

Yale Law School
Oral History Series

A CONVERSATION WITH
EUGENE V. ROSTOW

Interviewed by Bonnie Collier

New Haven: Lillian Goldman Law Library
Yale Law School, 2012

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

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

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

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

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

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

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

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

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

EUGENE V. ROSTOW (1913 – 2002) served as dean of the Yale Law School from 1955 until 1965 and became Sterling Professor of Law and Public Affairs in 1984. A 1933 graduate of Yale College, he received an LL.B from Yale Law School in 1937 and was editor-in-chief of *The Yale Law Journal*. Rostow served as the State Department Under Secretary for Political Affairs from 1966 to 1969 and director of the Arms Control and Disarmament Agency during the Reagan administration.

Among Rostow's books are *Planning for Freedom* (1959); *The Sovereign Prerogative* (1962); *Law, Power, and the Pursuit of Peace* (1968); *The Ideal in Law* (1978); *A Breakfast for Bonaparte* (1993).

NOTE: THIS INTERVIEW WAS INTENDED TO BE THE FIRST OF THREE. UNFORTUNATELY, EUGENE ROSTOW WAS NOT WELL ENOUGH TO SIT FOR FURTHER MEETINGS.

Eugene Rostow

Washington, D.C., December 10, 1997.

BONNIE COLLIER: Would you give me just a brief biological sketch for the tape?

EUGENE ROSTOW: Oh sure. I was brought up in New Jersey and my parents moved to New Haven in 1924, I guess, and then I finished one term or one year of high school, but I reentered the New Haven High School when I settled in New Haven, and I graduated from New Haven High School. I had a Yale College Scholarship for four years' tuition, which in those days they gave to eight boys from the New Haven High School, in lieu of taxation, I guess. So then I sailed through Yale College and graduated in 1933.

I was undecided about what direction to take – what came next – whether to go to graduate school and aim for a career in history or go to law school. I had various ideas about what to do in law school and with law, combining law and economics. So I entered Yale Law School in the fall of 1934, and I spent a year in between in Cambridge in England where I had a Henry Fellowship, studying economics. In those simple days, Yale Law School was the only one I applied to. No nonsense about anything else and no nonsense about getting in.

So I graduated in the class of 1937 out of the Law School, and I was editor-in-chief of *The Yale Law Journal*, which was the top of the heap in those days. I suppose it still is.

BC: Still is, yes.

ER: And I went down to New York, working for a big New York law firm, Cravath firm in New York. In those days all the law firms in New York interviewed candidates for the first year jobs between Thanksgiving and Christmas, and the Law School provided us all with help in that process by giving us a mimeographed list of the firms, with an asterisk for the firms that didn't want to interview Jews.

BC: I was going to ask you about that.

ER: So Cravath had an asterisk, and I had no intention of going in there if they didn't want to have Jewish students come in, but they sent word out that they wanted me to come, and they wanted to interview me. So I went down, and they duly offered me a job, which I gladly took and had a wonderful year there. I still have some friends from that period. So that was the kind of reputation I had when I was a student at the Law School.

After a year in the firm, I got a letter one day from the dean of the Law School, Charlie Clark, who offered me a job on the faculty, and I realized that I was very much interested in the academic side of law, and that I had better take this opportunity while it was there. So I promptly accepted, because I realized that if I stayed at Cravath for a couple of years, I would be earning so much money that I couldn't afford to – I was married then – to consider that law school job. He offered me the munificent salary of \$3,000 a year.

BC: That was in 1938?

ER: 1938. He told me afterwards that he was surprised that I did not bargain with him at all, and he was perfectly ready to go up \$500, but I didn't bargain.

BC: So it was not really a difficult decision. You were anxious to go into teaching.

ER: Oh, yes. I knew I was very much interested in that kind of life and that dimension of law, so I never looked back.

BC: Coming back to New Haven was a pleasant enough prospect?

ER: Oh sure.

BC: When you came to the faculty and started teaching, what did you find there when you came? Did you find everything you expected?

ER: Well, I knew what I'd find because I had been a student.

BC: On the faculty, pleasant surroundings, interesting colleagues, challenging courses, good students? Charlie Clark left, I guess, and went to the court the next year, in 1939, is that right?

ER: That's correct.

BC: Tell me a bit about your colleagues when you first arrived there. Who was teaching what and what went on at faculty meetings?

ER: Years later when I was dean already, the leading figure on the faculty was a man named Arthur Corbin, who was a wonderful fellow and he came from the west. He had come from Colorado, I guess. Always had a sort of rural, midwestern, far western atmosphere to him. He said to me once when I called him one day – he was in retirement and living at home – and he said that of course he missed students and he missed classes, but he said, “There's one thing I don't miss at all. That's faculty meetings.” (laughter) Faculty meetings are – and I think probably still are, I discovered much to my surprise – that they were bizarre occasions at which people are very tempted to sound off and make long, militant barely relevant speeches to impress each other.

But in that early period faculty didn't do very much. I think we made two or three appointments during that year, but of course I was a junior member so I didn't participate in the appointment process.

BC: Now, the dean after Clark was Gulliver?

ER: Gulliver.

BC: Gulliver, who was, from what I hear, pleasant, everybody liked him, easygoing, a friendly person.

ER: He was indeed. He was a lovely fellow and he had been the assistant dean. Now, the reason why we turned to Gulliver, I don't know whether our faculty made a decision or not, but when Charlie left of his own accord, we went through a big period of agitation, and I participated in it very actively about his successor. The faculty believed then, and I think still believes, that it elects our deans. Now, the statutes of the university provide that the dean is appointed by the president of the Corporation, and the president is required to consult with the faculty. He is not bound by the faculty, but we've always had a vote and an election, and in the period in which I was active on the faculty, we made a recommendation to the president and the Corporation for one person, not for three or two, and insisted on the prerogative of electing our dean.

So we had a big war, very characteristic, revealing, I suppose about the various divisions in the faculty and my candidate was Harry Shulman, and the majority of the faculty favored Harry Shulman. Harry Shulman had one insuperable obstacle in the minds of some of my colleagues – he went to Harvard Law School, and he'd been law clerk to Brandeis. So he was stamped with a big H in the middle of his forehead. It was very interesting – the divisions. The people who held out against the nomination of Harry were the town radicals and the village people who regarded themselves as radical. One of the leaders was Fred Rodell. Fred Rodell, I don't suppose there is any good written memo of him or no journal article which could give any sense of him. He was a very colorful, brilliant scholar who came from Philadelphia, I guess. I've forgotten where he went to college. I guess he was Yale Law School and he – Swarthmore, it seems to me.

BC: I'm trying to remember. I interviewed Janet Rodell just a few months ago, and I think that's right. Swarthmore and Yale Law School, I think.

ER: Sticks in my mind.

BC: Or Haverford. One of those.

ER: Yes, Haverford or Swarthmore. He regarded himself as a bit of a radical. He wasn't really, and he wasn't a great anything. He was a bit of a rascal in many ways, always getting into trouble with women, including girl students. A very striking looking man.

BC: He's interesting to me because I don't have a sense of his radicalism. It pops up in different places on different topics in different ways.

ER: It wasn't a consistent philosophical kind of radicalism. It was temperament.

BC: It seems almost temperamental, yes.

ER: That's what it was. He needed to be the dissenter in all things.

BC: Now, what was his objection to Shulman?

ER: Harvard. An incurable blight on him.

BC: And this was an ideological argument?

ER: That he'd destroy all that was unique about the Yale Law School and would try and convert us into Harvard.

BC: To a formalistic kind of law school, where Yale was striking out to be a new and innovative and realistic – in the sense of legal realism?

ER: That's right. It would be the end of American legal realism. In any event, you didn't have to explain that objection in those days. It's just, he went to Harvard so you immediately had a vision of an orthodox person in a three-piece suit.

BC: On his way to Wall Street.

ER: That's right. Walton Hamilton was another dissenter, as I remember. Hamilton was a very interesting man. He was appointed to the faculty as an economist. He was a relatively well-known economist of the institutional school, kind of historical, non-analytical school of economics. Of course, I'd studied that in my year at Cambridge. I became immersed in the Cambridge school, which was very analytical.

We got him to the faculty and gave him a professorship, and then he turned into a professor of constitutional law. He never did anything with economics. (laughter) One article, I guess, which I answered. He was a very likable sort of bird. I enjoyed him. We got along very well, I think, and he – well, I'll just leave it there. He didn't play much of a part in the life of the school thereafter. I've forgotten how he terminated his, oh, yes, I know what happened. He was brought into the practice of law in Washington. He came down into the Abe Fortas firm here, which was a very successful law firm for a long time and still is very successful now. He was not a lawyer. Finally, he arranged to have him admitted to the Georgia bar, I think, so that he could sign briefs and ...

BC: I didn't know that. What about Thurman Arnold?

ER: Oh, Thurman was a great figure in those days and a wonderful, wonderful fellow. You can't imagine what a cheerful creature he was to have around. He was full of fun.

BC: What was his feeling about the Shulman deanship?

ER: I think he acquiesced in it. I don't think he voted, as I remember. He was torn, but he was for it.

BC: And someone else would have been on the faculty – Tom Emerson? Was he?

ER: I don't remember when Tom came.

BC: He would have been there, but I guess he maybe was not visible in this deanship issue.

ER: Didn't he come as a professor?

BC: Yes. I was just wondering how he felt about the deanship issue then.

ER: Probably was against Harry, I suppose.

BC: So Gulliver became dean.

ER: What happened was that the president of Yale, at that time Charlie Seymour, went around and he called on some of the Supreme Court justices, and he asked Justice Stone, who later became chief justice. Stone had been dean of the Columbia Law School. A very distinguished man, Stone was. So he knew all about it, life at the law schools and Seymour asked him – he said, “The faculty has nominated Harry Shulman. Do you think it is wise to have a Jewish dean in the Law School at that time?” the late '30s, and Stone got very angry and said, “If you ask that question, you know that our conversation is finished.” Shulman, he knew him. He'd been Brandeis's clerk, so he knew him and he knew of his work, and he had nothing but respect for Shulman. So that was all part of the background drama. So that the choice was made by the president and the Corporation about Gulliver.

BC: Was there a name submitted from the Law School faculty?

ER: After Shulman?

BC: Well was Shulman's name submitted and then ...

ER: Turned down.

BC: It was? Oh, I see. Let's get back to Gulliver and his deanship. The comments I've heard and read were that it was a happy place, but not too much happened. There were not a lot of new appointments, there was not a lot of curricular reform. It just kind of went along happily.

ER: Coasted along.

BC: Then we get to Wesley Sturges in 1946. Tell me about him.

ER: Sturges was a very interesting man. He was a spectacularly successful, even brilliant, classroom teacher, performer in the old case method

of instruction. He would start a case and he'd have someone recite on what it was and then he'd fiddle with that, ask a couple of questions and then play with the students. It was very dramatic and very effective as a dramatic tool. Law teaching is theater. But he was not a serious scholar, and in fact he wrote very little in the course of his career. Turned out a case book that was quite interesting. As a dean he was – he didn't get involved in the great ideological battle that resulted in the split over Harry Shulman. I think he was not in that, as I remember.

BC: Was he ambitious? Did he want to be dean?

ER: Oh yes. He was ambitious. He made a big mistake thereafter. He was offered the job of being executive head of a trade association, an important trade association. I think it was the whiskey trade association and that was, I gather, a disaster. It was entirely over his head. But a very likeable man, and as I say, an extremely good teacher. In fact, if I had a classroom style it's imitated from his.

BC: I want to pick up on a comment you made before and maybe this one, too. We'll talk more about curricular reform and teaching when we get to your deanship years, but you said, "Law teaching is theater." What do you mean by that and why is that? Is that deliberate? Is that a function of ...

ER: The case method.

BC: I'm curious to know your thoughts on seminar-style teaching in law, and the case method, and developing students...

ER: Participation?

BC: Yes.

ER: Well, I don't make any very sharp distinction in my mind between seminar teaching and big class teaching by the case method. I do it always the same way exactly – take up a topic and introduce it and get it started and see where it goes. I have some questions ready to ask students, if they run out of spontaneous steam.

BC: This comes to mind in two ways. One, as a contrast to the graduate school, where obviously the seminar style is dominant, and also because

we're renovating the building at this time and introducing more seminar classrooms, which seem to be a need. I wonder whether there's a change, whether the seminar style is distinctly coming in or whether it's a Yale Law School...

ER: It's a great idea. When the present building was built, faculty at one point had a whack at the plans and complained that there were too many classrooms and too few seminar rooms.

BC: Oh, this would have been in 1929?

ER: Yes, 1928-29.

BC: Interesting. [phone rings, tape turned off] You told me that in 1929, as well as today, seminar rooms were desirable.

ER: Oh, sure because there was all the emphasis – the Law School, if you've read Fred Hick's histories, those little pamphlets, you'll remember that the principle at Yale Law School was a small school with restricted admission, and that was invented by Judge Swan, Dean Swan, when he published one day a statement saying – I don't know whether he had a faculty vote or not – that admission was restricted to 100 candidates. Well, we'd never had more than ninety-five applications, but that next year the number jumped, which was a dramatic demonstration of the effect of advertising. (laughter) That's the only educational principle we ever had, being small and having small group instruction and some limited class and so forth.

BC: I wanted to ask you about the building. When you initially came to the Law School, I guess you were just across the street, but when you came into the building in 1934, it was new.

ER: It was new.

BC: Did everybody like it? Did everybody think it was perfect for the Law School? Was it just what they needed? Was it too big, the ceilings too high? What was the sense of it?

ER: No, I think it was just taken for granted really. It was the Law School building and there was no knowledge of what the law school in Hendrie Hall was like.

BC: As an undergraduate you watched the construction, probably. You saw some of the construction.

ER: Oh, sure.

BC: And may have heard about the controversy to build the Law School building elsewhere?

ER: No.

BC: Apparently there was some talk, I guess in deference to legal realism and social sciences, to build the Law School closer to the Medical School where there could be easier access to psychiatrists and psychology library collections and that sort of thing.

ER: What was the name? Institute of Human Relations. Oh, yes, we were very strong for that. No, that had died away. There was still the knowledge that we were believers in that faith, and so we had Walt Hamilton on the faculty, and I think we had a psychologist appointed, [Edward?] Robinson, I guess in those early years, a full-time psychologist, and we had a psychiatrist working there afterwards.

BC: Now, Myres McDougal. Tell me about your relationship with McDougal in the earlier period before we get to the deanship years.

ER: Well, we always got along very well. I would say that he's one of my – and I'm always careful when I talk about the faculty – to say some were colleagues and then a few were friends. He was always a friend, McDougal. Well, you've met him, but of course he's now an old gentleman and not very well.

BC: But charming.

ER: Oh, yes. I wrote him once and it appears in *The Yale Law Journal*.

BC: I saw that.

ER: He was the mildest ... his marriage has been a disaster. Frances, a charming girl, a very good Virginia family. In fact, as I remember it, she's part of the Lee tribe in Virginia and we knew her, of course, first as a young faculty wife. I went there and had dinner. She was a very good cook and they had one child, but Mac told me once that when they were getting married her family doctor advised him that they shouldn't

have children because of a streak of insanity in the family. They've had a lot of trouble with this in the one and only son. Of course, a streak of insanity, that sounds very southern doesn't it? And I guess it is.

But in compensation for all this, the limits of his family life, he has always been an extremely generous and involved teacher, and he's had generations of students who would imitate his methods and follow his leadership. He was one of those old-fashioned law professors who devoted himself to one of two things. He started out in real property and was a very active pioneer in the study of real property and tore it all to pieces, turned it into land use planning. You could see the mark of Yale legal realism there. So his courses in real property when I was a student were courses in land use planning and he was very much interested in it. He had a great buddy who was working with him, a French city planner named Rounival, and he got Rounival in and together they worked on the planning of New Haven.

But then, during the war, World War II that is to say, I was down in a branch of the government called the Office of Lend Lease Administration, and I recruited to serve down there McDougal and Bittker and I think some other people, too. So we had a very strong team, and Mac had a lot of experience there in international affairs, and that led him into taking up with international law. That's how he came to be an international law expert.

BC: It seemed an abrupt change to me.

ER: It was an abrupt change, but it came about for a very natural reason. He had had the experience there during the war, working not only on the Lend Lease program, which was a very big and – does the word mean anything to you?

BC: Oh yes, sure.

ER: But also in UNRRA, the post war Relief and Reconstruction Agency, international agency. I think there, and my recollection is he went down and was general counsel or assistant general counsel to that agency, which involved a lot of negotiation and international agreement.

BC: Now, I know you worked with Dean Acheson.

ER: Yes.

BC: Can you tell me just a little bit about that?

ER: I started in the Lend-Lease Administration. The general counsel to the Lend-Lease Administration was a Yale Law School graduate named Oscar Cox, a very, very able and imaginative fellow who had been assistant general counsel at the Treasury, I guess. He was very good at recruiting bright, young people to make up his staff, and he invited me to come and I came and enjoyed it very much. It probably changed my life, as it changed McDougal's because it was my first taste of international activities. I was executive assistant to Acheson.

BC: In the State Department?

ER: In the State Department, but I kept up my appointment as assistant general counsel to the Lend Lease Administration, even when I went back to the State Department.

BC: And then you came back to the Law School.

ER: I came back to the Law School in 1944, I guess. I had a bum back and it had to be operated on, and it was the first of three big operations on the back I had. So I had it done in 1944.

BC: At Yale New Haven?

ER: No, I had it done in Chicago.

BC: You were back at Yale and Wesley Sturges I guess was Dean. The faculty was small at that point in the late 1940s, under twenty.

BC: That's right.

ER: There was no growth, no hiring during that time, either.

ER: Well, we had some hiring.

BC: Did you?

ER: When I came back from the government at the end of World War II, I had an offer from Chicago to stay on as associate professor. I was very young, you see, and they offered me tenure to stay in Chicago. This time I bargained a little bit with the dean, Gulliver, and I did not insist on promotion to professorship then, as I probably could have done, but I

said I did want tenure and I did want a voice in appointments. I wanted to participate in the appointments process, which was reserved under the statutes for the full professors. So they did that. They appointed me associate professor with tenure, and so I immediately became very active in the appointments process.

BC: So in the late 1940s, then, you were an associate professor with tenure. Sturges was dean. What was going on then? What were the controversies?

ER: Well, I was chairman of a committee of the faculty on curriculum and we got out a report. Ron and I were closely associated with that and I've forgotten. Grant Gilmore, I guess. We got out a report that was the outline of the program that I instituted when I was dean.

BC: The divisional program.

ER: Divisional program.

BC: Tell me what inspired that? What was missing in the structure of the curriculum that this would have solved?

ER: At that time?

BC: Yes.

ER: Specialization, I suppose. We had a student body and it was clear to all of us and everybody that the best legal education you got in law school was working on the law journals, law reviews in the different law schools. So that the divisional program was an effort to give every law student a good dose of that sort of training, to write a big paper under supervision and to push it along as far as you could toward publication, but meanwhile to get the experience of legal research and legal writing and to do that for everybody. Well, how do you do it? We divided the curriculum up into topics, chairs.

[end of side 1]

BC: We were beginning to talk about faculty hiring...

ER: When we calculated out the figure of the number of faculty, it came, as I recall, it had been up to about eighteen. We were trying to be about thirty-six. We were aiming at a target of thirty-six, as compared to

eighteen for the total number of faculty members. We'd never had an appointments committee in the Yale Law faculty.

BC: Until?

ER: Until then.

BC: Until the mid-1950s.

ER: No, until I became dean. Yes, the mid 1950s. So the first thing I did was to declare an appointments committee, and I picked people representing the different school segments and groups within the faculty and said we were going to meet in my office. There were several elements to this decision. One was that we meet in my office once a week to tackle this problem of appointments, meet for lunch – no liquor. The reason for that was that we'd gotten into a terrible tangle when Sturges was dean. He used to have dinner in the Law School, take a seminar room, and they'd have the kitchen serve dinners and we had a lot of booze.

BC: And this would be a faculty meeting?

ER: This would be a governing board meeting. That's when we inadvertently appointed, promoted John Frank and got ourselves into a whole lot of trouble. (laughter)

BC: Everybody was feeling happy.

ER: Why not. So first of all, we'd meet for lunch, which had a limited time factor because there would be a number of people who would need to do something else at two o'clock. They acquiesced to that, so we had an appointments committee. I'll never forget the first meeting. I said to them, "Now, gentlemen, I think I'd like to aim to see if we could bring ourselves to appoint thirteen people this year." We had never appointed more than three in any given year. So Fowler Harper said, "Did I hear you correctly? Did you say thirteen?" It was an inconceivable number. So I explained how I came to the number thirteen thinking about this figure of thirty-six as a target. We'd take a big bite and get a long way toward it, and we'd need it for the divisional program. We had some confidence of getting a grant from the Ford Foundation that we thought would overcome the gaps.

BC: Financial.

ER: Yes. So we set out to aim at getting thirteen appointments. Of course, we were accustomed to arguing like hell about each and every appointment.

BC: That's a lot of arguing.

ER: So Fowler said, "Do you think we can get through that kind of thing?" I said, "If we are appointing five people, if you rank them in order of preference, everybody will have a somewhat different order of preference, but there will be a lot of overlapping. So it will be easier for us to agree on a lot, but not a few." So that philosophy was accepted and it turned out to be correct.

BC: Now, President Griswold, did he know of this plan?

ER: Oh, sure. We were very good friends. We were very close friends and he knew what I was doing. I kept him informed.

BC: So in the appointments committee, how did the names come up?

ER: Well, we invited everybody to submit names, including the alumni group who were the executive committee of the Yale Law School Association, leaders of the organized alumni of the school. Faculty members were invited to submit names and give us names to work on. Fortunately, we knew plenty of people ourselves.

BC: Were you looking for a breadth of scholarly interest in order to do the divisional program, or were you looking for the best possible scholars, regardless of –

ER: That's it. We said it in many ways. Said it, and I think that's how we proceeded with it. We were looking for the stars, people who showed originality and creativity.

BC: Was there any argument against hiring so many people?

ER: No.

BC: No, it seemed to be ...

ER: Consensus.

BC: And then I understand they were brought in all at once, twelve I think at one time, and their tenure was staggered. Tell me how that happened.

ER: Well, it was by prearrangement with the president. After a couple of years I wanted to promote. I've forgotten how many it was, but not all of them at once. I guess all of them were to be promoted one grade, anyway. You know, if they'd come in as assistant professors, to promote them to associate professors and to promote some to be professors. He thought that it would be too much for the Corporation to adsorb, you know, so many names and so many votes.

BC: All in one year.

ER: In one year. So I called them all into my office and asked them please to agree. This is the plan to turn them in, and I promised that this was what I would do, and Griswold had agreed to this procedure, and they did too, and I never heard another murmur from any of them. One of the advantages to the divisional program, I thought, was that it would make the Law School much more part of the university. That is, many of these divisions would have natural connections to the university departments, and so there'd be economists and so on involved, political scientists, etc. So we did that and I had a couple of appointments – I guess that's his name? Who was the librarian then? Sam Thorne was his name. He was offered a post at Harvard as professor of legal history and it was very flattering to him. It was a chair that had been held by ...

BC: Yes, I think I know this story, and he left.

ER: No, later on. He didn't leave then. I kept him for a while. I got him a corresponding offer from the Yale department, so that he was professor of legal history and law librarian. Anyway, there were a couple of things like that. We had joint appointments with Laswell with the political science department, and I had a joint appointment with the economics department.

BC: The graduate program –

ER: Oh, yes.

BC: Was also growing at that time and was there tension between the growth of the graduate program and the J.D. program? Was there feeling on either side of allowing it to grow or not allowing it to grow?

ER: No, because the graduate program we financed separately, I guess, with a grant. It seems to me there was a Ford Foundation grant specifically to encourage teaching of international law and international things. But in the event, we were very lucky. It began to be a period of raising a lot more money from the alumni every year than we had before, and so we were feeling comfortable in the budget. So there was no real tension of that kind over the allocation of money.

BC: The Law School's relationship with the university was quite good, and the university was supportive. Can you tell me what the fiscal arrangement was between the university and the law school?

ER: Well, there had been a lot of friction in the past. Charlie Clark, who was a lovely fellow and a very good dean, was forever warring with the university, complaining that they didn't give him all the money he needed. I remember I had lunch with him one day and said, "Charlie, what did you do about..." and I looked over the list of endowed funds in the Law School and some of them had been set up in 1908 and some of them had been set up in 1920 and so on. I said, "How do you handle..." I had no objection to pooling those funds and having them all administered by the university with a pooled investment arrangement with university funds. I said, "What do you do with the capital gains?" because if the fund was put into the university's hand in 1908, and it was invested year by year, and between 1908 and now there were good years and bad years, and the fund is no longer worth what it was then. It's worth much more, of course. So he said, "The problem never occurred to me." Charlie was a procedural expert. He didn't know much about money and he immediately saw the point of my question. So I raised it with the university, and there ensued a series of conversations, very funny really, because the university treasurer, who did understand what was at stake, just clammed up. He couldn't – because it was a very dangerous topic. I don't know what they're doing now. They must have set up some kind of mutual fund, I guess. That's the only way to do that sort of thing, and I don't know whether we've done that yet or not, but of course our endowment

is very much greater than it used to be. Unbelievable what's going on in the fundraising department. Forty-one classes gave more than a million dollars last year. Forty-one!

BC: I guess the Law School is doing something right. We can conclude that.

ER: At least I think so.

BC: The 1950s, describe to me, if you would, the political discourse that was going on among the faculty in those mid-1950s years. Was McCarthyism a hot topic?

ER: No, never a problem with us. The closest anything came to it was Jack Peters in the medical school was – I've forgotten what. They denied him clearance for some medical committee. I don't know, a kidney expert I guess, internal medicine, and a great liberal we all thought. We regarded him as such in the various battles of the university in the past, but he got into trouble with that McCarthyite movement and there was a hearing. I've forgotten whether I testified. Several of us rallied to Jack Peters in his troubles. No, but it was not – it was a collateral problem for us. Tom Emerson had been – he'd run for governor on the whatchamacallit ticket in 1948. Who's the man who was vice president then?

BC: Truman's vice president?

ER: No, no, FDR's. He started off as Secretary of Agriculture. A very well-known man. He ran as a third party candidate...

BC: Henry Wallace?

ER: Yes. So I think more the main issues that I remember talking about in the Law School at that time that occupied time at the faculty lunch table – by the way, I set up that lunch room.

BC: The faculty dining room?

ER: The faculty dining room was the lady student's lounge. It was a beautiful lounge and I hated to take it away from the girls, but I provided two other lounges for them elsewhere in the building, one on the third floor and one somewhere else, but there was a certain amount of resentment. I remember a delegation of women students came in to protest, but it

was very important to create a sense of the faculty with the tremendous changes going on, and so I thought having lunch together was a priority.

BC: Well it's very popular now. It's being brushed up and renovated a bit. It's out of use at the moment, but it's very popular.

ER: Well, that's good. I'm glad to hear it. Having spent so much time in England, in English universities, I'm a great believer in eating together as an academic activity.

BC: What about the students? Now, the students' relationships with the faculty members was pretty open?

ER: Oh, yes, it was continuous. It hadn't changed a bit, as far as I can see, from the time I was a student.

BC: I was going to ask you that. Can you compare it?

ER: Sure. When I was a student it was very common for us to be invited to faculty homes for dinner. Of course, I was married then, so that made a difference, I suppose. I couldn't check up on it. I didn't know how often that happened. On the other hand, we would do that in our house, have students with faculty members for dinner. My wife and I remembered that very well from our student days there, and favorably, so I encouraged that.

BC: Were there groups of faculty members who tended to be good friends? That's natural to happen.

ER: Sure.

BC: But could you tell me a little bit about that, how the social tone of the Law School played out?

ER: Well, the Law School faculty members were much more noticeable in the general social life of the university than they had been before. We saw that a lot because we had a lot of friends from the faculty at large and we'd go to dances and so on, and there would be some law faculty members who'd become involved in that.

BC: Did law faculty become more visible in university governance?

ER: University faculty?

BC: Issues, yes.

ER: I don't think so. I wouldn't say offhand.

BC: You say socially, yes, but professionally no.

ER: Hmm?

BC: Socially yes, but professionally no?

ER: Well, I was active in the economics faculty. I participated in their doctoral exams and I don't know about Laswell, whether he participated in the political science department, but I think he must have.

BC: His tenure appointment was in political science.

ER: Both. Professor of law and political science.

BC: The student's dining room was adjacent to the faculty dining room. Was there lots of discussion? Was it lively? It is now, and I'm wondering –

ER: Oh, sure. It was lively from the day it opened.

BC: There's the wall. You know about the wall in the corridor where students write comments to each other about the issues of the day?

ER: No.

BC: It can be hot and controversial. Was there a place in the Law School or kind of a center for some kind of discourse that involved students?

ER: I don't remember such a thing. As a conscious development, I suspect it came along. Again, that's something I had a lot to do with before I was dean. You see, during the war everybody was a member of Corbey Court. That court has now disappeared. It's a fraternity, a little building behind the health department.

An interior building. It's very close to what used to be Hendrie Hall, the Law School building. It was a law fraternity, and of course it was, you know, everybody wasn't a member, but during the war everybody ate there. Everybody was allowed to eat in Corbey Court, and so when the war was over, the question was what would happen to student eating. We had this building which was set up for it to be a lounge for all law students with a big huge room and a kitchen, a modern kitchen. I talked to the then treasurer of Yale about it and he agreed to put up, I've forgotten what it was, but a considerable sum of money to modernize the kitchen. What we did was to get the two men who ran Corbey Court,

Fred and Max Hoffer, and put them in charge of running the dining room. So that we had complete continuity of Corbey Court.

BC: That was convenient.

ER: And their great specialty on all occasions, when there was a banquet we were putting on, was baked Alaska.

BC: Was it flaming?

ER: Festive, flaming. So that worked very, very well. Of course, it was much better than most of the dining rooms in terms of quality of the food and service. There was service at the tables. It wasn't a cafeteria.

BC: Well you know it's a cafeteria now.

ER: Oh, yes.

BC: Did Yale College students come over to the cafeteria, to the library?

ER: Oh, yes.

BC: To the auditorium in general. So there was the same kind of mix. Was there any resentment on the part of the law students about having undergraduates in their reading room?

ER: No.

BC: We've got a little bit of that now.

ER: Resentment?

BC: Well, because our space is limited. We have a bit of a problem, but I suspect as soon as we finish the renovation everything will be fine again.

BC: It must be time for us to stop until next time. Thank you so much for this interesting conversation.

