL: Do you know what each of them taught?

CHF: Gosh, I think Paul Peterson taught Code Pleading, as I later did, because I remember he shared some of his notes—I believe I remember that. I wouldn't be surprised if Froehlich taught

¹ Peterson & Price, Paul A. Peterson, Of Counsel

² Judicial Arbitration and Mediation Services

Torts, I think I recall that, and I think he taught Taxation, which was his field. They taught only for the next year or so, maybe a couple of years.

It was a tumultuous period. Datton didn't last long. He was able to get us well along the road for state bar accreditation, but working, I think, against him in a way, not so much for the good of the school but working against him as dean was a priest who came down from San Bernardino-Riverside area. He had been a lawyer, became a priest later in life, and wanted very much to be involved in our growing this new, fledgling law school and its future. He got himself appointed by the bishop as regent, that was what he called himself, or I guess he got that title, regent of the law school.

Lo and behold, the handwriting was on the wall very quickly. Datton's contract was not renewed. In fact, Datton sued, claiming breach of contract as dean, and it was not a friendly litigation, as I understood it.

Father McManus became the dean, and he began to, in order to get state bar accreditation, he took a pretty firm position on how we had to improve our state bar exam statistics, and that meant flunking more students out so they weren't eligible to take the bar as USD grads and would not be counted against us. So he, among other things, instituted a program of looking at the graduate rosters and grades when we would turn them in for graduating seniors, and he would either try and persuade us to reduce the grades to flunk more, or to ... many of us wouldn't do that, and I think Peterson and Froehlich didn't re-up to teach. They'd just had it. It wasn't any longer a happy place to be.

He would line these students up that were in his mind questionable of achieving bar passage on the first try. He'd line them up, and there'd be some queues by then in front of his dean's office, and one by one, he'd bring them in. He had a paper, letter opener that he'd gotten from somebody, or maybe he picked it up himself in Toledo, Spain. It was one of these beautiful mini-swords, and he would sit at his desk, and he would point this thing at them as he talked. He'd do that with us, too, the faculty. He was an unusual guy.

He's passed away; he can't defend himself, but those are some of my memories. Basically, what he did was, he said, "I'll let you graduate but only if you promise that you will not take the bar the next time around."

So that, when they did take the bar, there was enough lapse from their graduation from our school that they would no longer be counted against us on whatever the system was then. I never knew for sure that was the system, but that was what he was doing. So a number of law students came out, they waited. They did take the bar eventually and pass.

And other things went on. It was not a happy time, and a lot of the students, though they were very grateful for the opportunity—we were the only school in town then that offered, and we were building. We did get accredited, and I'll talk about how we got our full time faculty to have a full day program, but those kinds of things left a real bad taste in some of the faculty, some of us, and particularly in some of our graduates. To this day, some of them use that either as good reason or as an excuse for not, for what is difficult anyway, digging into your pocket and giving.

So Datton didn't continue. Neither did Paul Peterson and Charles Froehlich. At some point, you might want to interview them and get their first-hand take on what they did and why, but that's my impression. I was sorry, because Paul and Charles were my friends. We didn't practice together, but we kept in close touch. I just enjoyed teaching so much I was willing to weather it. For example, I turned my grades in. I was not going to arbitrarily or artificially flunk or anything else. I graded on what I thought was a fair curve, and if the dean wanted administratively to change those grades, he was free to do that, but they were no longer the grades I'd turned in, and if any student asked me, I'd say, "That was not the grade I gave you."

So I just taught and kept going. I enjoyed it. The students, I felt, were benefiting from me. Maybe that was ego, but I felt that if we all walked out ...

Because what they were doing to build a full time faculty and a day curriculum was—they were able to get people like Frank. I think Creighton was a big source of our initial full time faculty. I think Doris, I think the Velmans, I don't know who came in what order, but about that time, some of the earliest full-timers, that were full time, and I considered academic teachers, law teachers, and Brock, who had taught, Sinclitico.

With that, he also conceived of the idea, and I don't know if it was his idea or whose, it wasn't mine, but somebody gave him the idea, maybe he had it spontaneously—this is Father McManus—of a-dollar-a-year men. He was able to recruit the retired but living in the area, here in San Diego, former judge advocate generals, the marines, the army, the navy. They came in,

and they were paid supposedly a dollar a year to teach a course or so, and that beefed up our faculty with a lot of ribbons and credentials and so forth.

These were fine men. They were good people. General Hickman was especially talented, and he became acting dean when McManus left, as I recall, or maybe it was when Sinclitico left. No, Sinclitico left, and then Brock took over.

Then, he would hold these faculty dinners and faculty meetings, and there was always a lot of pomp and circumstance. It always reminded me a little bit of sitting at table, and everything was very red and baroque and renaissance, and the chairs all had high backs, and of course, McManus was always in regal robes.

RL: Were these in the Pardee Room? The Pardee Room has chairs like you're describing and a huge table.

CHF: Yes, we used to have faculty dinners. The faculty was only fifteen, twenty people then, including the adjuncts. You saw some pictures, I think, at my fortieth anniversary celebration, Frank had a picture, Frank Engfelt, of that earliest faculty. He was not among them. He wasn't on the faculty then, but he had the picture, and I was there looking very young. I think I was seated next to McManus. I'm not sure why.

Yes, those were high-backed chairs, and there was a lot more pomp and circumstance. We had a dress code. We had to wear a coat and tie. We didn't worry about women, because there were none, and if there was one, they were always dressed appropriately, you know, a dress or something. And the classrooms all had the crucifixes, and we had to start every class with a prayer. Those of us who didn't feel comfortable with out loud prayer simply, as I did, simply said, "We'll start our class now with a couple of minutes of quiet reflection, get ourselves ready to be inspired, seek guidance ...," something small-c catholic and appropriate. It was not so bad.

However, we did have a chaplain, a wonderful young man who I think is now passed away, Father Geimer, who was on the hill here, part of the bishop's group of padres, he called them. Actually, it was Geimer who ended up, I think, being the moving force for McManus leaving. McManus was coming down very hard on Father Geimer. He blamed him for everything. He was a scapegoater. You couldn't find a more holy, nicer guy than Geimer. I guess it got to the

point where he couldn't take it any more, and he went to the bishop. And he was, he was being brutalized psychologically if not physically. By then, there had been several missions from faculty members to the bishop, and he got the picture. And so McManus was sent to Rome or something for a while.

That was when, I think, my chronology loses something here. I think that was when Hickman became acting dean, kind of chosen by the faculty, but maybe I'm wrong.

RL: I believe that's correct.

CHF: Is that correct?

RL: I believe so.

CHF: And then, we chose Sinclitico—by that, I mean the bishop anointed him—and then Brock and then, I think Hickman may have been acting again briefly. Hickman was never the dean; he was acting dean.

RL: These sound like the growing pains of a young institution.

CHF: Oh, yes, and you know, McManus did deliver state bar accreditation within the rules. He may have exploited the rules a little in the view of students and faculty. And that was important, because once you got state bar accreditation, then you could apply for ABA. I think we got our ABA under, I think under Sinclitico. I don't think we were able to get it while General Hickman was ... I don't recall that we got it under McManus.

RL: It may have been under Don Weckstein.

CHF: Ah, okay, it could have been that long to get the ABA?

RL: It may have been, yes. We have a time line that was put together for the fiftieth anniversary.

CHF: And that shows all that.

RL: That shows all of that.

CHF: I should have that. It would probably refresh me more. You see, my memory in those days is very limited, because my experience is very limited with the school. While I was as involved as anybody when we were all part time, other than Datton or other than McManus, who was full time, as soon as full-timers came on, we were preempted; the choice of courses should be co-opted by those who were full time, and so they chose their courses of interest, and what was left we took as part-timers, the adjuncts, practicing full time and running up to the hill.

My time here was very limited. I would rush up just to get in class in time. As the classes got bigger, I'd leave as quickly as class was over pretty much, rather than hang around as when there were a handful of students. I no longer came to faculty meetings, though we were all, at least in the early years, adjuncts were invited, as far as I knew, to attend. Naturally, of course, the full time faculty began to develop all manner of policy and academic procedures and rules, and we just learned of them and tried to follow them, we who were part time.

During that period, of course, Frank came along, Frank Engfelt, and some other young people. I was able to bring two of my former colleagues in the attorney general's office who came to San Diego into teaching, one full time, Gene Reynolds, who taught Corporations, got tenure, and the other, who was practicing downtown and was recruited here and taught here briefly, Richard Stiles Roddis. Roddis was a fine teacher and a fine scholar. His expertise was in insurance law and had been at the attorney general's office. He got recruited by the University of Washington to come up there and took a full time position there and became dean at the University of Washington, from where he, I think, is now retired.

RL: Can you tell us a bit more about Gene Reynolds?

CHF: Gene and I met—he was a classmate of Froehlich’s and Peterson’s at Boalt—and he and I met, and actually, that friendship with Froehlich and Peterson was given impetus by my connection with Reynolds, because he was close to them. Reynolds and I were two of three or four young law graduates in the area from Bay Area law schools recruited by the attorney general in that year when they were seeking to recruit what they called “the brightest” to try and get some good ones. They paid, as I said, competitively, a little above what the going rate was for starting law students, starting graduates. Reynolds was recruited, as I was, he from Boalt, I from Stanford, and much for the same reasons. He wasn’t sure where he wanted to practice or what, but he liked the idea of having that kind of perch from a high place to look around.

We were office mates at the attorney general’s office in the State Building. As a matter of fact, we became such good friends—he and I and his wife and my then wife and our children, my daughter and he had two older sons than my daughter, who was just an infant, but they were expecting another—that when we moved from Palo Alto after a year, the second year I was in the attorney general’s office, we moved to El Cerrito to be near where they lived. We rented there, and we carpooled with others, Wiley Manuel³ from Oakland. Wiley was a little older in the attorney general’s office. He was an African-American lawyer. He was appointed by Brown to the California Supreme Court, so that was a nice distinction, and served very well.

Anyway, when I moved down to San Diego, we missed each other, Gene Reynolds and his wife and his daughter and his sons. They decided to come down to San Diego, and I helped him line up a job with Senator Hugo Fisher,⁴ who then practiced law—still do, a lot of these legislators; they’re allowed private activities. So he was hired there and practiced, and immediately I was able to set him up to teach. He wanted to teach in the corporate field. He then, after a brief period, was recruited by the growing office of the Department of Corporations, Corporations Commissioner, in the State Building here in San Diego, so Gene became a deputy to the fellow in charge of the San Diego office of the Corporations Commission and further honed his expertise in corporate law. He was teaching part time, and at some point, he decided he wanted to teach full time. We were still building, the law school here was still building its faculty, so they hired him full time, and he became tenured.

³ Wiley W. Manuel, first African-American California Supreme Court justice (1977-1981)

⁴ Hugo Fisher, Democrat, California State Senator (1959-1962)

He was just a brilliant guy, but he had emotional and psychological problems, challenges, and they got the best of him. He just couldn't deal with them. He was under professional care. He ended up having severe treatment, shock treatments. He had to have disability retirement at some point from the law school, and he passed away about maybe eight years ago now. That was after a long period of retirement. So that's Gene Reynolds.



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Narrator: Professor C. Hugh Friedman

Interviewer: Ruth Levor

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TAPE 2a: SIDE B

RL: Can you tell us about the process of the state bar accreditation?

CHF: I don't remember much about it now. I just vaguely recall that among the requirements or conditions we thought we had to satisfy was doing reasonably well with the baby bar [laughter], that is, that our students were passing in some good numbers. I don't know that it was a condition that we had to have a day program, a full time program, I think that was just the ambition, the plan all along. I think that what Bishop Buddy wanted was a full-fledged law school, and it just was getting there was the trick. But I think since that was in the works, I'm sure the state bar wanted to be satisfied that if we were going to open a day program, it would be a viable one and that we had some qualified, at least on paper, appearing faculty and so forth.

I'm sure they were interested in our library, but except to help carry it from the temporary Quonset huts at University High over to the law building, which was then a priests' quarters, but they were vacating for the law school ... As I said, that occurred, I think ..., I started in May of fifty-eight, taught that fall. I taught the following spring, I think Sales or some such course, and then, the next summer, we were told, I think it was that short a period, that we were then going to move into the law building, the library, and have all of our classes there.

RL: And that was More Hall, which is now Warren Hall.

CHF: It was More Hall, yes. St. Thomas More was Bishop Buddy's, reputed to have been, one of his favorite saints. Of course, he was a lawyer, patron of the law and justice, so it was called More Hall. It was so named by Bishop Buddy, I believe, but it's now Warren Hall.

RL: What were the classrooms like over at Uni High?

CHF: They were Quonset huts. They were just, you know, you sit in them—Frankly, they were like these old high school, where you carve your initials [laughter]. You know, you slide into them, and they're the old school chairs.

As a matter of fact, I, together with several other part-timers, put together a bar review course called the San Diego Bar Review, because there were none in San Diego, and our students, as they graduated, were disadvantaged. They had to go up to L.A. if they were going to take a bar review course, and that meant further displacement for many of them from their spouses, well, their wives, primarily, in those days, and their children, very hard. They'd commute back and forth, and so we were under a lot of pressure to do something. We couldn't get these bar review courses to come down here. There wasn't enough of a market. There was only one law school and only kicking out ten, fifteen, twenty graduates.

So I got together with Stacey Sullivan, who was then representing the Chargers, among other notable clients, and was practicing law with Higgs, Fletcher & Mack, a young Irish dynamite lawyer. He was the grandson, I believe, of the man for whom the Sullivan trophy or award, the Sullivan award¹ you've heard of? It's for athletics, sports. He was very much into sports, professional sports and amateur.

And Jim Mulvaney, who was a colleague of mine in my practice, taught Evidence and some other courses. Stacey taught Community Property. These were all bar courses, and these were all taught in fields in which we had had some practice or direct experience. So we put together the San Diego Bar Review, and we used Gilbert outlines, which they purchased directly. We got them the outlines at a slight discount, and they bought them. Mostly, we drilled on

¹ "Known as the 'Oscar' of sports awards, and older than the Heisman, the AAU (Amateur Athletic Union) Sullivan Award honors the outstanding amateur athlete in the United States. It has been presented annually by the AAU since 1930 as a salute to founder and past president . . . , and a pioneer in amateur sports, James E. Sullivan (1862-1914)." AAU Sullivan Memorial Award, Honoring America's Top Amateur Athlete, <http://www.aasullivan.org/overview.html>.

questions. We got old bar questions, made up answers, outlined answers, had them try, and used that as a springboard for the substantive review and the coverage with the outlines.

We were able to use the University High facilities, those, I call them Quonset huts. We had temporary stuff here for years when they were building the new library for the university. So we did that for two years, and we had a very high passage rate. We were really thrilled with that. By then, I think Cal Western had reawakened. They did initially up on Point Loma, and then they moved downtown, and they were beginning to graduate. So the big guys, you know, BAR/BRI, whoever it was, they entered the market down here, and with a much better program, frankly. You know, we were limping along, and so there was no longer any need for us, but it was an interesting experience. I still see a lot of the lawyers who are now judges or senior partners, because of success in their own lives and careers and passage of time. They remember those days, "I remember when you bar reviewed us."

RL: And who are some of those early students that you recall?

CHF: Oh, gosh. Bob Baxley, he was just a terrific student.

RL: And tell us what Bob Baxley is doing now.

CHF: He's now a retired superior court judge. Oh, a number of them. I think Jerry McMahon² was one, I believe so. It would be the graduates of the earliest years, before the BAR/BRI., CRBC, whoever came down to offer in San Diego.

RL: Were they also night students here, students of yours in your night classes for USD?

CHF: Yes, a lot of those were. Yes, a lot of them were. Jerry McMahon was. I remember a lot of them when I see them. I remember a lot of their names.

² Gerald L. McMahon is Chairman of the Board of Seltzer Caplan McMahon Vitek, and is head of the firm's litigation department. Seltzer Caplan McMahon Vitek, *Our People*, <http://www.scmv.com/People/resume.asp?attorneyid=3>.

RL: Where did those early USD law students graduate? Where were the ceremonies held for graduation?

CHF: The earliest that I remember was in what is now Guadalupe Hall. That used to be kind of an amphitheater between the law school building and what's the hall next to it?

RL: Serra?

CHF: Serra, and you'd walk downstairs. Right now, you walk kind of up to what is Guadalupe, but that just used to be a big open amphitheater, and that was the first, in summer of fifty-eight, summer of fifty-nine, maybe sixty, sixty-one, for several years, that's where they did the graduations. Yes, Guadalupe Hall, the front of the bookstore.

RL: So, meanwhile, you're teaching up here, and you're forming your own law partnership at the same time?

CHF: Well, I was still in-house counsel for this growing conglomerate until about nineteen seventy. At that time, I formed my own firm. The nucleus of it was the staff that I developed in-house in the corporations, for the conglomerate. We continued to do legal work for them, it wasn't that. It was just that we wanted to do other work, had the opportunity to grow, and also wanted to make it clear, at least I did, that I wasn't interested in advancing up the line within the company in terms of officerships or anything like that.

There was the feeling that I was sort of an heir apparent within the company, and I always wanted to be a lawyer. I didn't want to be a CEO, no matter how much power and how lucrative it might be. So that made it clear that I was going to perform with the other lawyers, legal functions, but not the executive functions.

RL: Who were your partners?

CHF: The initial firm was called Friedman, Heffner (Don Heffner), Kahan, and Dysart (Bill Dysart). Now, Dysart is a USD alum and still practices.³ He's developed a very good practice. He was always interested in yachting. He'd come out of the navy, and he loved marine matters. He's represented some of the World's Cup yacht owners, ownerships, Italy, I think, and others. He practices here. I recruited him and a number of others we hired.

The first woman we ever had in our law firm, and again, women in those days were having real difficulty being recruited and hired by law firms. The government offices would hire them increasingly but very few law firms. None of the big ones would. My wife, then to-be, Lynn, said, "Why are you hiring Ted Polasky, and you hired Dysart? Why don't you hire the number one in my class, Judy Keep?"

And I did. The firm agreed, the partners agreed, and we hired her. She wanted to do more trial work than we had, though, so she stayed about six, eight months and then went with the defenders. Her stepfather was running the defenders. From there, she went on the bench, municipal, superior, federal.

RL: Can you tell us a little about what type of person she was?

CHF: Oh, God, she was wonderful. The most ebullient person I've ever met, just upbeat, vigorous. Of course, my memories are mostly, sadly, of her dying. I mean, she died hard and long. She had this terrible cancer, and she just fought it. Her spirit and her will were so strong. [pause in tape/overcome by emotion]

Very athletic. We asked her to represent Air California, an airline. I thought that would be a good assignment, because at least she'd get some regular appearances. They wouldn't be court, but they would be P.U.C.,⁴ C.A.B.,⁵ in those days, administrative matters, but that required her to fly around the state, if not the country. It was, I think, not what she really wanted to be doing, so she wasn't with us all that long.

RL: Where were your offices?

³ Dysart & Dubick

⁴ PublicUtilities Commission

⁵ Civil Aeronautics Board

CHF: In the United States National Bank building, which is now ten-ten Second Avenue, I think, what is it called now?⁶ I'm not sure what the building is called now. It's right across from the Westgate Hotel. Originally, the offices were where the Westgate is, but then, the high rise that was built across the street became the U. S. National Bank building, and we were on the ninth floor, the law firm, previously the law staff, the law department, and then, everybody moved over to that new building, and the old building was dismantled, and Westgate Hotel was built.

RL: So the corporation itself also moved over there.

CHF: Yes, all the corporate offices, as it was growing.

RL: Did the law firm remain physically within the corporation?

CHF: Well, no, we remained physically within that bank building, so-called, but the bank building was built—It was something like twenty-two, twenty-six stories. From the get-go, I think, the first nine or ten floors were corporate and bank and Westgate and other related entities of the conglomerate, including the ninth floor, which was the legal department, and the rest was rented out to law firms, advertising companies, and all manner of businesses. When we closed down the legal department, the bank continued to have its own legal staff, and a couple of lawyers stayed to be in-house, but the rest of us continued to do essentially what we were doing but on a retainer arrangement as a law firm, and we took other clients. We paid rent, so we continued to stay where we were, but instead of it being provided, we billed, we got paid, and we had our own set of accounts our own firm.

RL: What led, then to your ultimately going into teaching full time?

⁶ Later the Crocker Bank building, now the Executive Complex building

CHF: Well, probably several circumstances that came together pretty much at one point. Lynn and I had been married for two years. Let's see, we were married in seventy-two, and in seventy-six, I was elected president of the bar, the county bar. I'd been active in bar affairs, chaired various committees, and I thought it was something I'd like to do in my career, and I did that. Then, right after I got elected president of the bar, Lynn was encouraged by then Mayor Pete Wilson and his chief of staff to apply for a White House fellowship. I guess there was a push on to recruit women, and Pete had always been a real progressive force in promoting women. He'd put Lynn on the Status of Women Commission, and Lynn was very active in those days in a leadership way in opening doors, breaking the glass ceiling, doing all that stuff. She applied for a White House fellowship, and lo and behold, she got one. I'm making a long story short, because there were a number of interviews, and I went with her, regional, and finally, the finalist. By God, I came back three or four months into my tenure as bar president to learn that she was going to be a White House fellow, one of seventeen or something--she was selected that year—and that she'd be spending the next year in Washington. She was able to get the vice president's office, which was as close as you could get to the White House itself. Others went to Treasury and Justice and other fine slots.

RL: And this was in which administration?

CHF: This was in an election year, a transitional year. President Ford was the president. Nixon had resigned, and Ford was filling it out. So she was appointed by Ford, she and her group, but in January coming up—this was in the fall; they start in August—in January, by then, in November, the election, and in January, Mondale was the vice president, and Carter was president. So she continued on, and she thought that was terrific, because she'd really had a great time with Rockefeller, who had been the vice president for Ford. She was in Rockefeller's office, and she loved that. He was a real terrific guy. But she felt, you know, "At least now, my Democrats will be coming into office," and she'd known Mondale and so forth, but in fact, any holdover was treated with a little bit of suspicion, no matter how innocuous the derivation of their being there.

It's interesting. We learned a lot about politics. I mean, she had a good experience under Mondale, but it wasn't as inclusive. You see, I think that's Mondale, a Minnesotan. The colder

the climate, the more reserved people are, although Rockefeller was born in New York. I mean, he just was one of these all-embracing ... He could have been southern, for all I know. You know what I mean. So that's how that happened.

Well, therefore, I suddenly realized that I didn't want to be separated for a whole year, so as soon as my bar term ended in December of seventy-six, I worked out with my firm that I would take a leave for six months and go back to Washington and join Lynn. They had a very active spouse program as well, and it was informative and interesting. So I joined her back there, living there, and to keep busy, through Bert Lazerow and others here, particularly Bert, I was able to land a visitorship, full time visitorship, at AU, American University, in Washington, College of Law, in Corporations, and I taught there that semester, the spring semester, of seventy-seven.

Then, I did some bar reviewing back there, and then, when Lynn and I decided to come back, by then, I had found that full immersion in teaching so enjoyable and rewarding. I really seriously was considering whether I should go into teaching. I'd had sort of a standing offer from Don Weckstein, ever since early on when he arrived to join the faculty, or at least, let him know if I had an interest, and I did. I told him I was seriously considering it.

I had been asked right before I left AU if I would take an acting dean spot. They were searching; the dean was leaving, and they were searching for a replacement, and they couldn't come to grips soon enough with an appointment, full time, I mean, a permanent appointment, so they were looking for an acting dean. I've found most faculties, many of them, are fractured. A lot of people have a lot of baggage, and so I was the new kid on the block. I was so excited and enthusiastic about teaching. I loved it. So obviously, the president and the provost there thought I could do that. I was flattered, but I wanted to get home. I had my firm to unwind, if I was going to go into teaching.

I let Don [Weckstein] know, and so when I came back, Don and the faculty quickly made me an offer with tenure, and I joined the faculty full time in the fall, that fall.

RL: And that would have been ...

CHF: Seventy-seven.

So I sold out of the firm. I felt I had to do that in good faith. I had an office where I consulted and wound down some of my personal clients, with White, Froehlich, Peterson, and Price.

RL: So you came back and started teaching full time. There were obvious ways in which that was different, but how did that feel different to you from your association on a part time basis all those prior years with the law school?

CHF: Well, initially, as I mentioned, there were several factors. One, there was the gratification I found in full time teaching for the first time, where I had time to prepare, think about the pedagogy, not just try to master the subject, and I looked forward to the opportunity to teach in areas where I'd had a lot of experience, to build on the teaching.

I also looked forward to the opportunity to do some reflection and writing. I made that commitment that I would produce some scholarship. I'm glad I produced what I did when I did it, because I'm not sure today in the view of many faculty members it would qualify as serious scholarship [chuckle] or qualify as scholarship for tenure. You know, I've been in these faculty debates, and they're sincere, and they're genuine, and they have their own notion of what is advancing jurisprudence, but I grew up with the idea that the hornbook, the accurate summary and analysis of existing law, occasionally pointing the way maybe where there's ambiguity, or where maybe a next step would be indicated, a forward thrust of some doctrine, but basically what would be considered today just a reference or a hornbook rather than a scholarly piece that really theorizes and has a lot of new insights.

RL: Well, I think it's a question of audience as well, that it sounds like you were writing more for the practicing bar, to forward the profession and the practice. Perhaps now, what's considered scholarship has as its audience more other scholars.

CHF: Oh, no question, exactly, I think that's a good way to put it, and I think that clearly is the distinction. But as I say, I felt that the dimension I could contribute after twenty-five years of practice, with whatever part time teaching I had done, was to, in terms of my scholarship or my

writing, publication, would be to add that practice dimension and hopefully help, because I knew what lawyers were missing, what they were looking for in my area. I had to go from treatise to treatise to put them together. Nobody had integrated the tax and the basic statutory and the common law and decisional law and put it all the way it arises in practice and confronts lawyers, so I thought, “Well, if I could do that, then I’m doing something useful.”

And I’m gratified that the courts and lawyers have recognized that. They cite it. They use it. I’m not justifying what I did. It’s just that that’s what I wanted to do. I knew I’d never do that if I just stayed in the practice. Lynn encouraged me, and I said, “Why don’t I do it?”

And I had the opportunity with the school I’d been teaching with part time and with Weckstein and the faculty.

RL: And in the interim, the school had created what’s not only a night school but also had a full day program at the time that you came back.

CHF: Oh, yes, it had a full day program for probably a decade or more, and by then, there were more and more graduates who’d succeeded, and many of them, of course, stayed in the area, practiced. We were building a good core of alumni. Weckstein asked me if I would help him develop a board of visitors, and I became the first chair and helped him organize it. I suggested a number of names, and he solicited and obtained recommendations of business and other people that would be supporters of the law school. That was fun. We started the board of visitors.

RL: What was the idea of having a board of visitors?

CHF: Well, it was the usual idea. By that, I mean, Stanford had had one for years, and most law schools, at some point, get an advisory board to advise the dean and the faculty, and it’s composed mostly of alums, but not exclusively alums, with community leaders, resources. Not the least expectation or hope, rather, was that they would be a source of financial support, but guidance, you know, what should we be, a sort of a realistic check, I think, for the academics, the faculty, the dean. How are we doing? What can we do better?

Typically, a board of visitors would actually visit. They would visit classrooms. They'd talk with faculty. They'd talk with students. They'd spend a day or more. At Stanford, we made it a weekend, I believe, for a number of years, may still. Each school does it their own way, and I'm not sure every law school has one. Sometimes, we've said to ourselves out loud, and quietly to others, "What are we, a group in search of a purpose? What should be the purpose?"

I think that's still the case.

RL: Now, this was the first time that you ... [end of tape]



University of San Diego

Legal Research Center

CONVERSATIONS IN LEGAL EDUCATION:

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

Narrator: Professor C. Hugh Friedman

Interviewer: Ruth Levor

Recorder: Ruth Levor

Date: October 6, 2005

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TAPE 2b: SIDE A

RL: When you came to the law school full time, was that the first time that you had taught in the day program?

CHF: I seem to recall having taught a course, or at least some classes, perhaps filling in for someone. I just seem to recall having taught in the day program before I joined the faculty full time. I don't know whether I had a full course and was able to do that , or ...

RL: Or maybe you were a guest lecturer.

CHF: ... or I was a guest lecturer. I just have a recollection of having been teaching in a classroom during the day.

RL: Well, the reason that I ask is that you mentioned that the original students were students, some of whom were even older than you and who were going into second careers, and that is more typical of a night program, so I assume that the day students were younger, were closer to just having graduated from college, and I'm interested in how that experience differed.

CHF: I think whatever I had experienced in the way of that differential, which you've accurately summarized, my take on it, my experience, whatever I'd experienced before I joined the faculty full time and began to teach regularly in the day--I continued to teach at night; we still do—and that difference became even more apparent, or at least, it reinforced my sense of it. I

think that probably the night students today, not as great a percentage of them are possessed of the change of career, maturity, willingness to engage, as was true in the earliest days, because then, almost all of them were older and had had other careers.

Now, many of the night students are, well, more of them, are pretty much out of college. It's just that they need to work to finance themselves or their families or whoever, or they just want to take it a little slower, thinking they can catch up by going, if they have to, by going to summer school or taking a heavier load later. In other words, I think there are more than there used to be of the younger, less mature, let's say. And I don't mean that pejoratively in terms of maturity. You can be young and be mature about a lot of things.

I have an affection for the night school, night classes. I have compassion for them at night. You know, they really have to work hard, as I used to when I taught at night, to keep up, keep ahead even, and they don't have the luxury of the time that the full time day student does. I'm not sure that the full time day students all use that time as well as they could or realize that that's an advantage.

RL: When you joined the faculty, then, full time, did you find that you had to kind of adjust your approach to teaching because it really was somewhat of a different population?

CHF: I think early on in my experience as a full time faculty member, I had to make some adjustments, but I'm not sure that it would have been any different at night or day. Attitudes change. When I was teaching part time, I was pretty much rushing to class, as the students were, wearing a suit and tie, from work, from court, from wherever I'd been with clients, and we got down to business, and everybody seemed to respect the time that they were devoting, and I had the distinct impression—maybe that's what sold me on teaching in the early years—that they really wanted to squeeze me of everything that I could share with them, good or bad. They'd sort it out, whether they wanted to accept it, reject it, whether it was helpful or if they couldn't use it, they'll discard it. I had the feeling, and I think all of us felt that way, there was a lot of respect, not that we were oracles from on high, but we were certainly ahead of them. We'd been there and done much of it, so what could they learn? They were there to learn from us, from me. I respected that, and I took that as a sacred commitment.

When I went into full time teaching, it was about the time--this is seventy-nine, seventy-seven, seventy-eight, seventy-nine, eighty—it was about the time that students were, “Prove it to me!”

You know, they would sit back, they’d literally, their body language, they’d fold their arms in front of their chests, and you’d call on somebody, and if they didn’t want to engage, they weren’t going to do it. They no longer came in any professional attire. Now, day classes, I don’t recall that they ever did. I mean, I taught at night until then, but the day classes, there was no reason they should. I mean, they weren’t coming from work, but I mean, they would be wearing sandals, bare feet, sometimes not very clean [chuckle], feet sticky--you’d be standing there looking at that—and mini-skirts that were mini, and there weren’t even computer screens to block a lot of that in those days.

So that was kind of a change, and I think the way people dress can reflect, in a way, how they attend to what’s going on. I mean, in other words, they were very relaxed, very comfortable, crossing their legs, straddling, legs out in front of them. I know I’m sounding like an old fuddy-duddy, but I’m comparing with what it used to be like. So it was kind of a different atmosphere that I encountered. I remember thinking, “Now, how do I handle this,” because above all, I wanted to model professionalism.

I figured one of the few things I could contribute as an additional dimension was the profession, my familiarity with it, how it works, what it is to be a lawyer, what the lawyer’s role is. In all of the substantive courses, I always tried, and I used to say, “I want you to keep me honest, students. When we talk about a case, I want you to make sure that, when we’ve finished with the case, if you’re interested, and your questions will tell me that, that you have experienced with me what I have experienced, what lawyers experience. When you walk out after a judge has handed down a decision, and your client says, ‘Well, what should we have done? How could we have avoided this? How could we have done better? Were we lucky?’

“In other words, what do we learn from this in terms of the lawyering role, the advisory role, documenting it differently and better, what does this teach beyond just this rule, this decision? What does that mean in practice?”

That kind of trying to force that kind of thinking, which I don’t think goes on much in the classroom, at least in that way, is something that I thought was important to try to contribute. But

that said, it's kind of tough to have them pretend they're lawyers or they've got clients when they're just very relaxed and wondering, you know, is there time for a beer, another cup of coffee?

RL: Where is bar review going to be this week?

CHF: [laughter] Right, exactly. So anyway, I began to see some differences. There are always most students who are really interested, but even in the earliest days, there were students who were too tired; they're just not tracking, and I don't think that's changed, day or night.

RL: You mentioned that there had been a dress code and a mandatory prayer at the beginning of classes.

CHF: Right.

RL: Do you recall how that was withdrawn? How did that end?

CHF: I don't remember what precipitated the end of it. I think once McManus was gone ...

RL: I see.

CHF: It was after McManus was relieved of duty that it ended, but whether it was abrupt or it just at some point ... By then, we were developing a day faculty, and I think the faculty probably made these decisions out of my earshot. In other words, I think the faculty was meeting. They were making decisions about how the school should be run, and a lot of this stuff was considered not necessarily beneficial and perhaps even an impediment.

RL: The change that you describe in the sort of attitude in the classroom, do you think it at all mirrored the politics of the times, as we all went through those turbulent times?

CHF: I think so. Yes, no question, they're related. I mean, the politics of the times, the students' skepticism of authority and willingness to challenge it, but frequently, in a way that, because they were immature, they were practicing on themselves as they were doing it, sometimes seeming to be disrespectful. It was sometimes a challenge to try and take and turn a comment or a retort or a response and make it productive, keep it going, which I thought was a challenge. That's fine. That became stimulating. I mean, it wasn't boredom at all, and we would sometimes talk about how do you deal with this, you know, what do you do? How do you get students to engage more? How do you get students to listen when they seem just to not be tracking, keeping up?

RL: Now, we use in law school the Socratic method to keep the dialog going. Did you, and do you, use that heavily in your teaching?

CHF: I used to. When I taught the first-year courses—I taught Torts for a number of years early on. I didn't get Corporations, which was my field, and Securities and so forth until Bill Wong left. Bill was here; he's just a superb colleague and teacher of corporate law. He went to Hastings up in the Bay Area. Until he left, he taught that exclusively. He taught two courses of Corporations back-to-back each week. In other words, that's all he wanted to teach, and he got that, as I recall, so that left, of course, for me, and of course, he had seniority in terms of full time, and that was fine.

I liked the first year. I liked getting them fresh, and I was teaching Torts, where I'd done some litigation, and I also taught Business Planning, which played into my experience, interest. What was your question?

RL: So you used the Socratic method more then?

CHF: Well, I did in Torts. I didn't in Business Planning. It didn't lend itself, but for first years, I thought Socratic would be useful. Now, I wasn't a Kingsfield. I didn't come down, it's just not my style; it's not my personality. I don't like to threaten and intimidate. I'm more a cajoler, "Come on, you can do it. You can do it."

That's just my style, although I was exposed to a lot of the Socratic at Stanford in those days, but I didn't like it, and I didn't think that was the best way to teach anybody anything.

RL: Do you give any extra, I guess they call them "push points" for class participation?

CHF: Do I?

RL: Mm-hmm.

CHF: Oh, I always have. Yes, I think that's an incentive for some, but on the other hand, some students use that and they tend to try and dominate, and so you've got to control them. I rarely, if ever, I'm not sure I've ever downgraded a grade for lack of participation. I do announce that if they don't participate on a regular basis when called on, or if they're absent a certain number of times, then they won't be eligible to take the exam. I'd rather get rid of them than forcibly do something that they're not comfortable doing, but I will reward, and have always rewarded, those who help carry it along, move it along, help elucidate for others as well as themselves.

RL: Is Torts what you were teaching until you started teaching Corporations?

CHF: Torts and Business Planning when I joined the faculty full time. Prior to that time, I was teaching Business Planning, and before that, as I said, I'd been kind of a garbage can on the faculty, along with other adjuncts, taking whatever went along. I taught Common Law, Sales, which became U.C.C.; it was before the U.C.C. I taught Code Pleading; I taught, I believe I taught Evidence; I taught Future Interests. That was a separate course from Property in those days.

RL: And separate from Wills as well?

CHF: And separate from Wills.

RL: And Trusts?

CHF: Right. I never taught those courses. I taught ... hmm ...

RL: That's quite a group!

CHF: ... a number of courses over the years.

RL: Let's go back a little bit to the physical structure. You were over in Uni High, and then carrying the library over to More Hall, you entered More Hall. What was that like when it first became the law school?

CHF: Well, More Hall was, the second floor, what is now faculty offices, well, no, I should say the third floor then, those were all priests' apartments, and it became the library. It was opened out. You've probably seen pictures of it. It was just shelves, and they were not high shelves, so you could wander around through there, not really like a maze, but I mean, you could have made it into a maze. They were about head high bookshelves, and then there were offices around it. It was a pretty small library.

RL: Did the offices open directly into the library?

CHF: Yes.

RL: You could go out of your office ...

CHF: Yes, yes, as they still do, I mean in a way. Now, with the center filled in, with the brown, and that faculty office up there and the courtroom and all, that's all been filled in, but that wasn't there. It was just a wide open space with offices around the periphery, as I recall it, where we now have classrooms and offices, small classrooms.

On the main floor were faculty offices and classrooms. They weren't tiered then; they were flat. And then, there were some faculty offices where Carrie [Wilson] is. It was right next to the dean's office. I used to share one with Stacey Sullivan. You know, we were part time, but they had a little office for us.

I usually taught in what would be three A and B now, or no, two A and B. That was all one long classroom, as I recall.

RL: Did the students sit at tables?

CHF: Yes.

RL: You described the desks in the old place, but now they were tables.

CHF: No, they sat at tables. Now they were tables, and you'd walk up a couple of stairs to a raised dais or just a raised platform where there was a lectern, and that was where you'd teach. Or I taught up on the third floor in that classroom that's always been there. That's right, our Business Planning was in a smaller classroom, right before you get around to the faculty offices, curving around on the front, on Marian Way.

RL: What was the lower level?

CHF: There was a big "Writs," they called it, that was sort of a quick-order sandwich place. It was a little restaurant, not a grill—Well, I guess it was a grill. They had some kind of cooking down there. And then, it was a big open place for a cafeteria, where you could sit, you could eat, student could eat lunch, and as I said, there were some food stuffs, and I don't recall that they had dispensing machines yet, but it was called the "Writs," and there was a woman who was in charge of it. She then moved over when they built the University Center, and she became in charge of that for a while, the food service.

RL: And that's where the food went?

CHF: Yes, in that hall.

I don't recall that there were initially any classrooms down there. The tiered classrooms now, and all those classrooms, are where the Writs used to be.

RL: I see. It's gone through many iterations.

CHF: Oh, yes, and that was where the law school used to have its student-faculty skits, skit night, down in there. That's where people gathered and where they had the parties.

RL: I see. I don't think they do that any more, do they?

CHF: I guess not, no. We've gotten too big.

RL: We've gotten too big, right.

CHF: Well, you know what it is though? Part of it is because the faculty is no longer what it used to be. The faculty is not so student-oriented. Again, that's just a factual observation. I don't know if that's good or bad, but it changes things. I mean, Frank, you know Frank, he loved students. I mean, he'd grouse around with them after class. We all enjoyed it in varying degrees. I'd play my clarinet sometimes.

But if you're very serious with students, if you're really into your own theoretical research and only really interested in dialog with other colleagues or with students on your subjects, then it loses that intimacy, that friendliness. Now, with all that so-called intimacy and friendliness, we haven't done all that well with some of our alums, so you've got to wonder whether we lost too many of them, I don't know why, in terms of their interests or their loyalty, and I don't know that we're suffering because of the current lack of, if it is relative, lack of faculty interaction with students. I don't know that that's caused any great pain. I think we're doing all right on fundraising, I mean considering. Students seem to be willing to get along without those relationships.